

Submission by the European Union Agency for Fundamental Rights to the European Commission in the context of the preparation of the annual Rule of Law Report 2022

Contents

1. Background.....	2
2. United Nations and the Council of Europe: important available data and information.....	3
2.1. The relevance of international human rights law for the rule of law within the EU	3
2.2. UN reports and observations submitted on EU Member States in the year 2021	4
2.3. Council of Europe 2021 monitoring data on EU Member States	9
3. Civic space and the rule of law: findings from FRA research and consultation	12
3.1. Introduction.....	12
3. 2. Civil society contribution to checks and balances in a rule of law framework	15
3.2.1. Promoting democratic participation and contributing to shaping laws and policies	18
3.2.2. Fostering a rule of law culture.....	20
3.2.3. Promoting good governance, strengthening transparency and accountability of public authorities	21
3.2.4. Supporting and cooperating with independent authorities and bodies.....	22
3.2.5. Contributing to checks and balances through monitoring and advocacy.....	23
3.2.6. Promoting access to justice and contributing to an effective functioning of the justice system	24
3.2.7. Promoting and safeguarding media freedom and pluralism, enabling an inclusive and balanced democratic debate	25
3.2.8. Contributing to the prevention of and fight against corruption	26
3.3. Challenges experienced by CSOs in doing their work	27
3.3.1. Legal environment.....	27
3.3.2. Threats and Attacks	29
3.3.3. Access to resources	31
3.3.4. Participation	32
Annex: The European Union Fundamental Rights Information System (EFRIS): Added value and ongoing development of a one-stop-shop.....	34

1. Background

On 2 December 2021, the European Commissioner for Justice, Didier Reynders, asked the European Union Agency for Fundamental Rights (FRA) for input to the European Commission's rule of law report 2022. The Commissioner called for a contribution covering the relevant information present in the European Union Fundamental Rights Information System (EFRIS) "as well as any existing data or information on rule of law-relevant matters such as the FRA civic space monitoring".¹

Against this background, this submission has two parts.

The first part provides a snapshot on relevant human rights data by UN and the Council of Europe monitoring mechanisms in the reporting period (January – December 2021). For the UN this part showcases the availability of 2021 information and data delivered under the various monitoring frameworks and Special Procedures and for the Council of Europe attention is given to reports delivered on corruption, non-discrimination and torture. The data is extracted from EFRIS. EFRIS is a tool developed by FRA in cooperation with the Council of Europe and United Nations (see Annex I). It facilitates greater use of existing international human rights data within an EU context, thereby reinforcing the human rights framework in the EU and increasing transparency and awareness.

The second part deals with rule of law aspects of the civic space in the EU. In March 2021 the Council of the European Union acknowledged that civil society organisations are often at the forefront of prevention against and reaction to violations or abuses. It invited "Member States to consider ways of improving the interaction and cooperation with civil society organisations". Against this background, this submission highlights challenges facing civil society during the reporting period and identifies recent promising practices underlining and exemplifying the role of civil society organisations for the rule of law.² It does so by drawing on the agency's own research and data from all EU Member States.

¹ Letter Ares S(2021)8217845, 2.12.2021. The benefits of EFRIS were pointed out in European Commission (2019), Strengthening the rule of law within the Union A blueprint for action, COM/2019/343 final, at p. 10.

² In its 2021 report on Protecting civic space in the EU, FRA issued a range of opinions on how to ensure and advance an enabling environment for civil society organisations and their activities. For details see here: <https://fra.europa.eu/en/publication/2021/civic-space-challenges>.

2. United Nations and the Council of Europe: important available data and information

2.1. The relevance of international human rights law for the rule of law within the EU

EU membership comes with a series of fundamental rights and rule of law related obligations while Member States remain bound by their obligations under UN human rights treaties and conventions concluded under the Council of Europe system.³ Moreover, the EU may itself be directly bound by international human rights law - as is already the case for the UN Convention on the Rights of Persons with Disabilities - and when the EU accedes to the European Convention on Human Rights. Finally, the EU is contributing to the development of international human rights law in various fora where areas of EU competences are concerned.

Fundamental rights and the rule of law are closely interlinked. Already the preamble of the Universal Declaration of Human Rights, stresses that *“it is essential [...] that human rights should be protected by the rule of law”*.⁴ At the same time the very essence of the rule of law builds on the respect of the limits set by fundamental rights. As the European Commission puts it: Under the rule of law *“all public powers always act within the constraints set out by law, in accordance with the values of democracy and fundamental rights, and under the control of independent and impartial courts.”*⁵

It is beyond the reach of this submission to include all human rights related information delivered under the UN and Council of Europe mechanisms in the course of 2021.⁶ Both the UN Human Rights Office and the Council of Europe have provided their own detailed submission, on a country-by-country basis, in the context of the Rule of Law Report 2022. The submission points across EU Member States to the availability of monitoring data that can be directly accessed under the links provided, as well as through EFRIS, as a one-stop-shop for such information.

Any rule of law assessment within the EU should consider the findings and recommendations that international and European monitoring mechanisms regularly submit. Further to this, national rule of law performance can only be measured if the analysis of national human rights institutions, equality bodies, ombuds institutions and civil society are taken into account.⁷ In this regard, the Agency draws attention to the work of the European Network of National Human Rights Institutions (ENNHRI) and its submission in the context of the Rule of Law Report 2022.

³ See e.g. UNOHCHR (2020), [The European Union and international human rights law](#).

⁴ Note that also the ECHR was drafted against the background of a “common heritage of political traditions, ideals, freedom and the rule of law” in order “to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration” (preamble of the ECHR).

⁵ European Commission (2019), Further strengthening the Rule of Law within the Union State of play and possible next steps, COM(2019) 163 final, p. 1.

⁶ To give just one example: the reports of the Council of Europe European Commission for the Efficiency of Justice ([CEPEJ](#)).

⁷ See e.g. Recommendation CM/Rec(2021)1 of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions (adopted by the Committee of Ministers on 31 March 2021, at the 1400th meeting of the Ministers’ Deputies, see online [here](#)).

2.2. UN reports and observations submitted on EU Member States in the year 2021

All EU Member States have ratified core human rights treaties under the UN system such as CCPR, CESCR, CRC, CRPD, CERD, CAT, CEDAW.⁸ Each of the UN human rights treaties has a monitoring committee, so called Treaty Bodies, consisting of independent experts. The treaty bodies scrutinise compliance with the treaties of all state parties at regular intervals of usually five years. This generates every year relevant data and information regarding the rule of law related performance of EU Member States.

In the course of 2021, UN monitoring committees delivered their Concluding Observations on more than half of the EU Member States. Most observations were submitted under the CRPD (Belgium, Denmark and the Netherlands) and the CRC (Czechia, Luxembourg and Poland). Follow-up reports to the Concluding Observations were submitted by CERD for Lithuania and Poland. Rule of law relevant individual complaints were submitted against Spain under the CCPR.

	CCPR	CESCR	CERD	CAT	CEDAW	CRC	CED	CRPD
Belgium			CO/20-22	CO/4				
Czechia						CO/5-6		
Denmark			CO/22-24		CO/9			
Estonia								CO/1
Finland	CO/7	CO/7						
France							OA/1	CO/1
Germany	CO/7							
Latvia		CO/2						
Lithuania			Other*	CO/4				
Luxembourg						CO/5-6		
Netherlands			CO/22-24					
Poland			Other**			CO/5-6		
Spain	IC 2844/2016 IC 2996/2017						OA/1	
Sweden				CO/8	CO/10			

Figure 2.1.: UN Treaty bodies' Concluding Observations on country reports (or on additional information) and decisions on individual complaints (relevant to the Rule of Law) delivered in 2021

⁸ Children Rights Convention; Convention on the Rights of Persons with Disabilities; Convention on Economic, Social and Cultural Rights; Convention against the Elimination of Racial Discrimination; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment; Convention on the Elimination of All Forms of Discrimination against Women.

- Concluding observations
- Concluding observations on Additional Information
- individual complaints
- consideration of the follow-up report on concluding observations.

*consideration of the follow-up report submitted by Lithuania, 25 August 2021, CERD/104thsession/FU/MK/ks

** consideration of the follow-up report submitted by Poland, 30 April 2021, CERD/103rdsession/FU/MK/ks

It should be noted that not all State Parties are assessed at the same time. This results in assessments of EU countries by different UN human rights bodies in different time periods. This is also reflected in OHCHR’s submission on the rule of law that cover all EU Member States for which relevant information was available in the respective time framework proposed for the EU rule of law report. Nevertheless, it is important to recall that all EU Member States are assessed periodically. Under most of the UN core human rights treaties more than half of the EU Member States were addressed over the past 5 years with Concluding Observations, including specific recommendations.

Figure 2.2.: Latest report in the last five years with Concluding Observations on EU Member States, by UN Treaty Body

	CCPR	CESCR	CERD	CAT	CEDAW	CRC	CED	CRPD
Austria	2020	2019		2016			2018	
Belgium	2019	2020	2021	2021		2019		
Bulgaria	2018	2019	2017	2017	2020	2016		2018
Croatia								
Cyprus		2016	2017	2019	2018	2017		2017
Czechia	2019		2019	2018	2016	2021		
Denmark	2016	2019	2021		2021	2017		
Estonia	2019	2019			2016	2017		2021
Finland	2021	2021	2017	2016				
France		2016		2016	2016	2016	2021	2021
Germany	2021	2018		2019	2017			
Greece			2016	2019				2019
Hungary	2018		2019			2020		
Ireland			2020	2017		2016		
Italy	2017		2017	2017		2019	2019	2016
Latvia		2021	2018	2019				2017
Lithuania	2018		2019	2021			2017	2016
Luxembourg						2021		2017
Malta						2019		2018

Netherlands	2019	2017	2021	2018		2022		
Poland	2016	2016	2019	2019		2021		2018
Portugal	2020		2017	2019		2019	2018	2016
Romania	2017					2017		
Slovakia	2016	2019	2018			2016	2019	2016
Slovenia	2016							2018
Spain		2018				2018	2021	2019
Sweden	2016	2016	2018	2021				

In addition to Concluding Observations on core treaties, data and information presented by the Special Procedures of the Human Rights Council can be consulted when assessing the rule of law performance of EU Member States. There are 45 thematic mandates and 13 [country](#) mandates. The Special Procedures are independent human rights experts. They are either an individual (so-called Special Rapporteurs) or a working group. One of the ways the Special Procedures conduct their work is through country visits. Their country visits reports or thematic reports include information and recommendations on the rule of law.

In the reporting period (2021), on more than half of the EU Member States were issued a report/communication under a Special Procedure. Five EU Member States were visited by a Special Rapporteur, namely Bulgaria, Finland, France, Hungary and Portugal. Some Member States (Cyprus, France, Greece, Poland) received joint letters issued by three or even more Special Rapporteurs. Various Special Rapporteurs reported on more than a third of the EU Member States in the year 2021. This was for instance the case for the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression who reported on Austria, Bulgaria, Cyprus, Denmark, France, Greece, Italy, Latvia, Netherlands and Poland.

