

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 2024

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Introduction

The European Commission asked the European Union Agency for Fundamental Rights (FRA) for input to its rule of law report 2024. The request called for a contribution covering the relevant information available 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 The European Commission examines in its annual Rule of Law report developments under four pillars: justice², anti-corruption³, media freedom and pluralism⁴, and broader institutional issues related to checks and balances⁵. Therefore this submission deals with issues related to these areas in contexts where fundamental rights play an important role. It consists of three main parts:

1. Summary of relevant findings and recommendations issued during the reporting year by United Nations (UN) and Council of Europe (CoE) monitoring mechanisms covered by EFRIS;
2. Developments regarding civic space as a rule of law relevant factor, drawing on country level data collected through the Agency’s multidisciplinary research network [FRANET](#) and a consultation of its [Fundamental Rights Platform](#) of civil society organisations
3. Democracy and participation, summarising experiences and feedback from civil society as gathered through the Agency’s consultation of its Fundamental Rights Platform.

To allow for quick access to the main findings, the submission offers an executive summary. Activity boxes point to FRA activities related to the rule of law such as the European Union Fundamental Rights Information System, aspects of the agency’s work on National Human Rights Institutions and Human Rights Defenders, work on external borders, the criminal detention database, national rule of law dialogues or the agency’s annual monitoring of the civic space. The submission covers the 27 EU Member States and three EU candidate countries, participating as observers in FRA’s work (Albania, North Macedonia and Serbia).

¹ Letter Ares(2022)7857411 of 14.11.2023. 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 “focusing on their independence, quality and efficiency. These are key parameters to ensure that the application and enforcement of EU law is effective and that the rule of law is upheld. Well-functioning and fully independent justice systems are crucial for ensuring that justice works to the benefit of citizens and of businesses. They are also essential for judicial cooperation across the EU, as well as for the functioning of the Single Market and the EU’s legal order as a whole.” See European Commission, 2023 Rule of law report, COM(2023) 800 final, 5.7.2023, p. 2.

³ “focusing on the effectiveness of national anti-corruption policies and assessing different key areas of action taken by Member States to prevent and fight corruption. Effective anti-corruption action, transparency and integrity help ensure the strength and reliability of state power and are essential to citizen and businesses’ trust in public authorities”. See European Commission, 2023 Rule of law report, COM(2023) 800 final, 5.7.2023, p. 2.

⁴ “focusing on core areas including the independence of the media regulatory authorities; transparency and concentration of media ownership; transparency and fairness in the allocation of state advertising; the safety of journalists and access to information; and the governance of public service media. These are essential to how the media exercises its role in a healthy democracy. See European Commission, 2023 Rule of law report, COM(2023) 800 final, 5.7.2023, p. 2.

⁵ “focusing on areas of key importance for the rule of law, such as: the quality and inclusiveness of the national legislative process; the role of Constitutional Courts and independent authorities such as the Ombudsperson, equality bodies⁶ and national human rights institutions; and the role of civil society organisations in safeguarding the rule of law.” See European Commission, 2023 Rule of law report, COM(2023) 800 final, 5.7.2023, p. 2.

Vienna, 26 April 2024

Executive Summary

This submission looks at 2023 rule of law developments in the 27 EU Member States as well as in Albania, North Macedonia and Serbia that hold observer status with FRA. It does so by building on relevant international human rights monitoring data and, secondly, on a consultation of, and research data on the situation of civil society actors that play an essential role in promoting and guarding the rule of law (section 2) and participation in democracy (section 3). Whereas the first section provides brief information on rule of law relevant findings delivered by CoE and UN monitoring mechanisms in 2023 pointing directly to the respective sources (without further analysis by FRA), sections 2 and 3 contain FRA data, analysis and findings.

International human rights monitoring data does not cover all EU Member States in any given year. However, the assessments delivered in 2023 provide relevant insights for measuring the general rule of law temperature in the EU. 21 EU Member States were scrutinised in Concluding Observations by key UN monitoring bodies in 2023. In total, 13 EU Member States received a report or a communication under a UN Special Procedure. A fourth of the EU Member States received in 2023 a country-visit by UN Special Rapporteurs or other Special Procedures. Whereas the EU Member States only account for 14 percent of the UN Member States, 22 percent (60) of all 268 Individual Communications received by UN treaty bodies came from EU Member States. In 2023, seven EU Member States received recommendations as part of their Universal Periodic Review with many of these being of direct relevance to the rule of law.

Next to the UN instruments, EU Member States were in 2023 also scrutinised by mechanisms under the CoE. These mechanisms provide useful findings and assessments for the four areas covered by the European Commission rule of law report: justice, anti-corruption, media freedom and pluralism, and broader institutional issues related to checks and balances (including civic space issues). For corruption, within the framework of Group of States against Corruption (GRECO), reports were in 2023 submitted for two thirds of the EU Member States, while 10 EU Member States received visits by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The case law on the European Convention on Human Rights (ECHR) provides further insights on the status of the rule of law in EU Member States and the three observer states. Next to judgments identifying a violation of Convention rights – especially the right to a fair trial in Article 6 of the ECHR, the right to freedom of expression in Article 10, the right to freedoms of assembly and association in Article 11 and the right to an effective remedy in Article 13 – also the non-implementation of judgments is indicative for rule of law issues. This is especially obvious in leading ECtHR cases, including those that identify violations of the mentioned human rights that are central to the rule of law. In this context, some EU Member States, notably Bulgaria, Hungary, Italy, Poland and Romania show a poor track-record in quickly and fully implementing such judgments: in these five EU Member States over 30 leading cases are pending while the proportion of leading cases pending from the last ten years is above 30 per cent.

The second part of this submission deals with the civic space within the EU. Human rights bodies both at global as well as European level have increasingly emphasised over the past years the key contribution of civil society organisations (CSOs) and other civil society actors, such as human rights defenders (HRDs) and activists, to advance and safeguard the rule of law. At the same time, CSOs and HRDs face challenges. The submission captures these experiences by building on a comprehensive consultation: almost 300 CSOs, umbrellas and networks from all EU Member States and selected candidate countries responded to the FRA's annual consultation 2023 on civic space via the Fundamental Rights Platform. The Platform is the Agency's working method to reach out to civil society actors specialised on fundamental rights. It currently has around 1000 participants. In addition, the Agency's multidisciplinary research network FRANET delivered country reports on legal and policy developments in 2023 related to the freedoms of assembly, peaceful assembly and of expression as well as to various forms of civic participation of both CSOs and citizens. The consultation with the Fundamental Rights Platform indicated that the majority of responding CSOs perceived their general situation as not having changed as compared to 2022, while in some areas more CSOs identified challenges, namely in the areas of access to information, transparency laws and data protection. CSOs reported to face issues in the context of the freedom of association (threats against organisations; surveillance and use of spyware; accounting obligations), the freedom of assembly (reaction to demonstrations; coercive measures; preventive detention and arrests), and the freedom of expression (attacks or threats against journalists; interrogations and searches directed against journalists, strategic lawsuits against public participation - SLAPPs). The consultation revealed that 17% of the responding NGOs "often" experienced "online verbal threats and attacks" in 2023 whereas an additional 45% of the respondents reported to have experienced such threats and attacks "sometimes". 12% indicated that they experience "often" politically motivated cut, withdrawal or not receiving of funds while 21% said they have experienced that "sometimes" in 2023.

The final and third part of the submission deals with democracy and participation. Meaningful participation of individuals and civil society in public affairs is a crucial tool for a democracy and ensures full implementation of fundamental rights. It safeguards that everyone's rights are considered when drafting laws and policies, and that respective policies and laws take into account actual needs of constituencies. Looking at the experiences of CSOs shows that much remains to be done to fully implement the 2023 European Commission's recommendation on promoting the engagement and effective participation of citizens and CSOs in public policy making processes. Experiences collected by FRA research include too short consultation periods; overly formalised consultations; the use of urgent or fast-track procedures limiting the room for participation; excessively high numbers of often unrelated amendments to laws; lack of resources to participate. In the consultation, 43.8% of the respondents indicated that involvement needs to come earlier in the process; 22.7% said that they would need some kind of funding for the time and effort spent in consultations; and 19.6 % of respondents would like to see obligatory feedback on the input provided.

Based on the data and emerging findings it is recommended that the EU institutions use their respective tools and leverage to contribute to a timely and full implementation of the recommendations and judgments delivered under the various UN and CoE mechanisms and make full use of them when assessing themselves the rule of law within the EU. Moreover, it is important that national authorities further step up their efforts to strengthen civil society organisations working on human rights and rule of law issues at national level, as well as

individual human rights defenders, so that the rule of law is strengthened 'from below'. Finally, Member States should ensure that rules on public participation are clear and sufficiently broad, allowing CSOs working on fundamental rights to submit their expertise. They should widely publicise and promote participation in public consultations and leave sufficient time for civil society to respond to legislative and policy initiatives in a meaningful manner.

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

FRA Activity

EFRIS, a gateway to international human rights information on EU Member States and selected candidate countries

The European Union Fundamental Rights Information System (EFRIS) is a common online search interface that brings together the wealth of resources, data and analysis, produced under the monitoring systems of the United Nations and the CoE. The tool, developed in cooperation with these partner organisations, is online since 2019 and facilitates access to and overview of EU Member States' commitments to human rights treaties, including detailed aspects, such as States' acceptance of individual complaints. It provides direct access to the assessments made by the monitoring mechanisms, and where feasible, offers comparison across the EU. The Agency recently upgraded the tool by developing new functionalities including an AI-based search tool and by adding further data sources such as monitoring data submitted under the CoE Framework Convention for the Protection of National Minorities (FCNM).

EFRIS can be accessed here: <https://fra.europa.eu/en/databases/efris/>

1.1. The relevance of international human rights law for 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 CoE system.⁶ 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 will become even more visible when the EU has concluded the accession process to the European Convention on Human Rights. Note that in 2023 the EU has also acceded to the CoE Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). Finally, the EU is contributing to the development of international human rights law in various fora when areas of EU competence are concerned.