Figure 2.3.: Reports and visits by Special Rapporteurs and other Special Procedures with regard to EU Member States in 2021

	Ref no.	Date	Mandates
Austria	AUT 2/2021	24/08/21	Terrorism; freedom of opinion and expression; freedom of peaceful assembly and association; minority issues; freedom of religion or belief
Bulgaria	BGR 2/2021	22/01/21	freedom of opinion and expression; human rights and business; freedom of peaceful assembly and association; human rights defenders
		24/10/21 30/10/21	Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
Cyprus	CYP 1/2021	31/03/21	Freedom of peaceful assembly and association; freedom of opinion and expression; human rights defenders; human rights of migrants; trafficking in persons
	CYP 2/2021	12/07/21	Human rights of migrants; arbitrary detention; enforced or involuntary disappearances; arbitrary executions; torture
	CYP 3/2021	22/10/21	freedom of opinion and expression; human rights and business; freedom of peaceful assembly and association; human rights defenders
Denmark	DNK 3/2021	07/06/21	Freedom of peaceful assembly and association; freedom of opinion and expression; minority issues; racism; terrorism
Finland		26/10/21 04/11/21	Independent Expert on the enjoyment of all human rights by older persons
France	FRA 2/2021	01/03/21	Freedom of peaceful assembly and association; freedom of opinion and expression; minority issues; freedom of religion or belief; terrorism
	FRA 4/2021	26/05/21	Freedom of peaceful assembly and association; freedom of opinion and expression; freedom of religion or belief
	FRA 10/2021	15/11/21	African Descent; arbitrary executions; racism; torture
		13/12/21 16/12/21	Working Group of Experts on People of African Descent
Germany	DEU 4/2021	05/02/21	human rights and business; freedom of peaceful assembly and association; human rights defenders
	DEU 6/2021	26/08/21	Torture
Greece	GRC 1/2021	31/03/21	freedom of peaceful assembly and association; human rights defenders; human rights of migrants
	GRC 2/2021	17/05/21	Women and girls; violence against women
	GRC 3/2021	16/07/21	freedom of opinion and expression; human rights defenders; arbitrary executions
	GRC 4/2021	16/11/21	Human rights defenders; international solidarity; human rights of migrants; trafficking in persons
Hungary	HUN 1/2021	22/03/21	Sexual orientation and gender identity; disability; health; human rights defenders; older persons; freedom of religion or belief; women and girls

	HUN 2/2021	15/04/21	Independence of judges and lawyers
		15/11/21 22/11/21	Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
Ireland	IRL 2/2021	05/11/21	Enforced or involuntary disappearances; sale of children; slavery; torture; trafficking in persons; truth; reparations and guarantees of non-recurrence; violence against women; women and girls
Italy	ITA 1/2021,	19/03/21	Human rights defenders; international solidarity; migrants; trafficking in persons
	ITA 2/2021	16/07/21	Freedom of opinion and expression; freedom of peaceful assembly and association; human rights defenders; independence of judges and lawyers; migrants; trafficking in persons
Latvia	LVA 1/2021	31/05/21	Freedom of opinion and expression; education; minority issues; unilateral coercive measures
Netherlands	NLD 2/2021	09/03/21	Terrorism, freedom of opinion and expression; human rights defenders; religion and belief; women and girls
Poland	POL 1/2021	26/01/21	Terrorism; arbitrary detentions; arbitrary executions; food; housing; rights of migrants; minority issues; privacy; racism; sale of children; torture; trafficking in persons; violence against women; water and sanitation; women and girls
	POL 2/2021	05/02/21	independence of judges and lawyers
	POL 3/2021	26/02/21	Cultural rights; freedom of opinion and expression; human rights defenders; freedom of religion or belief; sexual orientation and gender identity; women and girls
	POL 4/2021	03/06/21	Human rights defenders; cultural rights; independence of judges and lawyers
	POL 5/2021	03/09/21	Human rights of migrants; health; torture
	POL 6/2021	18/11/21	Human rights defenders; cultural rights; freedom of opinion and expression, sexual orientation and gender identity
Portugal		29/11/21 06/12/21	Working Group of Experts on People of African Descent
Romania	ROU 1/2021	25/01/21	independence of judges and lawyers

 Communication
 Visit

Finally, an EU Member State may also receive recommendations under the Universal Periodic Review (UPR) which is a peer review system conducted by the UN Human Rights Council for all UN member states at regular intervals of about five years. Any UN member state can make recommendations to the state under review. In the reporting period of this submission six EU Member States underwent a UPR review. See: Austria (Working Group Report [A/HRC/47/12](#), Austria's views on the Working Group Recommendations [A/HRC/47/12/Add.1](#)), Belgium

(Working Group Report [A/HRC/48/8](#), Belgium's views on the Working Group Recommendations [A/HRC/48/8/Add.1](#)), Bulgaria (Working Group Report [A/HRC/46/13](#), Bulgaria's views on the Working Group Recommendations [A/HRC/46/13/Add.1](#)), Denmark (Working Group Report [A/HRC/48/10](#), Denmark's views on the Working Group Recommendations [A/HRC/48/10/Add.1](#)), Estonia (Working Group Report [A/HRC/48/7](#), Estonia's views on the Working Group Recommendations [A/HRC/48/7/Add.1](#)). Latvia (Working Group Report [A/HRC/48/15](#), Latvia's views on the Working Group Recommendations [A/HRC/48/15/Add.1](#)).

2.3. Council of Europe 2021 monitoring data on EU Member States

In addition to the UN instruments, all EU Member States have ratified a series of Council of Europe conventions that are key for the rule of law. A prominent example in this regard are the legal instruments dealing with corruption in the public and private sectors, liability and compensation for damage caused by corruption, conduct of public officials and the financing of political parties. The monitoring of compliance with these standards is entrusted to the Group of States against Corruption, GRECO (Groupe d'Etats contre la Corruption).⁹ All EU Member States are members of GRECO and the EU itself is since 2019 an observer.¹⁰ In 2021, GRECO delivered monitoring reports on more than two thirds of the EU Member States. These reports concern the fourth and fifth compliance round (GRECO's monitoring work is organised in rounds and each of the rounds has its thematic scope). The fourth round concerns the prevention of corruption in respect of members of parliament, judges and prosecutors. The fifth round concerns preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies.

Figure 2.4.: Reports on EU Member States submitted by GRECO in 2021

	Cycle	Type	Link
Belgium	Fourth	Compliance	GRECO (coe.int)
	Fifth	Compliance	GRECO (coe.int)
Croatia	Fifth	Compliance	GRECO (coe.int)
Denmark	Fourth	Compliance	GRECO (coe.int)
	Fifth	Compliance	GRECO (coe.int)
Estonia	Fifth	Compliance	GRECO (coe.int)
France	Fifth	Compliance	GRECO (coe.int)
Germany	Fourth	Interim	GRECO (coe.int)
Greece		Ad Hoc (Rule 34)	GRECO (coe.int)
	Fifth	Evaluation	GRECO (coe.int)
Italy	Fourth	Compliance	GRECO (coe.int)
Latvia	Fifth	Compliance	GRECO (coe.int)
Lithuania	Fourth	Addendum	GRECO (coe.int)
Malta	Fourth	Addendum	GRECO (coe.int)
Netherlands	Third	Addendum	GRECO (coe.int)
	Fourth	Addendum	GRECO (coe.int)
	Fifth	Compliance	GRECO (coe.int)
Poland	Fourth	Interim	GRECO (coe.int)
	Fifth	Compliance	GRECO (coe.int)
Portugal	Fourth	Interim	GRECO (coe.int)

⁹ See <https://www.coe.int/en/web/greco/about-greco/priority-for-the-coe>.

¹⁰ For the possible accession of the EU see e.g. EPRS (2021), EU cooperation with the Group of States against Corruption (GRECO): [how to move towards full membership](#).

Romania		Ad Hoc (Rule 34)	GRECO (coe.int)
	Fourth	Interim	GRECO (coe.int)
Slovakia	Fourth	Addendum	GRECO (coe.int)
	Fifth	Compliance	GRECO (coe.int)
Slovenia	Fifth	Compliance	GRECO (coe.int)
Spain	Fourth	Compliance	GRECO (coe.int)
Sweden	Fifth	Compliance	GRECO (coe.int)

An area symbolising the link between fundamental rights and the rule of law is equality and non-discrimination. In the Council of Europe system monitoring in this regard is carried out by ECRI, the European Commission against Racism and Intolerance. The work is organised in five-year cycles, covering eight to ten countries per year. In 2021 ECRI adopted monitoring reports for one third of the EU Member States, namely for Croatia, Finland, Ireland, Latvia, Malta and the Netherlands

Figure 2.5.: Reports on EU Member States submitted by ECRI in 2021

	Reports	Date of adoption
Croatia	CRI(2021)15	30 March 2021
Finland	CRI(2022)01	<u>7 December 2021</u>
Ireland	CRI(2022)02	<u>7 December 2021</u>
Latvia	CRI(2021)26	<u>29 June 2021</u>
Malta	CRI(2021)17	30 March 2021
Netherlands	CRI(2022)03	<u>7 December 2021</u>
Portugal	CRI(2021)19	30 March 2021
Romania	CRI(2022)04	<u>7 December 2021</u>
Slovenia	CRI(2022)05	<u>7 December 2021</u>

Another set of important Council of Europe sources available in the agency's EFRIS are the reports submitted under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which has been ratified by all EU Member States. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visits prisons, juvenile detention centres, police stations, holding centres for immigration detainees, psychiatric hospitals, social care homes, etc. After each visit, the CPT sends a detailed report to the State concerned. In 2021, visits in seven EU Member States were carried out, namely Austria, Belgium, Bulgaria, Greece, Lithuania, Romania and Sweden

Figure 2.6: Visits by the CPT in EU Member States in 2021

	Type	Date
Austria	Periodic Visit	23 November – 3 December
Belgium	Ad hoc Visit	2 – 11 November
Bulgaria	Periodic Visit	1 – 13 October
	Public Statement	4 November
Greece	Ad Hoc Visit	22 November – 1 December
Lithuania	Periodic Visit	10 – 21 December
Romania	Ad Hoc Visit	10 – 25 May
Sweden	Periodic Visit	18 – 29 January

Another key mechanism is the European Court of Human Rights (ECtHR) monitoring and interpreting of the European Convention of Human Rights (ECHR). Much of the case law is of direct relevance for the rule of law as evidenced by the fact that many judgments established a violation of the right to a fair trial as laid down in Article 6 ECHR. Such a violation was established in five or more judgments vis-à-vis Croatia (7 judgements), Italy (6), Belgium (5), and Poland (5). The right to property was found to be violated in 6 and 4 judgments concerning Croatia and Bulgaria. The right to respect for private and family life was found to be violated in 4 or more judgements concerning Bulgaria, Italy and Romania.