All EU Member States have ratified core human rights treaties under the UN system such as the CCPR, CESCR, CRC, CRPD, CERD, CAT, CEDAW.⁷ 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 States parties at regular intervals of usually

⁶ See e.g. UNOHCHR (2020), [The European Union and international human rights law](#).

⁷ 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.

five years. This generates every year relevant data and information regarding the rule of law related performance of EU Member States.⁸

Both the UN Human Rights Office and the CoE submit, on a country-by-country basis, information to the European Commission in the context of the Rule of Law Report. These submissions point to available monitoring data for all EU Member States. In fact, 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 comprehensively if the analyses of national human rights institutions, equality bodies, ombuds institutions and civil society are taken into account.⁹ 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 2023.¹⁰

FRA Activity **Rule of law and National Human Rights Institutions**

The Agency, in 2022-2024, implemented a regional FRA project funded by the EEA and Norway Grants focused on strengthening the role of NHRIs in promoting and protecting fundamental rights and the rule of law in selected beneficiary States of the Grants, namely Bulgaria, Croatia, Cyprus, Latvia, Poland, Portugal, Slovakia, and Slovenia. The project supported the NHRIs in developing and implementing activities to promote the application of the EU Charter nationally as well as to strengthen their capacity to monitor fundamental rights aspects of the rule of law. It builds amongst others on [ENNHRI's methodology of the rule of law reporting](#). Project deliverables and rule of law relevant tools have been made available on the websites of the NHRIs concerned.

Source: [Supporting National Human Rights Institutions in monitoring fundamental rights and the fundamental rights aspects of the rule of law | European Union Agency for Fundamental Rights \(europa.eu\)](#)

The following sections draw attention to available data and findings as generated under the UN and CoE systems without engaging in any analysis and without being exhaustive. Examples were mostly selected due to their relevance for sections 2 (civic space) or 3 (participation).

⁸ This submission focuses on the assessments delivered by the Treaty Bodies, mechanisms, supranational Courts etc rather than on the Member States' reactions to these assessments (most of these reactions would not fall under the reporting period 1.1.2022-31.12.2022). For the original sources see the agency's European Fundamental Rights Information System. See also the the Universal Human Rights Index HRI database <https://uhri.ohchr.org/en>.

⁹ 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](#)).

¹⁰ The ENNHRI submission will be made available at the European Commission's website on the 2024 rule of law report. Available here: [State of the rule of law in Europe 2023 - ENNHRI](#)

1.2. UN reports and observations submitted on EU Member States in 2023

1.2.1 Universal Periodic Review

EU Member States receive recommendations under the Universal Periodic Review (UPR), the UN's 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 2023, seven EU Member States (**Czechia, Finland, France, Luxembourg, Netherlands, Poland, and Romania**) received the Working Group¹¹ report as part of the UPR review. In the following emphasis is given to recommendations that are of key relevance to the rule of law.

For **Czechia**, the Working Group under the UPR issued 241 recommendations, with 199 supported by Czechia (i.e. 83 per cent of those received), and 35 taken note of. Czechia, in its [views](#), supported recommendations to expand the role of the Office of the Ombudsman and establish a national human rights institution in conformity with the Paris Principles and allocating sufficient resources,¹² and protecting the legitimate exercise of the freedom of expression by journalists and media workers.¹³

The Working Group report for **Finland** issued 229 recommendations. While 69 recommendations were supported by Finland (i.e. 30 per cent of those received), 47 were taken note of. Finland, in its [views](#), supported the recommendations to revise the anti-discrimination and equal opportunity legislation to provide better and intersectional victims protection,¹⁴ to strengthen national laws on offences related to violence against women and girls,¹⁵ and to ensure that the national legislation does not restrict individuals' ability to practice their religion or belief freely.¹⁶

The Working Group report for **France** issued 355 recommendations, including 7 recommendations directly related to the freedom of expression.¹⁷ France, in its [views](#), supported 274 recommendations (i.e. 77 per cent of those received), took note of 47 recommendations, while it only partially supported 34. France supported for instance recommendations regarding criminal justice response to multiple forms of discrimination¹⁸ and access to justice for victims

¹¹ See United Nations Human Rights Council (UNHRC), [Basic facts about the UPR](#).

¹² United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Czechia](#), 15 March 2023, recommendations 133.27-28.

¹³ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Czechia](#), 15 March 2023, recommendation 133.68.

¹⁴ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Finland](#), 5 January 2023, recommendations 138.28-30.

¹⁵ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Finland](#), 5 January 2023, recommendations 138.34-35, 138.135-136, 138.147-163.

¹⁶ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Finland](#), 5 January 2023, recommendations 138.38, 138.93.

¹⁷ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for France](#), 17 July 2023, recommendations 45.131, 45.133, 45.136, 45.141-142, 45.145, 45.242.

¹⁸ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for France](#), 17 July 2023, recommendations 45.215, 45.297, 45.306, 45.312-313.

of human trafficking and nuclear testing,¹⁹ and recommendations concerning the ensuring effective safeguards against the excessive use of force by law enforcement authorities against protesters during demonstrations.²⁰

The Working Group report for **Luxembourg** issued 254 recommendations, including recommendations directly related to the prevention and combating hate speech.²¹ Luxembourg, in its [views](#), took note of 22 recommendations and supported the other 232 recommendations (i.e. 91 per cent of those received), including those regarding the implementation of a support platform for human rights defenders,²² and strengthening the efforts to counter and prevent trafficking in persons, and developing more safeguards to protect victims against traffickers freed on suspended sentences.²³

The Working Group report for **the Netherlands** issued 254 recommendations. The Netherlands, in its [views](#), accepted more than half of the issued recommendations (165, i.e. 65 percent of those received) including those concerning media freedom and strengthening measures to ensure the safety of journalists and other media experts, particularly regarding acts of aggression and intimidation against journalists, and their protection against hate crimes,²⁴ the establishment of measures to formalize and strengthen the human rights institute and to take concrete steps to eliminate differences in human rights protection,²⁵ and safeguards and judicial oversight in decision-making by public authorities to prevent bias and discrimination.²⁶

The Working Group report for **Romania** issued 251 recommendations, including the recommendations directly related to the rule of law, civil society involvement, and freedom of expression and peaceful assembly.²⁷ Romania, in its [views](#), supported 209 of the recommendations proposed by the Working Group (i.e. 83 per cent of those received), partially supported 14, and took note of 29 recommendations. Romania supported recommendations made in relation to justice namely criminal justice response to human trafficking²⁸ and access to justice for victims of sexual and domestic abuse,²⁹ and recommendations made in relation to

¹⁹ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for France](#), 17 July 2023, recommendations 45.220, 45.222.

²⁰ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for France](#), 17 July 2023, recommendations 45.84, 45.86, 45.89-90, 45.96, 45.98.

²¹ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Luxembourg](#), 22 June 2023, recommendations 135.32-53.

²² United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Luxembourg](#), 22 June 2023, recommendation 135.106.

²³ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Luxembourg](#), 22 June 2023, recommendations 135.110-127.

²⁴ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for the Kingdom of the Netherlands](#), 5 January 2023, recommendations 147.93, 147.111-112, 147.117-118.

²⁵ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for the Kingdom of the Netherlands](#), 5 January 2023, recommendation 147.45.

²⁶ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for the Kingdom of the Netherlands](#), 5 January 2023, recommendations 147.53-54, 147.57-64.

²⁷ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Romania](#), 23 June 2023.

²⁸ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Romania](#), 23 June 2023, recommendations 109.66, 109.78.

²⁹ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Romania](#), 23 June 2023, recommendation 109.128, 109.201.

anti-corruption measures (investigation and prosecution) and in areas of administration, health and the judiciary.³⁰

For Serbia, the Working Group report included recommendations and conclusions which highlight the need to promote media pluralism and transparency of media ownership, strengthen laws and policies to protect women from domestic violence, continue actions to prevent and protect against discrimination, and promote the protection of children's rights and access to education.³¹

The reports by the Working group also explicitly referred to European Union law and policies. For instance, in the recommendations concerning Luxembourg, the Working Group mentioned the transposition of European Union rules on whistleblower protection, enabling the reporting of breaches of European Union rules in a confidential manner.³² France was recommended to take essential steps within the European Union to proceed with the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and implement the ECHR judgment on prison overcrowding by reforming the process of determining prison operating capacities.³³ In the Working Group report on Poland, the recommendations included broadening "the dialogue with the EU and other relevant international institutions on open human rights issues," and protecting the independence of the judiciary by fully implementing rulings of the ECJ and the ECtHR pertaining to the rule of law in Poland, as well as the recommendations of the Venice Commission.³⁴

1.2.2 Concluding Observations and Individual Complaints

In the course of 2023, UN monitoring committees delivered their Concluding Observations on 21 EU Member States and a Concluding observation on Albania, and a Periodic report on North Macedonia. Most observations were submitted under the CEDAW (6 EU Member States: France, Germany, Hungary, Slovakia, Slovenia, Spain) and the CERD (9 EU Member States: Belgium, Bulgaria, Croatia, Denmark, Estonia, France, Germany, Italy, and Portugal). Concluding observations were also submitted under CEDAW for Albania. Follow-up reports to the Concluding Observations were submitted for Latvia under CESCR, and for Czechia, Portugal and North Macedonia under CCPR.

For the year 2023, the UN treaty Bodies received 268 Individual Communications, a record-high number, with 60 being from EU Member States. Therefore, 22 percent of all Individual Communications came from EU Member States which together only form 14 percent of the UN

³⁰ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Romania](#), 23 June 2023, recommendation 109.36, 109.49, 109.65.

³¹ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Serbia](#), 5 July 2023.

³² United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Luxembourg](#), 22 June 2023, recommendations 135.15-16.

³³ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for France](#), 17 July 2023, recommendations 45.9, 45.119.

³⁴ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Working Group on the Universal Periodic Review for Poland](#), 4 January 2023, recommendations 114.21-22, 114.27, 114.74-77, 114.83-89.

Member States. 3 Individual Complaints concerned Serbia.³⁵ Out of 60 complaints coming from EU Member States, 9 addressed an issue of direct relevance to the rule of law. This concerned the individual complaints involving Hungary (CEDAW), Lithuania (CCPR), Netherlands (CCPR), Spain (CCPR), and Sweden (CRC), where the rule of law was one of the main issues raised in front of the Committees, notably regarding freedom of expression, fair trial, the legality principle, right to an effective remedy and access to justice.

Table 1.1.: UN Treaty bodies' Concluding Observations (all) and decisions on individual complaints (only those related to the rule of law) delivered in the course of 2023.

	CCPR	CESCR	CERD	CEDAW	CRC	CED	CRPD	CAT
Austria							CO/2-3	
Belgium		CO/5						
Bulgaria			CO/23-25					
Croatia			CO/9-14					
Cyprus	CO/5							
Czechia	Other							
Denmark			CO/22-24					CO/8
Estonia			CO/12-13					
Finland					CO/5-6			
France		CO/5	CO/22-23	CO/9	CO/6-7			
Germany			CO/23-26	CO/9		CO/1	CO/2-3	
Greece					CO/4-6			
Hungary				CO/9				
Ireland					CO/5-6			
Italy			CO/21-22					
Latvia		Other						
Lithuania	IC/4343/2 023	CO/3						
Luxembourg						CO/1		CO/8
Netherlands	IC/4477/2 023							
Portugal	Other	CO/5	CO/18-19					
Romania								CO/3
Slovakia				CO/7				
Slovenia				CO/7				CO/4
Spain	IC/4527/2 023			CO/9				CO/7
Sweden					CO/6-7			
Albania				CO/5	CO/5-6			

³⁵ On individual communications to UN treaty bodies see: <https://www.ohchr.org/en/treaty-bodies/individual-communications>

North Macedonia	Other							
Serbia								Other

- Concluding observations
- Individual communications*
- Report on the follow-up to concluding observations

* The 2023 report relied on a lower threshold than the 2022 report concerning the connection to the topic of rule of law.

1.2.3 Special Procedures

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 46 thematic mandates and 14 [country](#) mandates. The Special Procedures involve independent human rights experts.³⁶ They are either [individual experts \(so-called Special Rapporteurs\) 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 may include relevant information, findings and recommendations on the rule of law. Special Rapporteurs and Working Groups can also issue communications, which are letters sent to governments in which human rights violations are addressed (letter of allegation), potential human rights violations are pointed at (urgent appeal) or concerns about national norms and practices are expressed.

In the reporting period (2023), UN Special Procedures issued reports and/or communications on 13 EU Member States. 7 EU Member States received a visit by a Special Rapporteur, namely Belgium, Croatia, Czechia, Estonia, Netherlands, Portugal, and Sweden. Country Visits reports were issued to Portugal and Sweden. Various Special Rapporteurs reported on more than a quarter of the EU Member States in the year 2023. This was for instance the case for the Special Rapporteur on the right to the adequate housing, who reported on 6 EU Member States, namely Belgium, France, Greece, Italy, Netherlands, and Spain. The Special Rapporteur on human rights of migrants reported on 4 Member States (Belgium, Italy, Greece, and Latvia). Finally, the Special Rapporteur on human rights defenders reported on 3 Member States (Germany, Italy, Latvia) and Serbia.

1.3 Civil society issues as addressed in UN monitoring data

A considerable number of UN reports on EU Member States addressed issues related to the civic space ranging from the registration of associations, their (foreign) funding, the banning of demonstrations to instances of harassment and physical threats and the need to allow civil society organisations to participate in relevant processes.

Regarding the more active involvement of civil society organisations in the preparation of periodic reports, the Committee on the Elimination of Racial Discrimination recommended

³⁶ On the Special Procedures see: [Special Procedures of the Human Rights Council | OHCHR](#)

Bulgaria to continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working on combating racial discrimination.³⁷ Concerning Austria, the Committee on the Rights of Persons with Disabilities strongly encouraged the State party to involve civil society organisations in the preparation of its periodic report.³⁸

In Croatia, concerning increasing the participation of civil society organisations, the Committee on the Elimination of Racial Discrimination, indicated lack of information on measures taken to "ensur[ing] broader consultation and the participation of civil society organizations in the selection process of the Ombudsperson."³⁹ The Committee on the Elimination of Racial Discrimination recommended that France continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection.⁴⁰ During the visit to Croatia, the Special Rapporteur emphasized the crucial role of an active civil society dedicated to advancing and safeguarding human rights for the successful operation of transitional justice procedures in Croatia.⁴¹

Another important aspect of the civic space is the opportunity of civil society organisations to participate in the public discourse as protected by the freedom of opinion and freedom of assembly. In this regard, the Human Rights Committee underlined the importance for the Republic of Cyprus to reinforce cooperation among the relevant stakeholders, including civil society, and provide adequate training to media workers on addressing hate speech and hate crimes and on promoting the principles of equality and diversity.⁴²

With regard to foreign funding of civil society organisations, the Committee on the Rights of the Child, reiterated its recommendation vis-à-vis Finland to enhance the application of open and inclusive budgeting procedures at both the national and local levels, ensuring active involvement of civil society in particular.⁴³ In the case of Ireland, the Committee recommended that Ireland incorporates a child rights based approach into the State budgeting process to ensure transparent and participatory budgeting processes at national and local levels in which civil

³⁷ United Nations (UN), Committee on the elimination of Racial Discrimination, [Concluding observations on the combined twenty-third to twenty-fifth periodic reports of Bulgaria](#), 27 December 2023, page 10, paragraph 33.

³⁸ United Nations (UN), Committee on the Rights of Persons with Disabilities (CRPD), [Concluding observations on the combined second and third periodic reports of Austria](#), 28 September 2023, page 15, paragraph 79. The Committee also called on Austria to ensure that voting and election procedures are fully accessible for persons with disabilities, including by, in particular, members of civil society organizations and by providing the respective material in accessible format, see para 68.

³⁹ United Nations (UN), Committee on the elimination of Racial Discrimination (CRPD), [Concluding observations on the combined ninth to fourteenth periodic reports of Croatia](#), 2 October 2023, page 3, paragraph 11.

⁴⁰ United Nations (UN), Committee on the elimination of Racial Discrimination (CRPD), [Concluding observations on the combined twenty-second and twenty-third periodic reports of France](#), 14 December 2023, paragraph 38.

⁴¹ United Nations (UN), Human Rights Council (HRC) (2023), [Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Fabián Salvioli](#), 19 July 2022, page 17, paragraph D.

⁴² United Nations (UN), Human Rights Committee (HRC) (2023), [Concluding observations on the fifth periodic report of Cyprus](#), 11 September 2023, paragraphs 9-10.

⁴³ United Nations (UN), Committee on the Rights of the Child (CRC) (2023), [Concluding observations on the combined fifth and sixth periodic reports of Finland](#), 15 November 2023, paragraph 9 (d).

society, the public and children can participate effectively.⁴⁴

In relation to safeguarding individuals in civil society from harassment and assaults, the UN Working Group on discrimination against women and girls expressed apprehension about the intimidating atmosphere surrounding discussions on sexual and reproductive health rights. Specifically, the group highlighted instances of both online and offline attacks targeting women activists in Malta. These attacks encompass gender-based threats and hate speech on social media, as well as tactics such as smear campaigns, blackmail, intimidation, and stigmatization.⁴⁵ In reference to women human rights defenders in Slovenia, the CEDAW expressed appreciation for the State party's dedication to collaborating with women human rights defenders. The committee recommended that Slovenia create a supportive environment for women's organizations and women human rights defenders, enabling them to effectively advocate for women's human rights.⁴⁶

1.4. The situation of Human Rights Defenders as evidenced by UN Special Procedures

As the European Commission acknowledged in its 2023 rule of law report, human rights defenders “have increasingly faced challenges linked to the narrowing of civic space, and some of the 2022 report recommendations have been only partly implemented”.⁴⁷

FRA activity

Protecting human rights defenders from third countries entering the EU

FRA was requested in late 2022 by the European Parliament to issue a report on entry and stay of human rights defenders from third countries. The report was published in July 2023 and provides an overview of EU Member States' support for human rights defenders at risk, and here notably on access to visas as a protection measure. Promising practices from EU Member States are described and analysed. It looks into administrative and practical challenges and outlines practical ways for to enhancing support to HRDs from third countries. This includes effective access to visas, as well as other support such as financial and psychological; family accompaniment; the rights to work, access health and education, and the possibility to open a bank account, as well as capacity building for relocated HRDs.

Reference: [Protecting human rights defenders at risk: EU entry, stay and support | European Union Agency for Fundamental Rights \(europa.eu\)](https://european-union.europa.eu/fundamental-rights/protecting-human-rights-defenders-at-risk-eu-entry-stay-and-support)

⁴⁴ United Nations (UN), Committee on the Rights of the Child (CRC) (2023), [Concluding observations on the combined fifth and sixth periodic reports of Finland](#), 28 February 2023, paragraph 29 (c).

⁴⁵ United Nations (UN), Working Group on discrimination against women and girls, 7 July 2023.

⁴⁶ United Nations (UN), Committee on the Elimination of Discrimination against Women (CEDAW) (2023), [Concluding observations on the seventh periodic report of Slovenia](#), 2 March 2023, paragraphs 33-34.

⁴⁷ European Commission (2023) [Rule of Law Report](#), COM(2023) 800 final, 05 July 2023; See also European Commission (2022), [Commission Recommendation protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings](#), 2022-2028, 27 April 2022.