3. Civic space and the rule of law: findings from FRA research and consultation

3.1. Introduction

This part of the submission, as requested in the European Commission's consultation questionnaire, concerns the enabling framework for civil society, i.e. - measures regarding *"the framework for civil society organisations (e.g. access to funding, legal framework incl. registration rules, measures related to dialogue between authorities and civil society, participation of civil society in policy development, measures capable of affecting the public perception of civil society organisations, etc."*.

FRA cooperates with non-governmental organisations and civil society institutions active in the field of fundamental rights through its [Fundamental Rights Platform](#). In this context, the Agency consults civil society actors on their experiences regarding civic space annually. Moreover, the Agency's research network [FRANET](#) collects every year information on legal and policy developments related to an enabling space for human rights civil society across the EU and in accession countries covered by FRA.

Based on evidence collected by FRA, the following section highlights the essential role which civil society plays for the protection and promotion of the rule of law, and outlines obstacles that civil society organisations (CSOs) face when undertaking this role. The analysis draws on:

- (1) The responses of almost 400 civil society organisations, umbrellas and networks to the Agency's annual consultation 2021 on civic space.¹¹
- (2) Research carried out by the Agency's multidisciplinary network FRANET in 2021 resulting in country reports on legal and policy developments related to an enabling space for civil society in all 27 EU Member States, as well as in two accession countries, North Macedonia and Serbia.¹²

Civil society actors play an important role in promoting shared EU values specified in Article 2 of the Treaty on European Union (TEU). They also contribute to the implementation of EU policies in the area of fundamental rights and equality, and to the democratic functioning of European societies in many ways, including by promoting and protecting human and fundamental rights.

An enabling framework for civil society is the foundation for all these activities. When the space

¹¹ FRA 2021 consultation with civil society organisations, Experiences of civil society organisations working on human rights in the EU, covering 2021 (data collection: December 2021 – January 2022, 398 responding civil society organisations from across the EU), including over 50 umbrella organisations active at EU level.

¹² FRA's research through its [FRANET network](#) – 29 national research deliverables (27 EU Member States + North Macedonia + Serbia), covering 2021 (data collection: December 2021 - January 2022) [add link when available](#). The 27 EU Member States country studies were made available to the European Commission in preparation of its Rule of Law report. The consolidated findings of FRA's data collection exercises are scheduled to be published in June 2022 in a FRA update report on civic space.

for civil society to operate shrinks, the rule of law is likely to be affected.¹³ The 2021 European Commission Rule of Law Report highlighted that “civil society is a key partner for the EU in its work to promote a stronger European rule of law culture”.

Since FRA’s first report on *Challenges facing civil society working on human rights in the EU*¹⁴ in 2018, the Agency has consistently pointed to the persisting challenges that civil society organisations (CSOs) face across the EU and highlighted positive developments that foster an enabling environment for their work. Recent developments are outlined in FRA’s report on *Protecting Civic Space in the EU*.¹⁵

FRA research and the feedback received from civil society actors point to challenges for CSOs in the following contexts:

- The relevant legal framework,
- Access to resources,
- Participation in policy and decision-making, and
- Operating in a safe environment.

The nature and extent of these challenges vary considerably across the EU. FRA findings show that in a number of countries, in the different areas covered, the environment for the operation of CSOs remains challenging. Increasing pressure by state authorities and non-state actors is particularly reported by CSOs engaged in social movements and working on sensitive issues such as migration, environmental protection, women’s rights, LGBTI rights and anti-racism, as well as - in a few countries - child rights. For a more detailed description of the situation in the different EU Member States, please consult FRA’s country studies on civic space.¹⁶

The figures below summarise the replies by close to 400 civil society organisations working on human rights at national and local level in the EU.

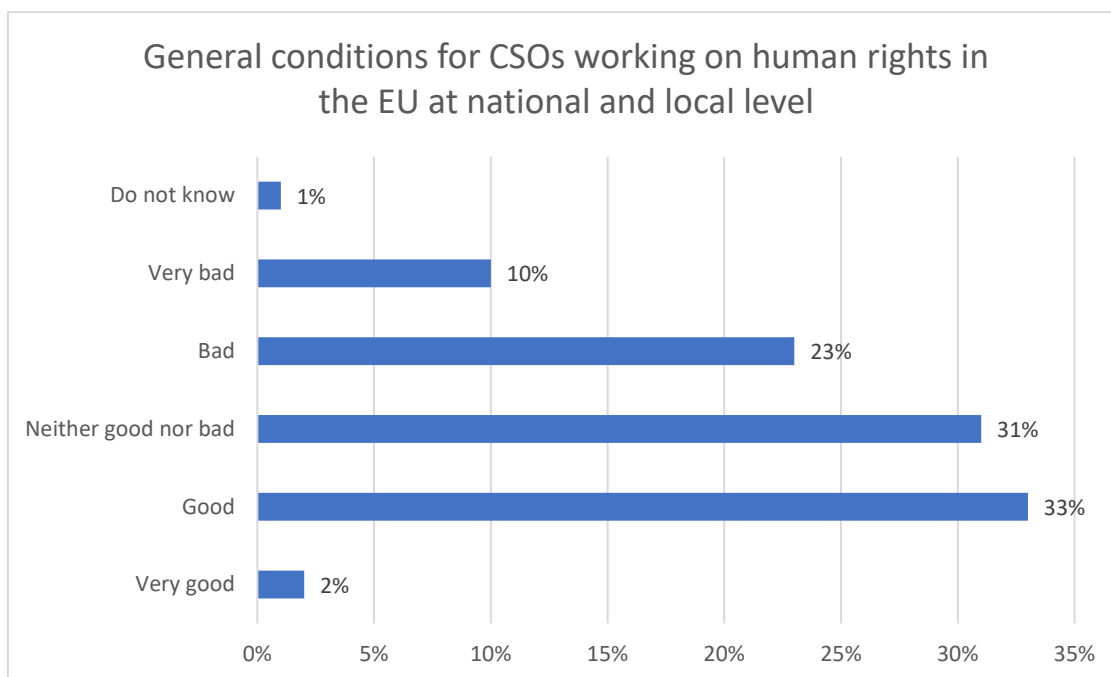
Figure 3.1. General conditions for CSOs working on human rights in the EU at national and local level in 2021

¹³ See e.g. European Commission, 2021 Rule of Law Report [The rule of law situation in the European Union](#), p. 20

¹⁴ FRA (2018), [Challenges facing civil society working on human rights in the EU](#)

¹⁵ FRA (2021), [Protecting civic space in the EU](#)

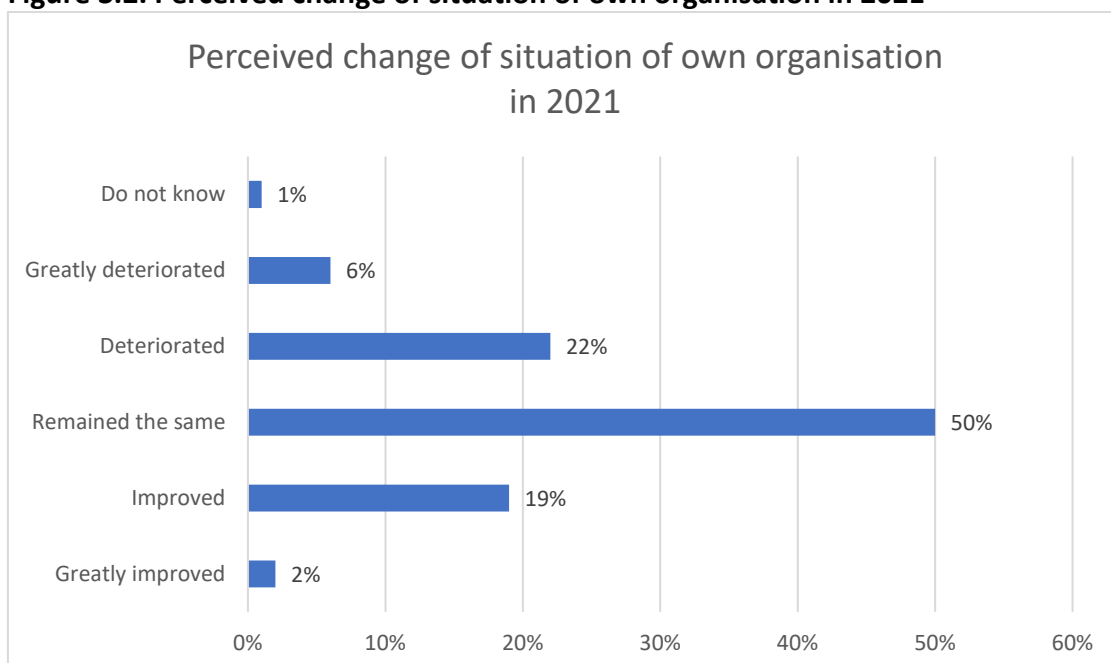
¹⁶ FRANET country studies for 27 Member States, [add link when available](#)



Note: Question: “How would you describe in general the conditions for civil society organisations working on human rights in your country today?” (N=289, that is those responding organisations indicating that they work at national or local level)

Source: FRA civic space consultation 2021

Figure 3.2. Perceived change of situation of own organisation in 2021



Note: Question: “Thinking about your own organisation, how has its situation changed in the past 12 months?” (N=390)

Source: FRA civic space consultation 2021

The results indicate that while over a third of organisations consider the situation as overall positive, a similar share describe their situation as bad or even very bad.

Governments can support the development of the civil society sector and strengthen mutual engagement between public authorities and CSOs through relevant policy frameworks and permanent dialogue structures.

In this regard, FRA's research reveals both positive and negative developments in 2021 across the EU. Positive steps taken in several Member States include policy measures creating an environment more conducive to civil society development and the strengthening of cooperation between public authorities and CSOs. This includes the creation of infrastructures aimed at providing space for dialogue and channelling targeted support to civil society and undertaking specific commitments to create an enabling environment in national action plans on open government. In some EU countries, CSOs are particularly active in their efforts to improve the policy framework in which they operate, including through coalition building. This submission, while describing recent developments in the following sections, also highlights examples of promising practices that started in 2021 (or were continued in that year).

3. 2. Civil society contribution to checks and balances in a rule of law framework

International and regional human rights bodies, including the United Nations Human Rights Council¹⁷, the Council of Europe¹⁸ and the OSCE Office for Democratic Institutions and Human Rights (ODIHR)¹⁹ have increasingly emphasised over the past years the key contribution of CSOs and other civil society actors, such as human rights defenders (HRDs) and activists, to advance and safeguard the rule of law. They acknowledged in particular the role of CSOs in engaging and empowering citizens on a wide range of social and human rights issues, in monitoring respect for rule of law and human rights standards, in advocating rule of law and human rights-compliant legal and policy responses, in securing transparent and participatory law and policy-making, and demanding that public authorities are made accountable. Public participation and civic space are key focus areas of the UN Call to Action on Human Rights.²⁰ Noting the critical contribution of civil society to strengthen and promoting the three pillars of the UN Charter – human rights, development and peacebuilding²¹ – the UN Special Rapporteur on the freedom of peaceful assembly and of association has recently recalled the importance of civil society space to achieve the 2030 Agenda for Sustainable Development.²²

¹⁷ See for example UN, Human Rights Committee (HRC) (2016), [Resolution on Civil Society Space](#).