Several UN Special Procedure mandate-holders engaged in discussions with the Latvian Government concerning reported instances of alleged undue use of legal proceedings against human rights defenders. These actions may have been instigated as a direct reaction to the human rights defenders' lawful acts of solidarity with asylum seekers, undertaken with the explicit goal of preventing human rights violations. The Special Rapporteur on the situation of human rights defenders voiced concerns about the continuing state of emergency in the border region with Belarus, in particular in relation to the violation of migrants rights and the right to seek asylum, but also with regard to the impact of the state of emergency on "human rights defenders seeking to monitor the human rights situation in the affected areas."⁴⁸

Several UN Special Procedures criticized the conviction of Justyna Wydrzyńska, a Polish human rights defender, for her involvement in facilitating abortion. They called for her exoneration from all charges given that the charges appear to be intended to punish her work as a human rights defender and to instil fear among those who are supporting Polish women in accessing safe abortion care.⁴⁹

In Portugal, the Committee on the Elimination of Racial Discrimination suggested that the government should implement and embrace all essential measures to safeguard the rights of human rights defenders. This would allow human rights defenders to conduct their activities without the fear of facing harassment or reprisals. The Committee states that human rights defenders, members of civil society organizations, social activists, and journalists, have been increasingly subjected to intimidation, harassment, hate speech, and online threats.⁵⁰

In her preliminary observations and recommendations after her official country visit to Greece, the UN Special Rapporteur on the situation of human rights defenders expressed her concern that the overall perception about the role of civil society and human rights defenders in the State had undergone a significant shift since 2019. Even though human rights defenders are generally free to conduct their work in Greece,⁵¹ many human rights defenders working in the field of migration and humanitarian assistance reported "a consistent pattern of intimidation and harassment of human rights defenders, humanitarian workers and volunteers."⁵² The Rapporteur stressed that one of the biggest concerns is the lack of specific legislation "aimed at the protection of human rights defenders or recognition of the legitimacy of their work".⁵³ Legislation still lacks a concrete definition of human rights defenders. The Rapporteur also stated that some "human rights defenders, including those who have spoken out against the policies of the Government in bodies of the European Union and in other forums have faced smear

⁴⁸ United Nations (UN), Special Procedures (2023), [Mandates of the Special Rapporteur on the situation of human rights defenders](#), AL LVA 1/2023, 2 March 2023, page 3.

⁴⁹ United Nations (UN), Special Procedures (2023), [UN experts urge Poland to acquit woman human rights defender Justyna Wydrzyńska](#), 15 March 2023.

⁵⁰ United Nations (UN), Committee on the Elimination of Racial Discrimination (CERD) (2023), [Concluding observations on the combined eighteenth and nineteenth periodic reports of Portugal](#), 24 May 2023, paragraph 38.

⁵¹ United Nations (UN), Human Rights Council (HRC), [Report of the Special Rapporteur on the situation of human rights defenders \(Visit to Greece\)](#), 2 March 2023, paragraph 19.

⁵² United Nations (UN), Human Rights Council (HRC), [Report of the Special Rapporteur on the situation of human rights defenders \(Visit to Greece\)](#), 2 March 2023, paragraph 58.

⁵³ United Nations (UN), Human Rights Council (HRC), [Report of the Special Rapporteur on the situation of human rights defenders \(Visit to Greece\)](#), 2 March 2023, paragraph 18.

campaigns.”⁵⁴ Another concern raised by the Rapporteur was the insufficient investigation of complaints about attacks on human rights defenders and humanitarian workers by the police. As a consequence, there is a decrease in the visibility of the human rights defenders and NGOs working in the field of migration.⁵⁵ Finally, she expressed concern about reports of the arrest, intimidation and mistreatment and overall hostile environment of women human rights defenders in police precincts”.⁵⁶

In regard to Italy, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the human rights of migrants raised multiple concerns about the criminalization of human rights defenders working in support of migrants, refugees and asylum seekers in Italy and at its borders. The Rapporteurs restated their concerns regarding alleged due process violations and other concerning developments associated with the ongoing trial of human rights defenders in Trapani, as well as the regulation of civilian search and rescue operations in Italy. Concerns were also raised about the possibility that such failings might be systemic in legal proceedings involving non-Italian speaking defendants and indicate a more widespread pattern of impingement on the right to a fair trial.⁵⁷

1.5. Council of Europe 2023 monitoring data on EU Member States

Next to the UN instruments, all EU Member States have ratified a series of CoE conventions that are key for the rule of law. Given that one of the four chapters in the annual rule of law report is dedicated to corruption, GRECO (Groupe d’Etats contre la Corruption) is an example of a very relevant CoE mechanism. GRECO monitors compliance with 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.⁵⁸ All EU Member States are members of GRECO and the EU itself is an observer since 2019.⁵⁹

As with the UN sources provided above also the following sections are not exhaustive and do not provide a comparative and analytical assessment of the findings under the various instruments. Rather they aim at showing the richness of available fundamental rights data and findings (as also available in EFRIS) and their relevance for the rule of law.

1.6. The European Convention on Human Rights as a rule of law instrument

The mechanism of the CoE which monitors and interprets the European Convention of Human Rights (ECHR) is the European Court of Human Rights (ECtHR). The Convention’s preamble states

⁵⁴ United Nations (UN), Human Rights Council (HRC), [Report of the Special Rapporteur on the situation of human rights defenders \(Visit to Greece\)](#), 2 March 2023, paragraph 86.

⁵⁵ United Nations (UN), Human Rights Council (HRC), [Report of the Special Rapporteur on the situation of human rights defenders \(Visit to Greece\)](#), 2 March 2023, paragraphs 90-91.

⁵⁶ United Nations (UN), Human Rights Council (HRC), [Report of the Special Rapporteur on the situation of human rights defenders \(Visit to Greece\)](#), 2 March 2023, paragraph 84.

⁵⁷ United Nations (UN), [Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the human rights of migrants](#), AL ITA 1/2023, 7 February 2023, pages 1 and 4.

⁵⁸ See CoE (CoE), [Group of States Against Corruption \(GRECO\)](#).

⁵⁹ See GRECO, [Members and Observers/ Etats membres et Observateurs](#).

that “the governments of European countries ... are like-minded and have a common heritage of political traditions, ideals, freedom and the rule of law”. The European Court of Human Rights found that the rule of law is one of the “fundamental principles of a democratic society”⁶⁰ and has become a guiding principle for the Court that “inspires the whole Convention”⁶¹ and is “inherent in all the Articles of the Convention”.⁶² In 2022 the Court qualified the ECHR as “essentially a rule-of-law instrument”.⁶³ Through the ECtHR judgments and decisions, the Court has sought consistently to defend “the common public order of the free democracies of Europe with the object of safeguarding their common heritage of political traditions, ideals, freedom and the rule of law”.⁶⁴

Some ECHR rights can be considered of special relevance for the rule of law given that the rule of law is mainly related to the principle of legality or foreseeability, legal certainty, equality of individuals before the law, judicial independence and availability of remedies and the control of the executive. In terms of judicial procedures, the right to a fair trial as laid down in Article 6 of the ECHR and the right to an effective remedy as laid down in Article 13 are of key relevance. Next to the health of the judicial system, the robustness of other independent actors with a watchdog function is equally relevant. Civil society organisations and human rights defenders need to rely on Article 10 (freedom of expression) and Article 11 (Freedom of assembly and association) being fully respected in practice to be able to fulfil their function in society. Of course other rights could be added to the list, including also Article 14 which prohibits discrimination in the exercise of all Convention rights. Against this background figure 1.3. shows the number of judgments handed down in 2023 which found at least one violation of Articles 6, 10, 11 and 13 by EU Member States and the observer states (Albania, North Macedonia, Serbia). However, it is key to stress that these numbers depend on many factors (including the have only a limited

Article 6 was especially often found to be violated in cases involving Italy (15), Poland (15), Albania (14), Croatia (14), Hungary (11) and Romania (10). Whereas the highest figures in the column “total” in figure 1.3. are marked in red, it is important to underline that such a quantitative comparison does not necessarily point to the most serious rule of law problems.

Table 1.3: Violations of Articles 6, 10, 11 and 13 found by the ECtHR vis-à-vis EU Member States (plus Albania, North Macedonia and Serbia holding observer status with FRA) delivered in the course of 2023.

⁶⁰ European Court of Human Rights (ECtHR), [Klass v. Germany](#), No. 5029/71, 8 September 1978, paragraph 55. The link between democracy and the rule of law was also stressed in [Winterwerp v. Netherlands](#), No. 6301/73, 24 October 1979, paragraph 39; [Vereiniging Weekblad Bluf! v. Netherlands](#), No. 16616/90, 9 February 1995, paragraph 35; [Malone v. United Kingdom](#), No. 8691/79, 2 August 1984, paragraph 79.

⁶¹ European Court of Human Rights (ECtHR), [Engel v. the Netherlands](#), No. 5370/72, 8 June 1976, paragraph 69.

⁶² European Court of Human Rights (ECtHR), [Amuur v. France](#), No. 19776/92, 25 June 1996, paragraph 50.

⁶³ European Court of Human Rights (ECtHR), [Grzęda v. Poland](#), No. 43572/18, 15 March 2022, paragraph 339.

⁶⁴ European Court of Human Rights (ECtHR), [Annual Report 2023](#), pp. 5-6.