¹⁸ See lately Council of Europe (CoE), Committee of Ministers (2018), [Recommendation CM/Rec\(2018\)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe](#), 18 November 2018.

¹⁹ See among others the foreword to the [Guidelines on Freedom of Association](#) jointly drafted by OSCE/ODIHR and the Council of Europe Venice Commission (2015).

²⁰ UN, [Secretary General's Call to Action on Human Rights](#) (2020).

²¹ UN, HRC (2017), [Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association](#), A/HRC/35/28, 8 May 2017, para. 22.

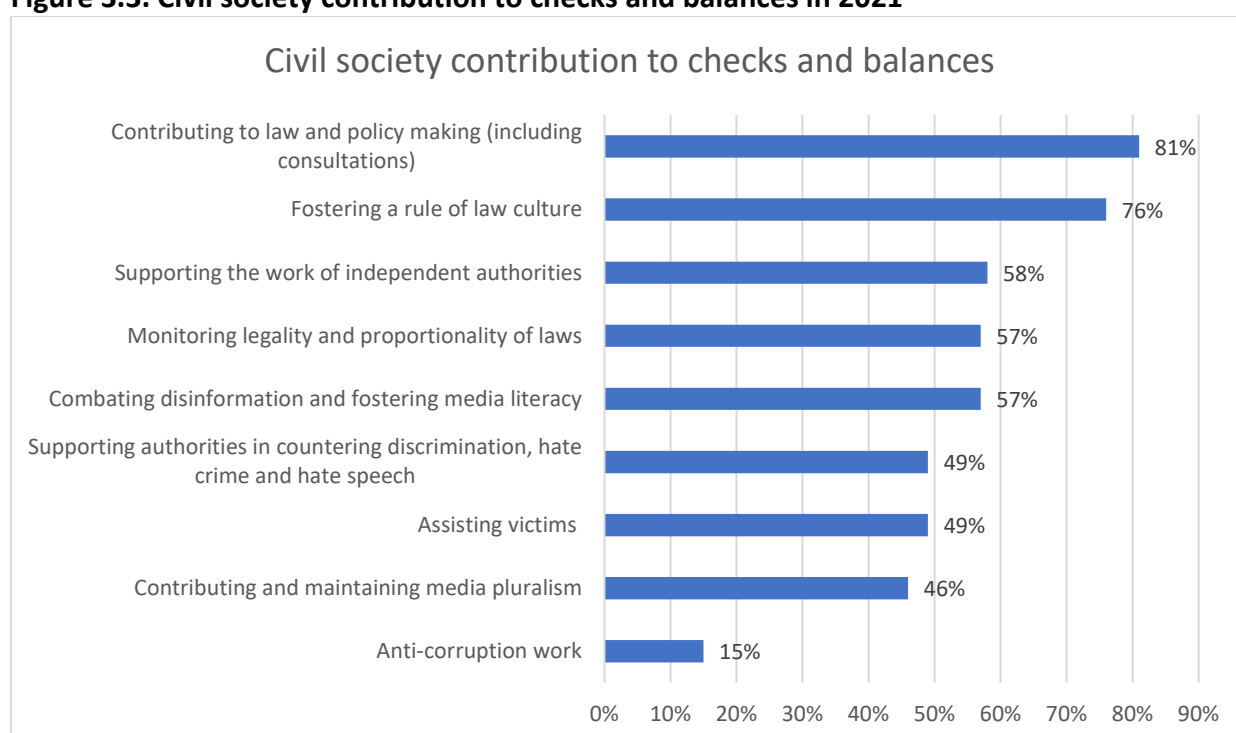
²² UN, General Assembly (GA) (2018), [Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association](#), A/73/279, 7 August 2018. See also UN, GA (2019), [Report on the rights to freedom of peaceful assembly and of association: Civic space, poverty and exclusion](#), A/74/349, 11 September 2019 and UN, OHCHR (2015), [A central role for a civil society is the only way to guarantee inclusive post-2015 development goals](#), 18 May 2015.

A series of recent statements at EU level show that a free and active civil society is considered:

- an essential component of a strong rule of law ecosystem,²³
- key parties in promoting the use and awareness of the EU Charter and a culture of values,²⁴
- a precondition for healthy democracies,²⁵
- a safeguard for citizens preventing and reacting to violations or abuses.²⁶

In its 2021 civic space consultation, FRA asked CSOs for the first time to indicate in which areas they support checks and balances under the rule of law with their activities. Responses indicate various ways in which CSOs are contributing to a rule of law culture, to watchdog activities under the rule of law, and to supporting victims. Figure 3.3. shows the responses in detail:

Figure 3.3. Civil society contribution to checks and balances in 2021



Note: Question: “In the last 12 months, was your organisation involved in supporting any of the following issues as part of checks and balances in the democratic functioning of our societies?” (N=315)

Source: FRA civic space consultation 2021

²³ See the European Commission Rule of Law Reports, available at https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism_en

²⁴ European Commission (2020), [Strategy to strengthen the application of the Charter of Fundamental Rights in the EU](#), COM(2020)711 final, 2 December 2020, p. 10.

²⁵ European Commission (2020), [Communication on the European democracy action plan](#), COM(2020)790 final, 3 December 2020, p. 3.

²⁶ Council of the European Union, [Council conclusions on strengthening the application of the Charter of Fundamental Rights in the European Union](#) (March 2021).

3.2.1. Promoting democratic participation and contributing to shaping laws and policies

CSOs across the EU mobilise to promote democratic participation in law and policy making. Examples of such efforts in 2021, include participation in issues, such as internal security policies, migration²⁷, environmental justice²⁸ or social inclusion²⁹, the fight against corruption, prevention and fight against terrorism and radicalisation³⁰, women's rights and the fight against domestic violence.

CSOs' efforts to secure meaningful public discussions and consultations on COVID-19 responses and on national recovery and resilience plans at EU level³¹ and in a number of Member States are also worth noting.

Promising practice

In Sweden, a project was launched by a coalition of CSOs working across different areas looking into the societal challenges brought or exacerbated by the pandemic, with a view to develop concrete proposals for policy makers that would lay the basis of a "new social contract".³² In Italy, following civil society mobilisation, the National Recovery and Resilience Plan provides for the establishment of a Permanent Advisory Board including CSOs³³. In Poland, a coalition of CSOs promoted wide public consultations on the National Recovery Plan which succeeded in ensuring, among others, a more prominent role for CSOs in monitoring the distribution of recovery and resilience funds.³⁴

In many countries, the mobilisation of CSOs was instrumental in improving the participation and representation of minorities and other vulnerable groups in law and policy making.

Promising practices

CSOs played a key role in the design of the newly adopted action plan for combating racism in a

²⁷ See for example the initiatives illustrated by the European Economic and Social Committee in its publication "[How Civil Society Organisations Assist Refugees and Migrants in the EU](#)" (2017) or in the Policy Note by the European Council of Refugees and Exiles (ECRE) and the Platform for International Cooperation on Undocumented Migrants (PICUM), [Partnership in practice: the role of civil society in EU funded actions for the inclusion of migrants and refugees](#) (2020).

²⁸ See for example the initiatives illustrated by the European Economic and Social Committee in its publication on the [2021 EESC Civil Society Prize - Climate action](#) (2021).

²⁹ See for example European Economic and Social Committee, [Own-initiative opinion on "The effectiveness of ESF and FEAD funding as part of civil society efforts to tackle poverty and social exclusion under the Europe 2020 strategy"](#) (2017).

³⁰ See for example the initiatives illustrated in the OSCE Guidebook on "[The Role of Civil Society in Preventing and Countering Violent Extremism and Radicalization that Lead to Terrorism: A focus on South-Eastern Europe](#)" (2019).

³¹ See for example the study published by Civil Society Europe and the European Center for Not-for-Profit Law on the involvement of CSOs in the design and implementation of National Recovery and Resilience Plans, and related recommendations: [Civil Society and the National Recovery and Resilience Plans: A reality check](#) (December 2021).

³² For more information see the project's webpage, [Nysta](#).

³³ [Piano Nazionale di Ripresa e Resilienza](#), 30 aprile 2021.

³⁴ Portal Funduszy Europejskich, Krajowy Plan Odbudowy - podsumowanie konsultacji, available at: <https://www.funduszeuropejskie.gov.pl/strony/o-funduszach/fundusze-na-lata-2021-2027/aktualnosci/krajowy-plan-odbudowy-podsumowanie-konsultacji/>

number of countries including Belgium³⁵, Finland³⁶ and Malta³⁷, and they will also be closely involved in its implementation and evaluation. In Italy, CSOs prompted the establishment³⁸ and secured the participation of associations representing the interests of persons with disabilities in the Permanent Board, which was set up to advise on the design and implementation of the National Recovery and Resilience Plan.³⁹

CSOs have become more active in promoting democratic participation at national and local level, including by advocating for open government policies and better access to public interest information or by promoting referenda and organising citizens panels on relevant thematic issues. CSOs have often contributed in fostering open government plans, including in the context of the Open Government Partnership (OGP) initiative, in which 21 EU Member States and a growing number of local jurisdictions participate.⁴⁰

Promising practices

The NGO VIA IURIS launched in Slovakia a website to enable civic initiatives and encourage and facilitate civic organizations or groups of interest to submit their comments on laws and policies to public authorities.⁴¹ In Austria, the Interest Representation of Public Benefit Organisations made efforts to promote the use of the internationally renowned e-participation tool Decidim. This consists of an open-source democratic participation platform that allows individuals to support the planning and implementation of participatory projects in local, regional, or national governments, NGOs, and other collective institutions, using processes like crowdsourcing, exchange and cooperation, voting on projects, participatory budgeting and the creation and submission of petitions.⁴²

CSOs working at EU level have mobilised intensively to convey the voice of civil society and citizens in discussions on the Future of Europe, through the Civil Society Convention on the Future of Europe initiated by Civil Society Europe.^{43 44}

CSOs efforts also substantively feed into the monitoring work of international, regional and EU bodies, contributing to key monitoring and reporting processes, such as the UN Universal

³⁵ Belgium, Muylle, N. (2020), 'Outline of action plan against racism approved' (*'Krijtlijnen voor actieplan tegen racisme goedgekeurd'*), 25 September 2020 [last accessed 27 September 2020].

³⁶ Finland, Ministry of Justice (*oikeusministeriö/justitieministeriet*) (2022), [An Equal Finland: Government Action Plan for Combating Racism and Promoting Good Relations between Population Groups](#), Publications of the Ministry of Justice, Memorandums and statements 2022:2, 13 January 2022. (The Finnish version was published on 28 October 2021).

³⁷ Parliamentary Secretariat for Equality and Reforms, [Towards a National Action Plan against Racism and Xenophobia](#), 9 October 2020.