	Violations of article 6, right to a fair trial	Violations of article 6, length of proceedings	Violations of article 6, non-enforcement	Violations of article 10, freedom of expression	Violations of article 11, freedom of assembly and association	Violations of article 13, right to an effective remedy	Total
Austria	3	1	0	0	0	0	4
Belgium	2	1	0	0	0	0	3
Bulgaria	2	0	0	1	0	0	3
Croatia	6	6	2	0	0	1	15
Cyprus	0	3	0	0	0	0	3
Czechia	1	0	0	0	0	0	1
Denmark	0	0	0	0	0	0	0
Estonia	0	0	0	0	0	0	0
Finland	0	0	0	0	0	0	0
France	4	1	3	0	0	2	10
Germany	0	0	0	3	0	0	3
Greece	4	2	0	0	0	4	10
Hungary	1	10	0	2	0	1	14
Ireland	0	0	0	0	0	0	0
Italy	8	7	3	0	0	2	20
Latvia	0	0	0	0	0	0	0
Lithuania	0	0	0	3	0	0	3
Luxembourg	0	0	0	1	0	0	1
Malta	0	1	0	0	0	6	7
Netherlands	2	0	0	0	1	0	3
Poland	6	9	0	3	0	0	18
Portugal	1	0	0	2	0	0	3
Romania	7	3	0	1	0	0	11
Slovakia	1	8	0	0	0	1	1
Slovenia	2	1	0	0	0	0	3
Spain	1	0	0	1	0	0	2
Sweden	0	0	0	0	0	0	0
Albania	8	5	1	0	0	0	14
North Macedonia	2	0	0	0	0	0	2
Serbia	3	1	1	0	0	0	5

Source: taken from ECtHR website, the figures may also include conditional violations

According to Article 46 of the ECHR, States must abide by the final judgment of the ECtHR in any case to which they are parties. The final judgment of the Court is transmitted to the Committee

of Ministers, which supervises its execution. Within six months of the judgment becoming final, the State concerned must provide its action plan describing the steps it has taken and still needs to take to fully implement the judgment. An action plan is an evolving document that is updated in line with the progress. When all the measures are adopted, the State transforms the plan in an action report and requests the Committee of Ministers to end its supervision of the case. As a report underlined in 2023, even leading judgments are only implemented with a major delay or not at all.⁶⁵ This is – from a systemic perspective – especially problematic for “leading cases”, which are cases revealing structural and/or systemic problems that require general measures and are therefore relevant for the entire legal system. While it should be possible to implement the majority of leading judgments in a relatively short period of time, the report found that the average length of time that leading ECtHR judgments concerning EU states have not been implemented is five years and one month.⁶⁶ As of 7 December 2023, there were 682 pending leading judgments from the European Court of Human Rights (ECtHR) awaiting implementation across the European Union.⁶⁷ Approximately 17 percent of key rulings pertaining to EU member states over the past decade remain unimplemented.⁶⁸

The state with the highest number of leading judgments waiting to be implemented was Romania with 115. At the other side of the spectrum stands Sweden with just one leading judgement pending implementation.⁶⁹ In relative figures: As of 7 December 2023, the EU state with the largest proportion of leading ECtHR judgments from the last 10 years whose implementation was still pending was Hungary, at 44 per cent. Among states holding the observer status with FRA, Albania shows the highest number of leading judgments waiting to be implemented, at 57 per cent. The state with the lowest proportion was Sweden, at 2 per cent. There are five states with over 30 leading cases pending, and where the proportion of leading cases pending from the last ten years is above 30 per cent. These states are Bulgaria, Hungary, Italy, Poland, and Romania.⁷⁰ The main issues in the leading pending judgments within those five states are functioning of justice (tribunal established by law), length of judicial proceedings, and freedom of expression.⁷¹

Non-implementation of judgments is a rule of law problem because the systemic human rights concerns highlighted in these judgments have not been adequately addressed, signalling a lack of proactive measures by national authorities to tackle a substantial portion of the human rights issues identified by the ECtHR. In a recent speech the President of the Court submitted that there are four main obstacles to the execution of judgments identified: deliberate political opposition;

⁶⁵ [CoE, Department for the Execution of Judgments of the European Court of Human Rights](#), 7 December 2023.

⁶⁶ Stafford, G (EIN), Iliescu, I (EIN), Jaraczewski, J (DRI), Ciccarone, A (EIN), Tsereteli, N (DRI), Mammadova, Y (EIN), (2023), [Justice Delayed and Justice Denied: Non-Implementation of European Courts' Judgments and the Rule of Law](#), Berlin, European Implementation Network and Democracy Reporting International, pp. 14-16.

⁶⁷ CoE (CoE), Department for the Execution of Judgments of the European Court of Human Rights (EXEC), 7 December 2023. Malta has 15 unimplemented judgments as of 7/12/23 which is 31% of leading ECtHR judgments from the last 10 years whose implementation is still pending.

⁶⁸ Stafford, G (EIN), Iliescu, I (EIN), Jaraczewski, J (DRI), Ciccarone, A (EIN), Tsereteli, N (DRI), Mammadova, Y (EIN), (2023), [Justice Delayed and Justice Denied: Non-Implementation of European Courts' Judgments and the Rule of Law](#), Berlin, European Implementation Network and Democracy Reporting International, pp. 14-16.

⁶⁹ CoE, Department for the Execution of Judgments of the European Court of Human Rights, [Country Factsheet: Sweden](#), 7 December 2023.

⁷⁰ [CoE, Department for the Execution of Judgments of the European Court of Human Rights](#), 7 December 2023.

⁷¹ CoE, Department for the Execution of Judgments of the European Court of Human Rights, [Country Factsheets: Bulgaria, Hungary, Italy, Poland, and Romania](#).

practical and/or financial difficulties; the absence of an effective execution mechanism at domestic level; and resistance derived from reliance on national (constitutional) identities.⁷²

Table 1.4. shows the amount of leading judgments that have not yet been implemented at the end of 2023 and the relative share of these judgments concerning a violation of Articles 6, 10, 11, 13 which are taken as examples of rights that are especially relevant for the rule of law. Bulgaria, Romania and Italy, but also Greece, Hungary and Poland are underperformers when it comes to the execution of leading judgments, including those that are especially relevant for the rule of law.

Table 1.4: Leading cases whose implementation is still pending as of 7.12.2023 (date of the last update at the end of 2023 on the website of the Department of the execution of judgments)

	Total amount of non-executed leading judgments	Amount of non-executed leading judgments that establish violations of Articles 6, 10, 11 or 13	Amount of non-executed leading judgments supervised under enhanced procedure
Austria	3	1	0
Belgium	22	4	7
Bulgaria	93 (5% of total)	23	32
Croatia	26	8	2
Cyprus	9	1	1
Czechia	4	1	1
Denmark	3	0	0
Estonia	3	0	0
Finland	9	0	1
France	29	3	5
Germany	12	1	1
Greece	27	9	7
Hungary	43	10	18
Ireland	2	0	1
Italy	59	18	27
Latvia	8	3	0
Lithuania	19	2	3
Luxembourg	1	1	0
Malta	15	3	6
Netherlands	4	0	1
Poland	46	15	16
Portugal	15	6	4
Romania	113	33	37
Slovakia	24	12	4
Slovenia	4	1	1
Spain	21	8	1

⁷² Conference on the Role of the Judiciary in Execution of Judgments of the European Court of Human Rights: Execution of ECHR judgments and the Rule of Law. [Speech by Síofra O’Leary](#), Riga, 21 September 2023, p. 3-4.

Sweden	2	0	2
Albania	7	0	0
North Macedonia	2	0	1
Serbia	1	0	0

Source: Council of Europe (CoE), [Department for the Execution of Judgments of the European Court of Human Rights \(EXEC\)](#), 7 December 2023.

1.7. The Group of States against Corruption (GRECO)

In 2023, GRECO delivered monitoring reports on about two thirds of the EU Member States as well as on all the three states holding the observer status with FRA. These reports concern the fourth and fifth evaluation 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 the prevention of corruption and the promotion of integrity in central governments (top executive functions) and law enforcement agencies. Table 1.5. provides an overview of the reports adopted with regard to EU Member States in 2023 and provides the links leading directly to the respective documents. Note that in the evaluation process, reports are adopted that contain the GRECO recommendations and observations. In the compliance procedure, reports are adopted that provide a (mid-term) assessment on the implementation of the recommendations (second or third interim compliance reports or final compliance reports). Regarding the Observer States (Albania, North Macedonia, Serbia), GRECO found that significant progress has been made in complying with GRECO's recommendations. Addenda to compliance reports comment on further progress in the implementation of the recommendations.

Table 1.5.: Reports on EU Member States submitted by GRECO in 2023

	Cycle	Type	Date
Austria	Fifth	Evaluation	01/03/2023
	Fourth	2nd Compliance	16/11/2023
Bulgaria	Fifth	Evaluation	19/01/2023
Cyprus	Fifth	Evaluation	02/10/2023
Czech Republic	Fourth	2nd Compliance	16/06/2023
	Fourth	2nd Interim Compliance	16/06/2023
Denmark	Fourth	3rd Interim	10/08/2023
Estonia	Fifth	2nd Compliance	13/06/2023
Finland	Fifth	2nd Compliance	30/01/2023
Germany	Fifth	Compliance	16/03/2023
Hungary	Fourth	4th Interim	09/06/2023
	Fifth	Evaluation	09/06/2023
Ireland	Fifth	Evaluation	16/02/2023
Latvia	Fifth	2nd Compliance	17/01/2023
Luxembourg	Fourth	2nd Compliance Addendum	06/12/2023

Malta	Forth	2nd Compliance 2nd Addendum	06/06/2023
Netherlands	Fifth	2nd Compliance	17/11/2023
Poland	Fifth	2nd Compliance	20/07/2023
	Fourth	2nd Interim Compliance Rule 34	20/07/2023
Romania	Fourth	3rd Interim Compliance Rule 34	25/01/2023
	Fifth	Evaluation	07/09/2023
Slovenia		Follow-up to the Ad-Hoc	26/01/2023
	Fifth	2nd Compliance	22/03/2023
Sweden	Fifth	2nd Compliance	15/11/2023
Albania	Fifth	Compliance	03/03/2023
North Macedonia	Fifth	2nd Compliance	18/10/2023
Serbia	Fourth	2nd Compliance Addendum	08/12/2023

1.8. The European Commission against Racism and Intolerance (ECRI)

An area that prominently links fundamental rights and the rule of law is equality and non-discrimination. In the CoE 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 2023 ECRI adopted monitoring reports for 4 EU Member States, namely for Cyprus, Hungary, Poland, and Luxembourg. Moreover, ECRI adopted a report on North Macedonia.

Table 1.6.: EU Member States (and FRA Observer States) that received reports and conclusions by ECRI in 2023

	Reports	Date of adoption
Cyprus	6th Report	06/12/2022
Czechia	Conclusions	07/12/2022
Hungary	6th Report	06/12/2022
Luxembourg	6th Report	27/06/2023
Poland	6th Report	27/06/2023
Slovakia	Conclusions	07/12/2022
North Macedonia	6th Report	20/09/2023

findings from survey Being Black in the EU

The agency's 2023 survey "Being Black in the EU – Experiences of people of African descent" confirmed that racial discrimination substantially undermines trust in all public institutions, with the biggest negative effect on trust in the police, the legal system and local (municipal) authorities. Respondents of African descent who experienced racial discrimination in the 5 years before the survey have a significantly lower level of trust in the police than respondents who had not had such an experience. The agency's survey concludes with various recommendations. For instance, the EU Member States should improve the effectiveness of regulatory measures and institutional arrangements established to enforce anti-discrimination legislation. They should adopt and enforce 'effective, proportionate and dissuasive' sanctions applicable to infringements of national provisions adopted pursuant to the racial equality directive (FRA opinion 1). The agency also called on Member States to raise awareness of anti-discrimination legislation and relevant redress mechanisms by all appropriate means, including among people of African descent, in line with Article 10 of the racial equality directive (opinion 3) and to fully and correctly transpose and enforce the provisions of the 2008 framework decision on racism and xenophobia (opinion 4). They are called upon to adopt measures necessary to prevent and eradicate discriminatory institutional practices and culture that enables discriminatory attitudes among police officers and unlawful profiling. These measures may include guidance on how to deescalate situations that are potentially racially charged (opinion 5).

Source: FRA (2023), [Being Black in the EU – Experiences of people of African descent \(europa.eu\)](https://european-council.europa.eu/media/en/press-operations/infographic/docs/2023/07/being-black-in-the-eu-experiences-of-people-of-african-descent.pdf)

1.9. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

Additional sources within the CoE relevant pertaining to the rule of law include the reports presented under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, a treaty that was ratified by all Member States of the European Union. 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 2023, visits were carried out in ten EU Member States, namely in Bulgaria, Cyprus, Estonia, France, Germany, Greece, Hungary, Luxembourg, Malta, and Slovakia. Additionally, reports on the Periodic Visit to Albania and North Macedonia, and Ad Hoc Visit to Serbia were published. Table 1.7. provides the dates of the relevant visits and reports.⁷³

⁷³ See for more information, CoE, Committee for the Prevention of Torture and Inhuman or degrading Treatment or Punishment (2022), [32nd General Report of the CPT](https://www.cpt.int/en/32nd-general-report-of-the-cpt), Strasbourg, CoE, March 2023.

Table 1.7: Visits by the CPT in EU Member States (and FRA Observer States) in 2023

	Type	Dates of visits by the CPT
Bulgaria	Ad Hoc Visit Report	21/03/2023 - 31/03/2023
Cyprus	Periodic Visit Report under preparation	09/05/2023 - 17/05/2023
Estonia	Periodic Visit Report under preparation	29/05/2023 - 08/06/2023
France	Ad Hoc Visit	28/11/2023 - 14/12/2023
Germany	Ad Hoc Visit Report under preparation	04/09/2023 - 07/09/2023
Greece	Ad Hoc Visit	21/11/2023 - 01/12/2023
	High-level talks	23/10/2023 - 24/10/2023
Hungary	Periodic Visit Report not yet published	16/05/2023 - 26/05/2023
Luxembourg	Periodic Visit Report	27/03/2023 - 04/04/2023
Malta	Periodic Visit	28/09/2023 - 05/10/2023
Slovakia	Periodic Visit	28/11/2023 - 08/12/2023
Albania	Periodic Visit Report	04/05/2023-15/05/2023
North Macedonia	Periodic Visit	02/10/2023 - 12/10/2023
Serbia	Ad Hoc Visit Report	21/03/2023-30/03/2023

**FRA Activity
Criminal Detention Database**

The Criminal Detention Database 2015-2022 combines in one place information on detention conditions in all 27 EU Member States as well as in the United Kingdom. It does not ‘rank’ countries, but informs – drawing on national, European and international standards, case law and monitoring reports – about selected core aspects of detention conditions: including cell space, sanitary conditions, access to healthcare and protection against violence. The database should be especially useful for judges and legal practitioners involved in cross-border cases, including in cases of rule of law relevance. Updates with 2023 data are in preparation.

Source: <https://fra.europa.eu/en/databases/criminal-detention/>

1.10. The Commissioner for Human Rights

Some CoE mechanisms are not (yet) covered by the agency's EFRIS system, mainly those that are not yet part of the CoE's HUDOC database. Nevertheless, these mechanisms offer important rule of law relevant information.

For instance, in the context of the role of civil society organisations, the CoE Commissioner for Human Rights addressed [Finland](#), [Latvia](#), [North Macedonia](#), and [Serbia](#) in that regard.

In a letter addressed to the Minister of Interior of **Finland**, the Commissioner raised concerns about the rights of refugees, asylum seekers and migrants following the temporary closure of Finland's Eastern land border.⁷⁴ In her letter, the Commissioner stressed the need for several clarifications on safeguards implemented and measures taken to ensure human rights protection, and to prevent a humanitarian crisis from unfolding in the context of worsening weather conditions at the border.⁷⁵

In her letter addressed to **Latvia**, the Commissioner expressed concerns about the continued state of emergency, which hinders the provision of humanitarian assistance at the border and prevents public scrutiny. She also stressed that "border control must be exercised in full compliance with a state's obligations under the European Convention on Human Rights and the absolute prohibition of *refoulement*. The human rights of those arriving must be safeguarded even during challenging conditions and including when they attempt to cross in an irregular manner".⁷⁶

The Commissioner also sent letters to the Prime Ministers of the Republic of **North Macedonia**, and the Republic of **Serbia**, pointing out that dealing with the past is not a past-oriented endeavour, but "is a pre-condition for building cohesive, democratic societies grounded in respect for human rights and the rule of law."⁷⁷ She also expressed concern about how "rising hate speech and discrimination, the weakness of rule of law institutions, challenges to freedom of assembly and civic space, threats to media freedom and gender-based violence."⁷⁸

In her 1st, 2nd and 3rd quarterly reports, the Commissioner called on the CoE member "to refrain from criminal, administrative and judicial harassment and the use of SLAPPs; to allow human rights defenders to participate in public decision-making effectively; and to protect and promote the work of activists defending various groups, such as women, children, migrants, LGBTI people and ethnic minorities."⁷⁹ She also delivered a speech during the 4th Summit of Heads of State

⁷⁴ CoE, [Letter of the Commissioner for Human Rights to the Minister of the Interior of Finland](#), CommHR/DM/sf 034-2023, 04 December 2023, page 1, paragraph 3.

⁷⁵ CoE (CoE), [Letter of the Commissioner for Human Rights to the Minister of the Interior of Finland](#), CommHR/DM/sf 034-2023, 04 December 2023, page 2, paragraph 3.

⁷⁶ CoE, [Letter of the Commissioner for Human Rights to Minister for the Interior of Latvia](#), CommHR/DM/sf 004-2023, 26 January 2023, pages 1-2, paragraphs 7-13.

⁷⁷ CoE (CoE), [Letter of the Commissioner for Human Rights to a to the Prime Minister of the Republic of North Macedonia](#), CommHR/DM/sf 005-2024, 15 January 2024, p. 1, paragraphs 5-6, [Letter of the Commissioner for Human Rights to a to the Prime Minister of the Republic of Serbia](#), CommHR/DM/sf 006-2024, 15 January 2024, p. 1, paragraphs 6-7.

⁷⁸ CoE (CoE), [Letter of the Commissioner for Human Rights to a to the Prime Minister of the Republic of North Macedonia](#), CommHR/DM/sf 005-2024, 15 January 2024, p. 1, paragraphs 5-6, [Letter of the Commissioner for Human Rights to a to the Prime Minister of the Republic of Serbia](#), CommHR/DM/sf 006-2024, 15 January 2024, p. 1, paragraphs 6-7.

⁷⁹ CoE (2023), [1st quarterly activity report](#), part 5; see also CoE (2023), [2nd](#) and [3rd](#) quarterly reports.

and Government of the CoE reiterating “the need to maintain focus on addressing human rights backsliding and the erosion of the principles of democracy and the rule of law.”⁸⁰ On the theme of media freedom, highlighting the significance of autonomous journalism and the media, the Commissioner urged authorities to guarantee the well-being of journalists and avoid engaging in rhetoric that promotes assaults, defamation, or smear campaigns targeting them.⁸¹

Also, in the area of migration, the Commissioner of Human Rights expressed her concern, drawing attention on issues such as legal safeguards, fair procedures or the relevance of human rights defenders for the rule of law.

⁸⁰ CoE (2023), [Speech by Dunja Mijatović](#) at the 4th Summit of the CoE, CommHR(2023)17, 17 May 2023.

⁸¹ CoE (2023), Report: [Serbia: step up efforts to face the past, safeguard freedom of expression and assembly and protect women from violence](#), CommHR(2023)25, 13-17 March, 2023.

FRA Activity

Rule of law and external borders

In last years submission to the European Commission's rule of law report, the agency underlined that some of the measures and actions undertaken to control borders and stem irregular migration led to arbitrariness, legal uncertainty, and ineffective judicial protection against widespread rights violations at borders as well as restrictions to the work of civil society actors that work there which could be considered as a risk to the respect of the rule of law as enshrined in Article 2 TEU and defined in EU legislation (see FRA, 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 2023, p. 42). Following upon this concern, the agency is working on a focus paper on investigations of allegations of fundamental rights violations at borders.