³⁸ The Decree is available at: www.unar.it/wp-content/uploads/2020/05/Decreto-Tavolo-LGBT.pdf. It was further integrated with a Decree of 20 May 2020, available at: www.unar.it/wp-content/uploads/2020/05/Decreto-integrativo-Tavolo-LGBT.pdf.

³⁹ Decreto del Presidente del Consiglio dei Ministri 14 ottobre 2021, "[Istituzione del Tavolo permanente per il partenariato economico, sociale e territoriale](#)".

⁴⁰ FRA, [Protecting Civic Space in the EU](#) (September 2021), p. 47. For details about the OGP, see www.opengovpartnership.org/about/

⁴¹ VIA IURIS (2021), '[MojaPeticia.sk – nový priestor, vďaka ktorému bude počuť váš hlas](#)', 8 April 2021.

⁴² Interessensvertretung Gemeinnütziger Vereine (2021), [IGO Decidim platform](#).

⁴³ See <https://civilsocietyeurope.eu/civil-society-convention-on-the-future-of-europe/>

⁴⁴ FRA, [Protecting Civic Space in the EU](#) (September 2021), p. 50.

Periodic Review⁴⁵ and the EU rule of law review cycle itself⁴⁶.

3.2.2. *Fostering a rule of law culture*

CSOs across the EU intensified their engagement on rule of law issues and undertook several initiatives to promote a rule of law culture among public authorities and the general public. In addition to monitoring and reporting activities, CSOs in a number of Member States have mobilised in coalitions to coordinate and strengthen advocacy on rule of law reforms.

Promising practice

In Poland, several CSOs presented in 2021 the “Accord for the rule of law”. The initiative is a coordinated attempt to present the government with recommendations for concrete measures to address long-standing rule of law deficiencies affecting the independence and functioning of the judiciary in the country.⁴⁷

CSOs are also proactively investing their energy and resources to strengthen and safeguard their enabling environment and civic space more broadly. The many examples documented in FRA’s research range from legal assistance and strategic litigation initiatives to protect the unhindered exercise of civic freedoms, to civic space research and monitoring and CSOs coalition building.

Promising practices

Coalition building often serves to strengthen the civil society movement in areas where this is underdeveloped: an example is the Civic Platform Convergence for Culture in Portugal.⁴⁸ Such initiatives may also consist of CSO coalitions aimed at empowering and promoting public trust in the sector, often as a reaction to negative trends and narratives. Cross-border initiatives are also worth mentioning, such as the capacity- and alliance-building programme RARE - Recharging advocacy for Rights in Europe, led by the Hertie School, together with the Netherlands and Hungarian Helsinki Committees, aimed at building capacity of leading Human Rights Defenders (HRDs) across Europe to react jointly, and more effectively, to threats to rule of law and human rights protection.⁴⁹

CSOs are also investing in raising awareness on the role and contribution of CSOs and HRDs to the promotion and protection of rule of law, human rights and democracy, including through strategic and value-based communication.

⁴⁵ <https://www.upr-info.org/en/how-to/role-ngos>

⁴⁶ See CSOs contributions to the [2020](#) and [2021](#) Rule of Law Report

⁴⁷ Jałoszewski M., Ważne. Cała opozycja i organizacje społeczne będą razem walczyć o wolne sądy i niezależną KRS, Oko.press, available at: <https://oko.press/wazne-cala-opozycja-i-organizacje-spoeczne-beda-razem-walczyc-o-wolne-sady-i-niezalezna-krs/>

⁴⁸ [Plataforma Cívica Convergência pela Cultura – PCCC](#).

⁴⁹ See <https://www.hertie-school.org/en/customised/rare>

Promising practice

Practical guides to crafting effective narratives on civil society and HRDs were recently published by the International Service for Human Rights (ISHR)⁵⁰ and by the Civil Liberties Union for Europe.⁵¹ Every year, the European Civic Forum recognises outstanding civic initiatives through an award scheme to celebrate their inspiring work, raise their visibility at the European level and encourage convergences between their struggles.⁵²

Moreover, CSOs in several Member States have engaged in promoting public debates on democracy and rule of law issues.

Promising practices

Following the publication of the European Commission's rule of law reports, public debates on the rule of law have been prompted by CSOs for example in Croatia⁵³ and Ireland⁵⁴. In Sweden, a coalition of CSOs launched in 2021 a democracy lab proposing workshops to put into practice the 'Declaration for a strong democracy' of 2020 which formulates contributions and commitments to a strong democracy.⁵⁵

FRA research also identified CSO-led civic education initiatives, including in schools, on rule of law and human rights related topics, such as pluralism, and the combating of disinformation, cyberbullying, racism and hate speech. A particular example is the campaign "The Rule of Law Education" (ROLE) which is carried out in a cooperation with ELSA and ELSA Alumni aiming to promote awareness about the rule of law in schools. The project provides ELSA students with guidance and resources to present a Rule of Law curriculum for local schools.⁵⁶ Another example is the Bingham Centre for the Rule of Law which developed a programme providing high school educators with resources to teach about the rule of law and human rights.⁵⁷

3.2.3. Promoting good governance, strengthening transparency and accountability of public authorities

⁵⁰ International Service for Human Rights (ISHR), [New Narratives – A seat at the table](#) (June 2021)

⁵¹ Civil Liberties Union for Europe, [How to talk about civic space: a guide for progressive civil society facing smear campaigns](#) (December 2021).

⁵² <https://civicspacewatch.eu/civic-pride-award/>

⁵³ Croatia, Human Rights House Zagreb (*Kuća ljudskih prava Zagreb*), [Announcement: Online round table "The Rule of Law in Croatia – Challenges and Recommendations in the Field of Judiciary and Other Institutional Areas from a Human Rights Perspective"](#), November 2021.

⁵⁴ Civil Liberties Union for Europe, [Liberties Rule of Law Report 2022](#) (February 2022), Country report on Ireland.

⁵⁵ *Nationellt organ för dialog och samråd mellan regeringen och det civila samhället (NOD)* (2021), ['NOD:s demokratilabb: en vecka av kreativa och konkreta arbetsprocesser'](#), 27 April 2021.

⁵⁶ See for more details: [Rule of Law Education Campaign \(ROLE\) – ELSA the Netherlands \(elsa-thenetherlands.org\)](#).

⁵⁷ 'The Rule of Law for Citizenship Education' programm, see also Michael Olatokun and Sabina Garahan, Human Rights Education: [What is it and why is it important?](#) British Institute of Human Rights.

CSOs contribute in different ways to the promotion of good governance, transparency and accountability of public authorities. This includes efforts to monitor public consultation practices, promote open government initiatives and participatory policy-making, and prompting the modernisation of public administration.

Promising practice

The Centre for Information Service, Co-operation and Development of NGOs (CNVOS) in Slovenia set up a dedicated tool to monitor respect of provisions on public consultations.⁵⁸ In the Czech Republic, a coalition of NGOs created a civic platform carrying forward joint advocacy initiatives to prompt the modernisation and digital transformation of the public administration.⁵⁹

CSOs also actively facilitate access to public interest information, both through engagement and litigation on individual cases regarding public interest issues and through advocacy aimed at improving the regulatory framework for public information access and disclosure.

Finally, CSO initiatives in several EU countries concern election transparency and integrity.

Promising practice

The NGO Anti-Corruption Fund launched a project on the impact of controlled and bought votes in Bulgaria's political elections. The initiative aims to shed light on irregularities in the election process, and strives to assist the Bulgarian authorities to prevent electoral frauds through identifying the polling stations where the risk of controlled and purchased vote is high.⁶⁰ In Romania, Expert Forum, an independent think-tank, has been analysing the data available on political parties financing⁶¹, while the Centre for Public Innovation gathers information about public financing and spending from all political parties.⁶²

3.2.4. Supporting and cooperating with independent authorities and bodies

Civil society helps ensure the independence and effectiveness of independent human rights authorities and bodies, such as National Human Rights Institutions (NHRIs).

Promising practice

In Austria, a coalition of CSOs supported the Austrian Ombudsman Board to prepare for its re-accreditation as an A-Status NHRI in 2021, by publishing a joint statement to the Global Alliance of NHRIs (GANHRI) supplementing the Board's pledge for re-accreditation.⁶³ In Poland, a

⁵⁸ For more information, see web page of the Centre for Information Service, Co-operation and Development of NGOs on www.cnvos.si/stevec-krsitev/.

⁵⁹ Společně a digitálně (2021), It is about Time to Modernise the Administration ([Je nejvyšší čas modernizovat státní správu](#)).

⁶⁰ Anti-Corruption Fund (2021), '[The Anti-Corruption Fund begins research on the voter fraud in Bulgaria](#)', press release, 25 January 2021.

⁶¹ Expert Forum (2021), '[Secretele subvențiilor politice](#)', 9 August 2021.

⁶² Center for Public Innovation (2021), '[Partidele și transparența: relație inexistentă](#)', 10 May 2021.

⁶³ Amnesty International Austria (2021), '[Joint Civil Society Information to the GANHRI Sub-Committee on Accreditation concerning the review of the Austrian Ombudsman Board](#)', 6 October 2021.

coalition of over 1200 non-governmental organizations mobilised in 2020 to support the nomination of an independent Commissioner for Human Rights in accordance with the Constitution, after the five-year term of office of the previous Commissioner ended.⁶⁴ In Sweden, the government and parliament established an NHRI which began operations on 1 January 2022.⁶⁵ The decision is the result of a long process of advocacy by international human rights actors and CSOs, including the NGO Network for a Swedish Human Rights Institution, actively engaged on the matter since 2015.⁶⁶

Fruitful cooperation between CSOs and NHRIs on rule of law and human rights protection matters can also be observed, as recently acknowledged by the European Network of NHRIs (ENNHRI).⁶⁷

Promising practice

In Croatia, CSOs maintain a continuous dialogue and cooperation with the Office of the Ombudswoman through the Ombudswoman's advisory Human Rights Council⁶⁸, the Network of Anti-Discrimination Contact Points⁶⁹ and by regularly feeding into the Ombudswoman Annual Reports and the joint organisation of conferences, roundtables and events on rule of law and human rights related topics.

3.2.5. Contributing to checks and balances through monitoring and advocacy

CSOs and HRDs make an important contribution to the national systems of checks and balances. Their public affairs monitoring and advocacy efforts can strengthen the democratic governance of society by raising awareness about, providing critical analysis of, and prompting responses to abuses and mismanagement. CSOs thereby play a key role in strengthening the trust in public institutions and public services.

Promising practice

In France, a coalition of NGOs created the "Watch Network", a project aimed at monitoring and assessing the necessity and proportionality of restrictions to human rights and freedoms adopted by the government to respond to the COVID-19 pandemic. This led, among other

⁶⁴ Civil Liberties Union for Europe, [EU 2020:demanding on democracy](#) (March 2021), Country report on Poland.

⁶⁵ Sweden, Ministry of Labour (*Arbetsmarknadsdepartementet*) (2021), '[Nytt institut för mänskliga rättigheter placeras i Lund](#)', press release, 1 April 2021.