In addition, the agency published in 2023 a report on The European Border and Coast Guard and fundamental rights. There, the agency repeated that core fundamental rights protected by the Charter are at risk at the EU's external borders. These rights include the right to life, and the prohibition of torture, inhuman or degrading treatment, and the prohibition of refoulement. These are absolute rights which, under Article 15 of the ECHR, cannot be derogated from, even in times of emergency. Amongst others, the report points to the fact that although general provisions of the European Border and Coast Guard Regulation (EBCG Regulation) apply to both Frontex and the Member States, more concrete and detailed measures to protect and promote fundamental rights are envisaged only for Frontex. The EBCG Regulation does not sufficiently operationalise corresponding duties for Member States. Through its regular work on borders, FRA observed that the divergence between the safeguards at EU (Frontex) level and the national level is prone to have adverse implications on fully upholding fundamental rights when conducting operational activities within the single EU border management space.

Also in 2023, the agency published an update on monitoring forced returns under Article 8 (6) of the Returns Directive. FRA drew attention to various shortcomings, such as for instance the lack of capacity of national monitors in terms of human resources and funding. This is also showcased by the low number of monitored operations in 2022, particularly during the in-flight and hand-over phase. The update also refers to the provision of adequate and necessary information to returnees providing examples where returnees were not informed in a timely manner about the flight details and pointed to the issue of language barriers which may significantly impede the right to information.

References:

FRA (2023), The European Border and Coast Guard and fundamental rights, [The European Border and Coast Guard and fundamental rights | European Union Agency for Fundamental Rights \(europa.eu\)](#); FRA (2023), Forced return monitoring systems – 2023 update, [Forced return monitoring systems – 2023 update | European Union Agency for Fundamental Rights \(europa.eu\)](#)

1.11. The Venice Commission and the European Commission for the Efficiency of Justice

Important rule of law related findings are also generated by the European Commission for democracy through law (Venice Commission). According to its Statute the Commission shall give priority to work concerning the constitutional, legislative and administrative principles and techniques which serve the efficiency of democratic institutions and their strengthening, as well as the principle of the rule of law; fundamental rights and freedoms, notably those that involve the participation of citizens in public life; and finally the contribution of local and regional self-government to the enhancement of democracy.

In 2023 the Venice Commission issued Opinions on **Bulgaria, France, Germany, Netherlands**, and an Urgent Opinion on **Poland**. The opinion on **Bulgaria** dealt with draft amendments to the Bulgarian Constitution, in which the Commission recommended Bulgarian authorities to further review the amendments, as well as ensure “co-ordination and consistency between the present constitutional amendments and other ongoing relevant legislative processes.”⁸² A Joint opinion of the Venice Commission and Directorate General of Human Rights and Rule of Law (DGI) of the CoE on the **Netherlands** dealt with Legal Safeguards of the Independence of the Judiciary from the Executive Power, where the Venice Commission provided recommendations for the House of Representatives to reconsider the transparency of the process.⁸³ Other opinions concerned **Germany** and dealt with the amendments to the Federal Election Act⁸⁴, and **France**, dealing amongst others with the Superior Council of Magistracy and the Status of the Judiciary as Regards Nominations, Mutations, Promotions and Disciplinary Procedures.⁸⁵ The urgent opinion on **Poland** concerned the Law on the State Commission to Investigate Russian Influence on the Internal Security of the Republic of Poland in the Period of 2007-2022 and the Draft Law Amending that Law.⁸⁶ Other key opinions concerning the rule of law were under preparation in 2023.⁸⁷

Key for the rule of law is also the work of CEPEJ, the CoE European Commission for the Efficiency of Justice. The data for 2023 has not yet been collected and quality checked. However, in 2023, CEPEJ published country profiles for each EU country based on 2021 data.⁸⁸ In addition, the 2023 Working Group on the Evaluation of Judicial Systems (CEPEJ-GT-EVAL) report was published on 23 October and discussed ways of improving data collection timeframes and the involvement of national correspondents of 44 European States and 2 Observer States.⁸⁹ In the report of the Working Group on Quality of Justice (CEPEJ-GT-QUAL), the members of the group decided to develop Guidelines on the evaluation of the work of judges members of CEPEJ-GT-QUAL.⁹⁰

⁸² See opinion [CDL-AD\(2023\)039](#), 09.10.2023.

⁸³ See [CDL-AD\(2023\)02](#), 11.10.2023.

⁸⁴ See e.g. [CDL-AD\(2023\)020 ODIHR-471/2023](#), 12.06.2023

⁸⁵ See [CDL-AD\(2023\)01](#), 13.06.2023.

⁸⁶ See urgent opinion [CDL-AD\(2023\)037](#), 10.10.2023.

⁸⁷ Such as an Opinion on Hungary dealing with the Act of 2023 on the Protection of the National Sovereignty or an opinion on Spain concerning the rule of law requirements of amnesties, with particular reference to the parliamentary bill of Spain on the organic law on amnesty for the institutional, political and social normalisation of Catalonia.

⁸⁸ See European Commission for the Efficiency of Justice (CEPEJ), [Evaluation of judicial systems](#).

⁸⁹ CoE (2023), Working Group on the Evaluation of Judicial Systems (CEPEJ-GT-EVAL), [Meeting Report](#), 17-19 October 2023.

⁹⁰ CoE (2023), Working Group on Quality of Justice (CEPEJ-GT-QUAL), [Meeting Report](#), 12-13 October 2023.

2. Civic space and the rule of law: findings from FRA research and consultation of civil society in 2023

Based on evidence collected by FRA, the following section highlights key developments regarding the civic space in the EU in 2023.⁹¹ The analysis draws on:

- (1) The responses of almost 300 civil society organisations, umbrellas and networks to the Agency’s annual consultation 2023 on civic space.⁹²
- (2) Research carried out by FRANET in 2023 resulting in country reports on relevant legal and policy developments in all 27 EU Member States, as well as in three candidate countries - Albania, North Macedonia and Serbia, which are covered by FRA’s mandate.⁹³

FRA Activity National rule of law dialogues co-organised by the European Commission and FRA

FRA is cooperating with the European Commission in hosting national rule of law dialogues in EU Member States, discussing the Commission’s annual rule of law report and aiming to implement the country-specific recommendations contained there. These multi-stakeholder dialogues serve to increase awareness of the importance of the rule of law at national level in Member States, and the role played by civil society organisations and rights defenders for promoting and upholding it. They bring together key stakeholders (government, parliament, judiciary, civil society, media, human rights bodies...) to discuss the findings of the respective country chapter in an exchange of views under Chatham house rules. The ultimate purpose is to connect all relevant actors nationally, and to engage them in the concrete implementation of the Commission’s recommendations. Dialogues have taken place in late 2022 and 2023 in Belgium, Germany, Croatia, Latvia, Denmark, Czechia, Portugal and the Netherlands.

2.1. Civil society contributions to checks and balances in a rule of law framework

International and regional human rights bodies, including the United Nations Human Rights Council⁹⁴, the CoE⁹⁵ but also the OSCE Office for Democratic Institutions and Human Rights

⁹¹ Parts of this section will be published in the agency’s Fundamental Rights report 2024.

⁹² FRA 2023 consultation with civil society organisations, Experiences of civil society organisations working on human rights in the EU, covering 2023 (data collection: 8 January – 9 February 2023, 267 responding civil society organisations from across the EU, including 27 umbrella organisations active at EU level). The questionnaire comprised questions covering the general conditions for CSOs working on human rights issues to operate, notably their experiences regarding attacks, access to resources, the legal environment, and access to the decision-making.

⁹³ FRA’s research through its [FRANET network](#) – 30 national research deliverables (27 EU Member States + Albania + North Macedonia + Serbia), covering 2022 (data collection: November – December 2023) add link when available.

⁹⁴ See for example UN, Human Rights Committee (HRC) (2016), [Resolution on Civil Society Space](#).

⁹⁵ See lately 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.

(ODIHR)⁹⁶ 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 held accountable.⁹⁷

The key role of civil society is also reflected in the EU Treaties. Article 11 (2) of the TEU and Article 15 (1) of the Treaty on the Functioning of the European Union (TFEU) consider civil dialogue and civil society participation as tools for good governance. This is also reflected in relevant EU policy documents, such as the EU Strategy to strengthen the application of the EU Charter, the European Democracy Action Plan, and sectorial action plans on anti-racism, LGBTQI+ equality, Roma inclusion, children's rights, disability, victims' rights, women's rights or migrant integration.

In 2022-23, all three major EU institutions have for the first time acknowledged civic space pressures inside the EU in official documents as the [European Parliament resolution on civic space in the EU](#) (March 2022), the [European Commission report on the application of the Charter and civic space](#) (December 2022) and the [Council Conclusions on the role of the civic space in protecting and promoting fundamental rights in the EU](#) (March 2023) show. Additionally, a series of statements at EU level show that a free and active civil society is considered:

- an essential component of a strong rule of law ecosystem,⁹⁸
- a precondition for healthy democracies,⁹⁹
- key parties in promoting the use and awareness of the EU Charter and a culture of values,¹⁰⁰
- a safeguard for citizens preventing and reacting to violations or abuses.¹⁰¹

Civil society organisations active in the field of fundamental rights contribute to law and policy-making through participation and consultation; foster a rule of law culture; support and

⁹⁶ See among others the foreword to the [Guidelines on Freedom of Association](#) jointly drafted by OSCE/ODIHR and the Venice Commission (2015).

⁹⁷ United Nations (UN), [Secretary General's Call to Action on Human Rights](#) (2020). Noting the critical contribution of civil society to strengthen and promote the three pillars of the UN Charter – human rights, development and peacebuilding – the UN Special Rapporteur on the freedom of peaceful assembly and of association has recalled the importance of civil society space to achieve the 2030 Agenda for Sustainable Development. See United Nations (UN), Human Rights Council (2017), [Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association](#), 8 May 2017, para. 22. United Nations (UN), General Assembly (GA) (2018), [Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association](#), 7 August 2018. See also United Nations (UN), General Assembly (GA) (2019), [Report on the rights to freedom of peaceful assembly and of association: Civic space, poverty and exclusion](#), 11 September 2019 and United Nations (UN), Office of the High Commissioner for Human Rights (OHCHR) (2015), [A central role for a civil society is the only way to guarantee inclusive post-2015 development goals](#), 18 May 2015.