⁶⁶ Lika Unika, '[Nätverk för en oberoende MR-organisation](#)', web page; Nätverket för en svensk Människorättsinstitution, [Med anledning av promemorian "Förslag till en nationell institution för mänskliga rättigheter i Sverige" Ds 2019:4](#), Ku2018/02102/DISK, consultation brief.

⁶⁷ See the examples and promising practices illustrated in ENNHRI reports on the State of the Rule of Law in Europe in [2020](#) and [2021](#).

⁶⁸ Croatia, Office of the Ombudswoman (*Ured pučke pravobraniteljice*), Public call for nomination of candidates for members of the Human Rights Council ([Javni poziv za predlaganje kandidata za člana Savjeta za ljudska prava](#)), January 2020.

⁶⁹ Croatia, Office of the Ombudswoman (*Ured pučke pravobraniteljice*), Elected Members of the Network of Anti-Discrimination Contact Points ([Odabrane članice Mreže antidiskriminacijskih kontakt točaka](#)), March 2018.

outcomes, to the publication of a comprehensive report in September 2021.⁷⁰ In Ireland, the NGO Irish Council for Civil Liberties conducted a thorough analysis of the use and impact of emergency measures, and called on authorities to ensure systematic consultation with the NHRI, the Irish Human Rights and Equality Commission, before legislating on human rights restrictions.⁷¹

In a number of Member States, CSOs mobilise to contribute to monitoring the implementation of EU funding programmes and to the sound management of EU funds. This concerns, in particular, compliance and alignment with rule of law and human rights standards.

Promising practice

CSOs in Slovakia actively contribute to the preparation, implementation and monitoring of the use of EU funds through a dedicated framework established by the Office of Governmental Plenipotentiary for civil society development.⁷²

3.2.6. Promoting access to justice and contributing to an effective functioning of the justice system

CSOs play a key role in enabling access to judicial and non-judicial mechanisms. Examples of CSO initiatives in this area range from the setting up of networks of public interest litigation lawyers, to the provision of free legal aid and assistance and strategic litigation initiatives on matters of public interest. The latter has concerned such matters as environmental protection, the review of COVID-19 restrictions, discrimination, hate speech and hate crime, migration management, privacy and data protection, and the exercise of the civic freedoms of assembly and expression.

Promising practice

In 2021, the Daphne Caruana Galizia Foundation launched in Malta the Public Interest Litigation Network, a network of lawyers who strive to increase awareness on the rule of law and human rights and promote access to justice for victims of discrimination, human rights violations, abuse of power, and state collusion in criminal activity.⁷³ In Hungary⁷⁴ and Slovenia⁷⁵, CSOs mobilised to provide legal representation and counselling to individuals and associations involved in legal proceedings due to non-violent public action - such as that concerning the exercise of the rights

⁷⁰ VoxPublic, [15 Mois d'état d'urgence sanitaire: quel bilan pour l'état de droit en France?](#) (2021). See also Civil Liberties Union for Europe, [Liberties Rule of Law Report 2022](#) (February 2022), Country report on France.

⁷¹ Irish Council for Civil Liberties (2021), [Health \(Amendment\) Bill 2021, Briefing Note](#), 25 February 2021.

⁷² Slovakia, The Office of Governmental Plenipotentiary for civil society development (*Úrad splnomocnenca vlády SR pre rozvoj občianskej spoločnosti*) (2021), [Systém riadenia spolupráce a partnerstva so zástupcami občianskej spoločnosti pri príprave, implementáciu a monitoring fondov EÚ v programovom období 2021 – 2027](#) (*The system of managing the cooperation and partnership with representatives of civil society in the preparation, implementation and monitoring of EU funds in the programming period 2021 – 2027*).

⁷³ The Daphne Caruana Galizia Foundation, (2021) [Malta's first non-governmental access-to-justice initiative](#), 23 September 2021.

⁷⁴ See e.g. Hungarian Civil Liberties Union, [Coronavirus – Questions and answers](#).

⁷⁵ For more information on its mission, see the web page of the Legal network for the protection of democracy on <https://pravna-mreza.si/o-mrezi/>.

to freedom of assembly and expression.

Umbrella CSOs for their part, are increasing their efforts to offer knowledge and capacity-building initiatives to support CSOs' efforts at national and local level in the aforementioned fields.

CSOs are also providing victim support services, as well as training to the judiciary and public authorities on responding more effectively to human rights violations. Victim support initiatives by CSOs are common, for instance, in the areas of gender-based and domestic violence and hate crime more generally.

Promising practice

Recent dedicated NGO projects have provided support for women and children affected by domestic violence in the context of the COVID-19 crisis in Latvia⁷⁶ and for a nation-wide network of emergency shelter vacancies in Portugal.⁷⁷ In Croatia, CSOs created an informal national working group to develop tools for monitoring hate crime cases, creating effective reporting channels and training police officers on identifying and prosecuting hate crime cases.⁷⁸

CSOs across the EU have also stepped up their monitoring and advocacy efforts to promote and advise on ways to strengthen the independence, effectiveness and transparency of the justice system.

Promising practice

In Greece, CSOs launched the “ZackieOh Justice Watch”, an initiative to monitor and record the trial currently underway for the murder of the LGBTQ+ activist and drag artist Zak Kostopoulos.⁷⁹ In Malta, CSOs mobilised in 2021 against a measure which gives to the director-general of the court a wide margin of discretion in removing court rulings from the public databases.⁸⁰

3.2.7. Promoting and safeguarding media freedom and pluralism, enabling an inclusive and balanced democratic debate

CSOs are intensively mobilising to safeguard and promote freedom of expression and information, media freedom and the safety of journalists. These efforts include tools to monitor and report on attacks against media and journalists, the provision of support tools, resilience

⁷⁶ Centre “Marta” (2021), [Projekts Atbalsts vardarbībā cietušām sievietēm un bērniem Covid-19 krīzes apstākļos](#), Press release

⁷⁷ Commission for Citizenship and Gender Equality (2021), [219 new emergency shelter vacancies for victims of domestic violence](#) (“219 vagas de acolhimento de emergência de vítimas de violência doméstica”), 17 December 2021.

⁷⁸ Croatia, Human Rights House Zagreb (*Kuća ljudskih prava Zagreb*), [Hate crime training for police officers held in January](#), January 2021; Croatia, Centre for Peace studies (Centar za mirovne studije), [Against Hate - Guidebook of good practices in combating hate crimes and hate speech](#).

⁷⁹ Greece, ZackieOh Justice Watch, available at <https://zackieohjustice.watch/en/about-en/>.

⁸⁰ The Daphne Caruana Galizia Foundation, Lovin Malta, The Malta Independent, Access Info Europe, Times of Malta, The Shift, Newsbook, Malta Today, Institute of Maltese Journalists (IGM), (2021) [Statement on Legal Notice 456 of 2021](#), 2 December 2021.

and capacity building initiatives, strategic litigation, and advocacy efforts to improve the regulatory framework and protection measures.

Promising practice

In Slovenia, in the context of the joint project “Defending watchdog role of civil society and journalists”, the Association of Slovenian Journalists and the NGO Peace Institute published a report documenting attacks, threats and restrictions affecting CSOs and HRDs, including journalists, between 2018 and 2020.⁸¹ They also organised a workshop on how to address online harassment of journalists and disseminated the International Press Institute protocol for newsrooms to address online harassment. In addition, the Association of Journalists launched an online platform to monitor and report attacks on journalists.⁸²

CSOs have increasingly invested in mapping and raising awareness about the use of Strategic Lawsuits against Public Participation (SLAPPs) against journalists and HRDs. They have also advocated for adequate responses at EU and national level, in particular within the Coalition Against SLAPPs in Europe (CASE).⁸³

In some EU countries, CSOs have also engaged in countering disinformation (including in the context of the COVID-19 pandemic), promote media literacy, ethical standards for media and to counter hate speech in the media and in public discourse.

Promising practice

Notable CSOs initiatives on countering disinformation and hate speech and promoting youth media literacy were reported in Latvia and Romania. The Latvian Centre for Human Rights implemented in 2021 the project “Together against disinformation and hate speech”, funded by the Riga City Council, aimed at increasing pupils’ and teachers’ awareness about and abilities to identify disinformation and combating hate speech.⁸⁴ In Romania, the Centre for Independent Journalism secured further support from the EEA and Norway Grants for the continuation of its project “Teaching Media Literacy! – the Media Education and Culture Lab”, which aims at ensuring that by 2030, at least 30% of high school students in the country understand the media’s role in a democratic society and are able to identify misinformation, deconstruct media messaging and interact responsibly on social networks.⁸⁵

3.2.8. Contributing to the prevention of and fight against corruption

There is evidence of increasing mobilisation of CSOs in combating corruption in a number of EU

⁸¹ For more information on these reports, see web pages of the Association of Slovenian Journalists on <https://novinar.com/novica/8256/> and of the Peace Institute on www.mirovni-institut.si/napadi-na-civilno-druzbo-v-sloveniji-pregled-znacilnosti-napadov-komunikacijski-nasveti-za-nevladnike-in-sistemska-priporocila-za-izboljsanje-zascite/.

⁸² For more information on this platform, see web page of the Association of Slovenian Journalists on <https://novinar.com/prijavi-napad/>.

⁸³ See CASE recent Europe wide report [Shutting Down Criticism: How SLAPPs threaten European Democracy – A report by CASE](#) (March 2022).

⁸⁴ Latvian Centre for Human Rights (2021), [Ir īstenots projekts “Kopā pret dezinformāciju un naida runu”](#), 12 November 2021, Press release.

⁸⁵ For more information, see the program’s web page on <https://cji.ro/subject/educatie-media/>

countries. Initiatives range from monitoring and awareness raising to advocacy efforts to prompt authorities to strengthen anti-corruption frameworks.

Promising practice

In 2021, a transnational NGO coalition in Latvia, Estonia and Sweden initiated a project to foster Nordic-Baltic cooperation among CSOs and government agencies to promote the disclosure of anti-corruption data, the development of digital tools enabling citizens and journalists to prevent and detect corruption, and joint cooperation and advocacy to strengthen the prevention of and fight against anti-corruption.⁸⁶ In Austria, a broad alliance of CSOs initiated in 2021 a petition for a referendum against corruption and the abuse of power⁸⁷, calling on the Federal Government and Parliament to adopt measures to strengthen the anti-corruption and rule of law framework, against the background of attempts by some political forces to weaken investigation and prosecution efforts.⁸⁸

CSOs are also investing in the support and protection of whistle-blowers through projects and advocate strengthening national legal framework in line with EU rules.

Promising practice

Transparency International Estonia is implementing a two-year project to support whistle-blowers, which foresees, among other measures, the creation of an Advocacy and Legal Advice Centre to provide free legal advice to people who are considering reporting corruption or have experienced retaliation for being a whistle-blower.⁸⁹

3.3. Challenges experienced by CSOs in doing their work

Reports by international organisations and a range of CSOs, as well as by FRA⁹⁰, have pointed to persisting, serious challenges for civil society in the EU, limiting their role and contribution to the functioning of democracy and the rule of law. The context of the COVID-pandemic has further exacerbated some of these challenges.

3.3.1. Legal environment

In 2021, a number of civil society organisations across the EU reported difficulties of a legal nature. The legal situation improved in 2021 compared to 2020, when COVID measures had a strong impact, restricting freedom of assembly and, to some extent, the freedom of association and expression. FRA's civic space consultation 2021 found that 16% of responding organisations reported challenges in exercising their fundamental freedom of peaceful assembly (as compared

⁸⁶ Transparency International Latvia (*Sabiedrība par atklātību – Delna*) (2021), [TI Latvia fosters the development of digital tools to fight corruption](#), 9 October 2021, Press release

⁸⁷ Antikorruptionsbegehren.at (2022), [Content of the Referendum](#).

⁸⁸ Kurier (2021), ['Machtwort im Streit zwischen Justiz und ÖVP: „An der WKStA wird nichts geändert“](#), 19 March 2021.

⁸⁹ Transparency International Estonia (*Korruptsioonivaba Eesti*), [ALACi ehk vihjeandjate nõustamis- ja teabekeskuse kaudu teavitajate toetamine Eestis](#).

⁹⁰ FRA (2021), [Protecting Civic space in the EU](#)

to 29 % in 2020:), 17 % reported challenges related to freedom of expression (2020: 25 %) and 8 % related to freedom of association (2020: 18 %).

Restrictions on the right to public assembly continue to be reported in various countries. Bans on gathering and the imposition of fines mainly related to precautionary measures adopted in response to the COVID-19 pandemic were still in force in 2021, but concern was raised about a tendency to over-police assemblies, often resulting in disproportionate use of force by law enforcement and prosecutions brought against protesters. In some countries, concerns persist about restrictive measures obstructing journalistic coverage of demonstrations.

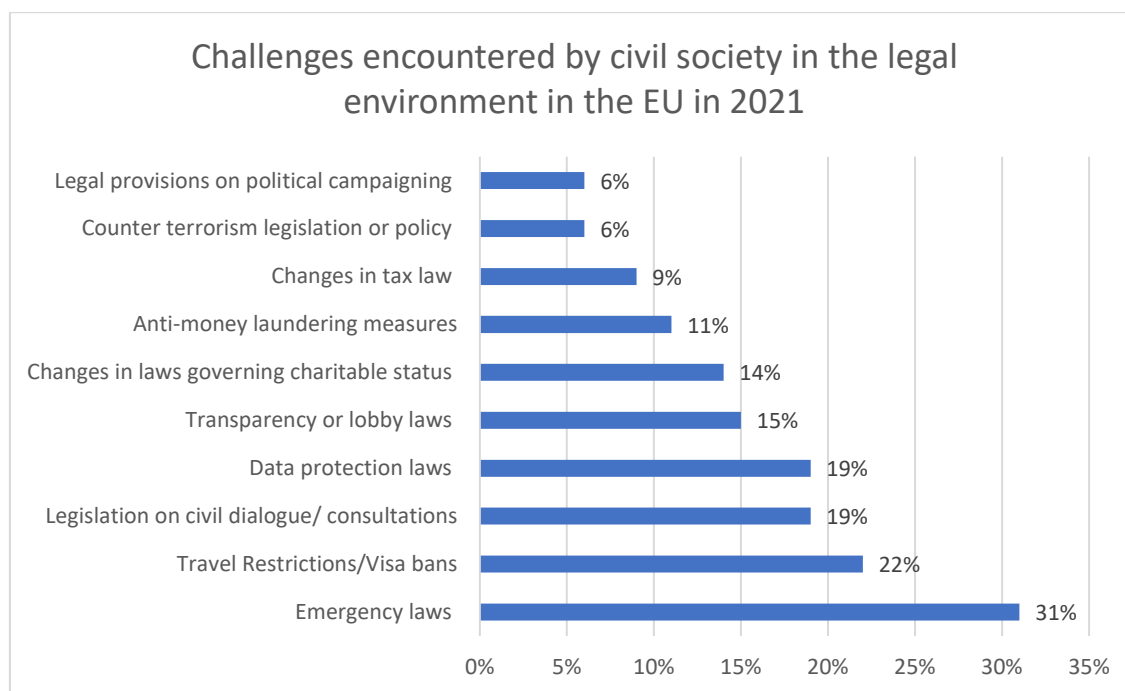
In some EU countries, efforts to improve the framework for the exercise of the right to peaceful assembly can be identified. These resulted from civil society mobilisation, as well as reviews by courts, and repeal of assembly bans and fines or initiatives to modernise legislation. CSOs have also been active in litigating against restrictions to freedom of peaceful assembly in a number of EU countries.

Freedom of expression was affected by provisions criminalising speech, including in the framework of counter-terrorism laws, which increased the risk of a chilling effect on the exercise of freedom of expression. In other cases, governments stepped up enforcement and sanctions in efforts to counter disinformation and fake news in connection with the COVID-19 pandemic. In some Member States, attempts to tackle hate speech, in particular online, have raised concern for their potentially disproportionate impact on free speech. Civil society actors in a few Member States also note challenges related to media pluralism and freedom, as well as artistic and academic freedom.⁹¹ The safety of media and journalists remains a concern. In addition to the assassination of investigative journalists Giorgos Karavivaz in Greece and Peter de Vries in the Netherlands, attacks, including violent ones, harassment and SLAPPs reportedly targeting journalists increased in the course of 2021 in several countries across the EU.

Freedom of association was affected by existing or new measures, inter alia through laws regulating associations adopted or considered in various countries. This included, for instance, increasingly costly registration procedures and transparency regulations which may result in intrusive monitoring and excessively burdensome reporting rules. Anti-money laundering regulations also raised concerns. In some countries, the approach towards CSOs working in the field of asylum and migration, in particular those assisting migrants and asylum seekers, providing humanitarian aid at borders or engaging in search and rescue operations at sea, is particularly restrictive, and may include their criminalisation, burdensome registration regulations and restrictions to the provision of legal assistance to asylum seekers and migrants. In other countries, the risk of an abusive or arbitrary implementation of new laws adopted on grounds of security considerations was reported. This may prevent the registration of CSOs, allow for their dissolution, or criminalise CSOs membership based on criteria vaguely formulated, such as the lack of adherence to democratic values. Figure 3.4. shows the proportion of respondents to FRA's civic space consultation for 2021 who reported facing challenges in various legal areas.

Figure 3.4. Challenges encountered by civil society in the legal environment in the EU in 2021

⁹¹ FRA (2021), [Protecting civic space in the EU](#)



Note: Question: “In the past 12 months, has your organisation encountered difficulties in conducting its work due to legal challenges in any of the following areas? You can tick all boxes that are relevant.” (N=328)

Source: FRA civic space consultation 2021

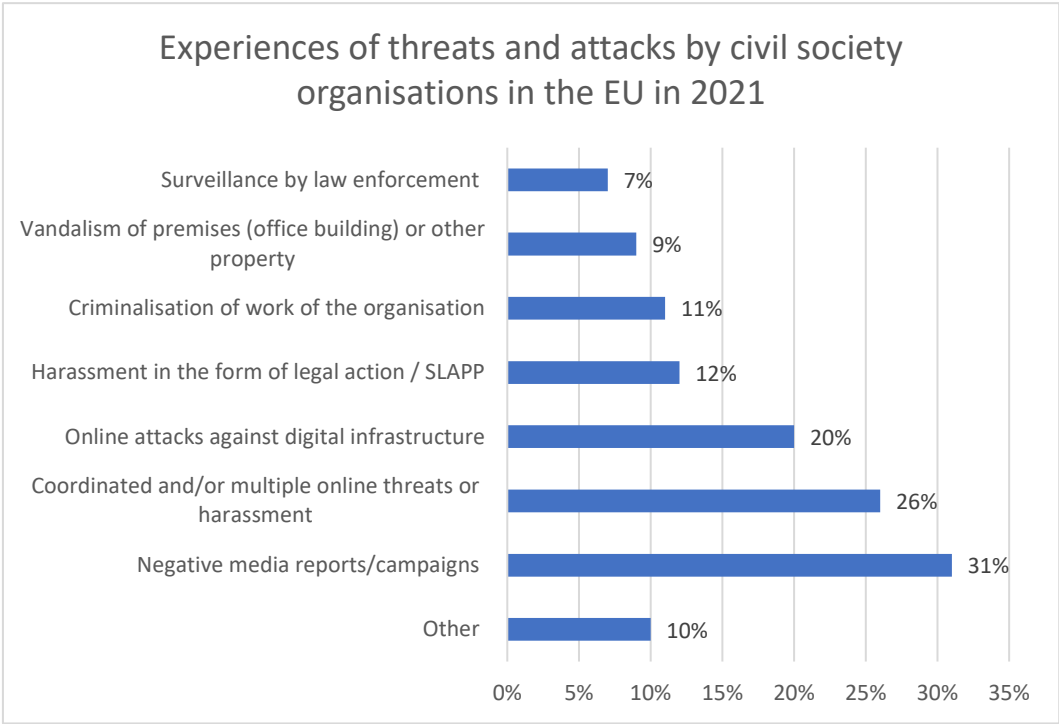
The research also points to positive developments. This includes efforts to modernise existing rules and ease bureaucratic requirements for CSOs, to improve registration systems and rules on public benefit status, and regulatory efforts to promote the work of associations in the area of sports and culture, as well as volunteering.

3.3.2. Threats and Attacks

Threats and attacks against CSOs and HRDs persist across the EU. They include threats and attacks against organisations, as well as against their staff or volunteers, ranging from online and offline intimidation and harassment, to allegations of negative public statements and smear campaigns and verbal threats, as well as to legal and physical attacks.⁹²

Figure 3.5. Experiences of threats and attacks by civil society organisations in the EU in 2021

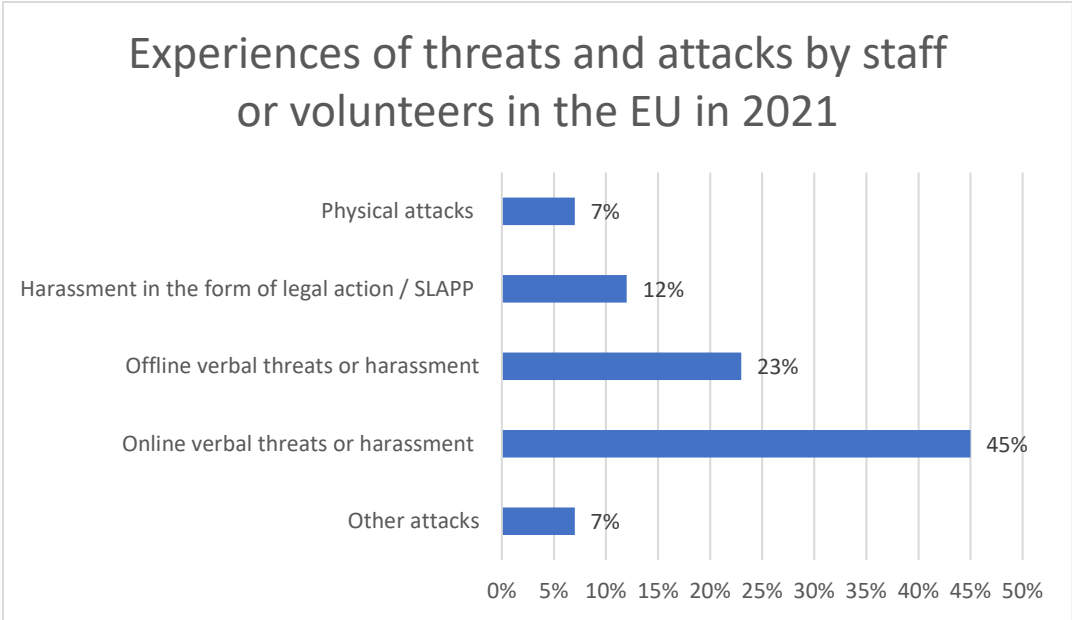
⁹² FRA, civic space consultations 2021, 2020, 2019, 2018



Note: Question: “In the last 12 months, has your organisation experienced any of the following?” (N changes per question, between N=342)

Source: FRA civic space consultation 2021

Figure 3.6. Experiences of threats and attacks by staff or volunteers of civil society organisations in the EU in 2021



Note: The question was “In the last 12 months, have any of your employees/volunteers experienced any of the following due to their work?” (N changes per question, between N=348)

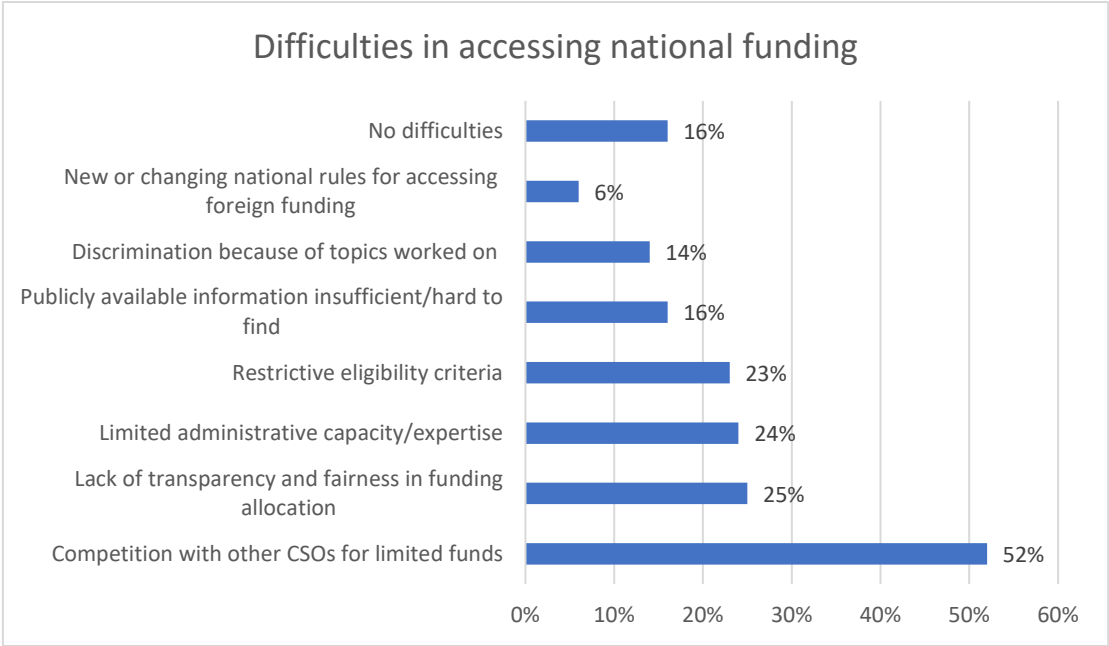
Source: FRA civic space consultation 2021

For around a third of cases of threats and attacks, responding CSOs claimed that a state actor was known or suspected to be the perpetrator.⁹³ Hate speech and attacks targeting ethnic and religious minorities, women HRDs and LGBTI+ people, sometimes in connection with nationalist and extremist rhetoric, affects CSOs and other HRDs engaged in the support and protection of the targeted groups. The consultation also showed high underreporting rates (just over a quarter of attacks experienced were reported). CSOs also expressed frustration about how incidents are not appropriately addressed by the authorities.⁹⁴

3.3.3. Access to resources

Finding and accessing resources and funding for their work remains an ongoing concern for CSOs⁹⁵, which in 2020-2021 was aggravated by the COVID-19 pandemic. Where funding is available, CSOs face hurdles in accessing it, including competition with other CSOs when funds are limited, lack of public information about available funding, limited capacity to apply for funding, and restrictive eligibility criteria.⁹⁶

Figure 3.7. Difficulties in accessing national funding in 2021



Note: Question: “In the last 12 months, did you experience any of the following difficulties when trying to access national funding? Please select up to three” (N=180; that is those who indicated that they had attempted to access national funding in 2021)

Source: FRA civic space consultation 2021

⁹³ FRA, civic space consultation (2021)
⁹⁴ FRA, civic space consultation (2021)
⁹⁵ FRA, civic space reports 2018, 2021
⁹⁶ FRA, Protecting civic space in the EU (2021), civic space consultation 2021

At the same time, FRA's research identified a range of positive developments at national level. Several countries set up targeted support schemes for CSOs due to COVID, and a few improved their general financing frameworks, while others explored a more favourable taxation framework for CSOs.

3.3.4. Participation

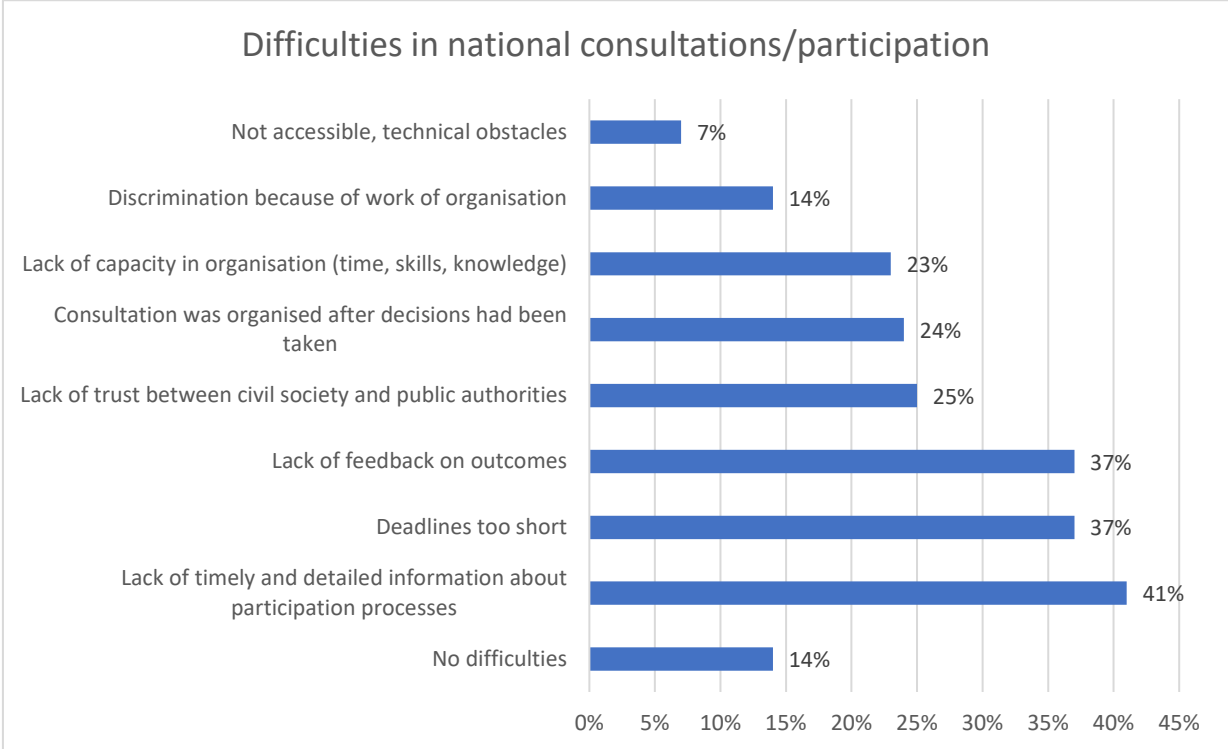
The participation of civil society in policy and decision-making processes is an indicator of democracy and contributes to the sustainability of laws and policies.

FRA's civic space consultation for 2021 shows that despite efforts in some Member States to improve consultation practices, channels for CSOs' access to and participation in policy and decision-making remain patchy. CSOs participating in FRA's consultation report, inter alia, lack of information about participation processes (41%), too short deadlines (37%), lack of feedback on the outcome (37%), lack of trust between civil society and public authorities (25%), and lack of capacity in their own organisation (time, skills, knowledge) (23%).⁹⁷ CSOs frequently mention that minorities and vulnerable groups are not adequately represented.⁹⁸

⁹⁷ FRA, civic space consultation (2021)

⁹⁸ FRA (2021), [Protecting civic space in the EU](#)

Figure 3.8. Difficulties in national consultations/participation



Note: Question: “What were the main difficulties you encountered in national consultations/participation?” (N=237; that is those who indicated that they had participated in consultations/participation at the national level in 2021)

Source: FRA civic space consultation 2021

FRA’s research identified some efforts to improve consultation processes.⁹⁹ EU action can serve as a catalyst in this regard, as many EU strategies require adoption of national action plans with the involvement of CSOs.

⁹⁹ FRA (2021), [Protecting civic space in the EU](#)

Annex: The European Union Fundamental Rights Information System (EFRIS): Added value and ongoing development of a one-stop-shop

The European Union Member States are bound by a number of international human rights treaties and assessed by a range of human rights monitoring mechanisms. The United Nations and the Council of Europe have altogether some 60 monitoring mechanisms with relevance for the EU. Some of these mechanisms are courts, like the European Court of Human Rights, others are quasi-judicial or provide more general monitoring, such as the UN Treaty Bodies. This wealth of resources is brought together in a tool called the European Union Fundamental Rights Information System (EFRIS), which is publicly available on the FRA website [here](#).

EFRIS is being developed by FRA in close cooperation with the United Nations and the Council of Europe. It facilitates greater use of existing international human rights data within an EU context, thereby reinforcing the human rights framework in the EU and increasing transparency and awareness. EFRIS provides direct access to the assessments made by the monitoring mechanisms, and where feasible, offers comparison across the EU (and accession states having observer status with FRA). EFRIS is a human rights information gateway that uses technology to bring data from existing data sources together for easy access and overview.

FRA is currently developing the tool in terms of its of its scope, adding additional data sources from the Council of Europe, International Labour Organisation and the case law of the Court of Justice of the EU. Finally, FRA will further enhance the user-friendliness of the tool in the coming period by adding information and legends on the various type of documents and enabling more search functionalities. Furthermore new functionalities will be developed, such as AI-powered searches for key words inside documents.