⁹⁸ See the European Commission [Rule of Law Reports](#)

⁹⁹ European Commission (2020), [Communication on the European democracy action plan](#), COM(2020)790 final, 3 December 2020, p. 3.

¹⁰⁰ 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.

¹⁰¹ Council of the European Union (2021), [Council conclusions on strengthening the application of the Charter of Fundamental Rights in the European Union, 6795/21](#), 8 March 2021.

cooperate with independent authorities and bodies; contribute to checks and balances through monitoring, advocacy and litigation; improve participating of vulnerable groups; promote good governance, strengthen transparency and accountability of public authorities; promote access to justice; promote and safeguard media freedom and pluralism, enabling an inclusive and balanced debate; and contribute to the fight against corruption.¹⁰²

At the same time, CSOs and HRDs face challenges. These ‘civic space challenges’ are addressed in the following subsections.

2.2. An enabling framework for civil society and challenges experienced

FRA research and the findings from its annual civil society consultations point to patterns of 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, the environment for the operation of CSOs remains challenging. For a more detailed description of the situation in the different EU Member States, please consult the most recent FRANET country studies on civic space.¹⁰³

FRA activity Monitoring the civic space in the EU

Since 2018, FRA reports annually on civic space developments across the EU. The Agency consults civil society actors through its [Fundamental Rights Platform](#) annually on their experiences regarding civic space. The responding organisations are active at international, EU, national or local level and work in a range of different areas, including advocacy, campaigning and awareness raising, service provision, community engagement, victim support, research and data collection, and litigation.

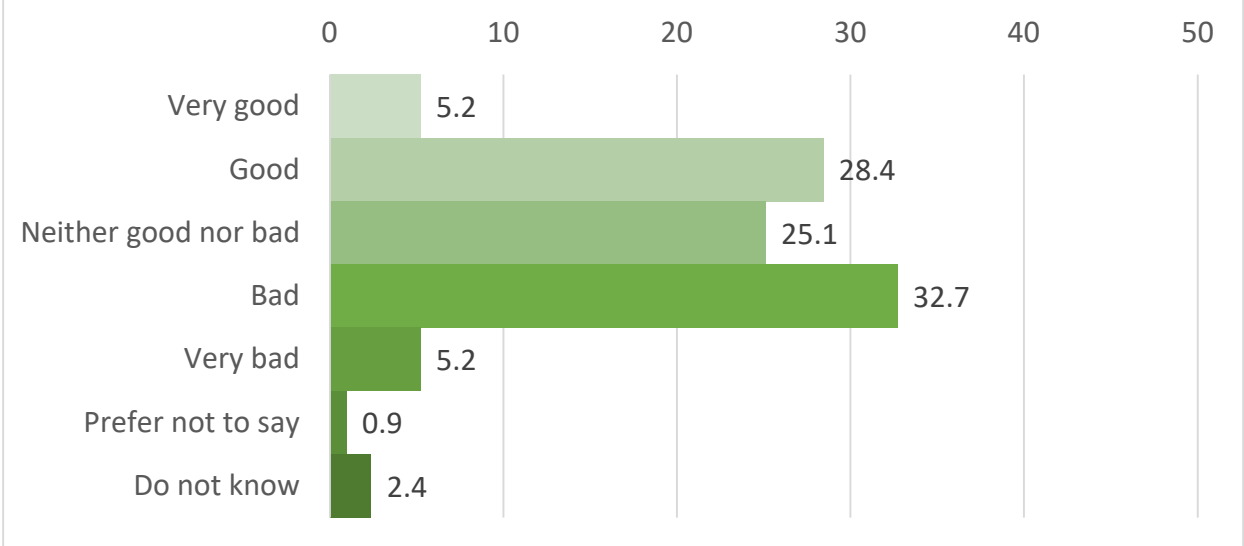
Complementing the information from civil society itself, the Agency’s research network FRANET collects information on legal and policy developments annually. This information examines the enabling space for civil society across the EU Member States and the accession countries covered by FRA. FRA also conducts interviews and focus group as well as desk research. Based on the evidence collected, FRA issues an annual update report on civic space, contributes to the European Commission’s rule of law consultation, and provides assistance and expertise on the issue to EU institutions, Member States, international partners and donors.

¹⁰² For details, see FRA’s civic space report 2022, [Europe’s civil society – still under pressure](#), p. 7-18

¹⁰³ FRANET country studies for 27 Member States and three observer countries, add link when available

The figures below summarise the replies to FRA’s civic space consultation carried out amongst CSOs in the EU and in FRA’s three observer countries regarding their general conditions when working on human rights at national and local level.

Figure 2.1. General conditions for CSOs working on human rights at national and local level in 2023 (in %)

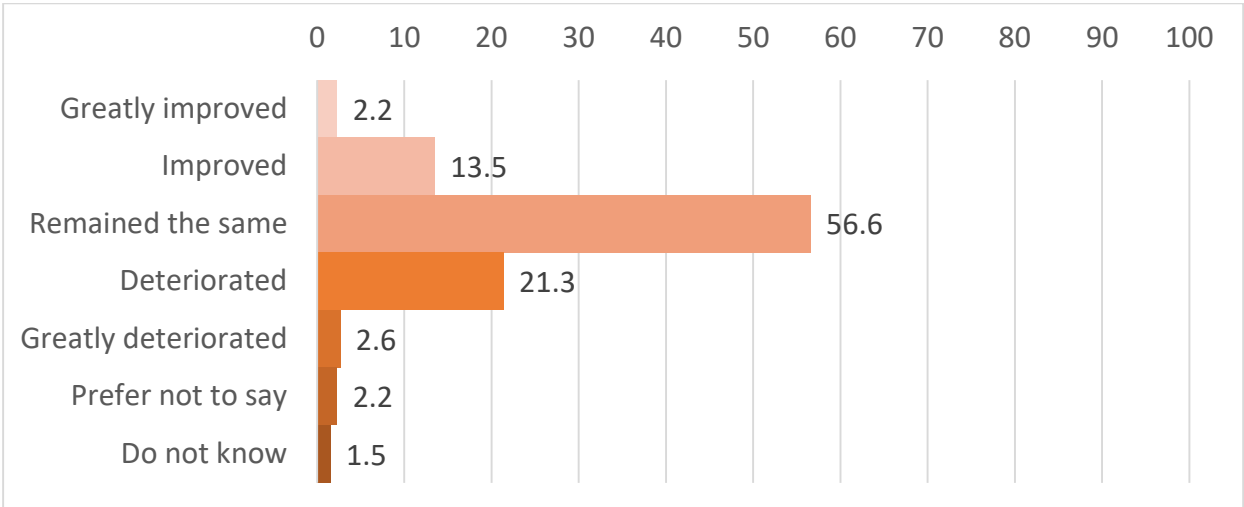


Note: Question: “How would you describe in general the conditions for civil society organisations working on human rights issues in your country today?” (N=211, that is those responding organisations indicating that they work at national or local level)

Source: FRA civic space consultation covering 2023

Responses by organisations indicate little change in the general conditions overall as compared to the previous year, although there have been some positive as well as negative changes on some issues in a range of countries (see details in text further below).

Figure 2.2. Perceived change of situation of own organisation in 2023 (in %)

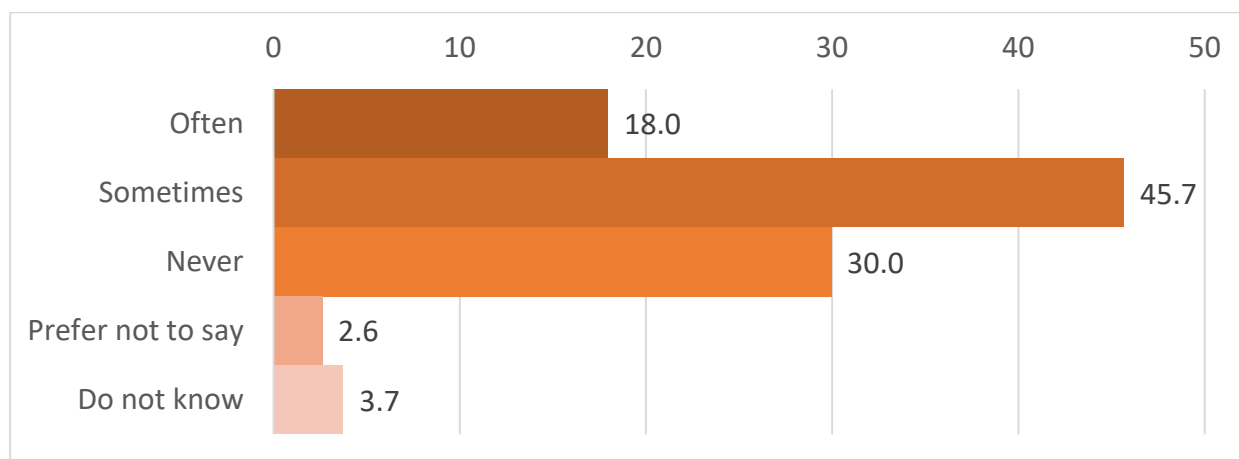


Note: Question: “Thinking about your own organisation, how has its situation changed in the past 12 months?” (N=267)

Source: FRA civic space consultation covering 2023

Reports by international organisations and a range of CSOs, as well as by FRA¹⁰⁴ also point 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. This is also visible in the experiences as reflected in the results of the 2023 consultation.

Figure 2.3. CSOs facing barriers in conducting their activities for human rights and the rule of law in 2023 (in %)



Note: Question: “In the past 12 months, how often did your organisation face any barriers in conducting your activities for human rights?” (N=267)

Source: FRA civic space consultation covering 2023.

2.3. Legal environment

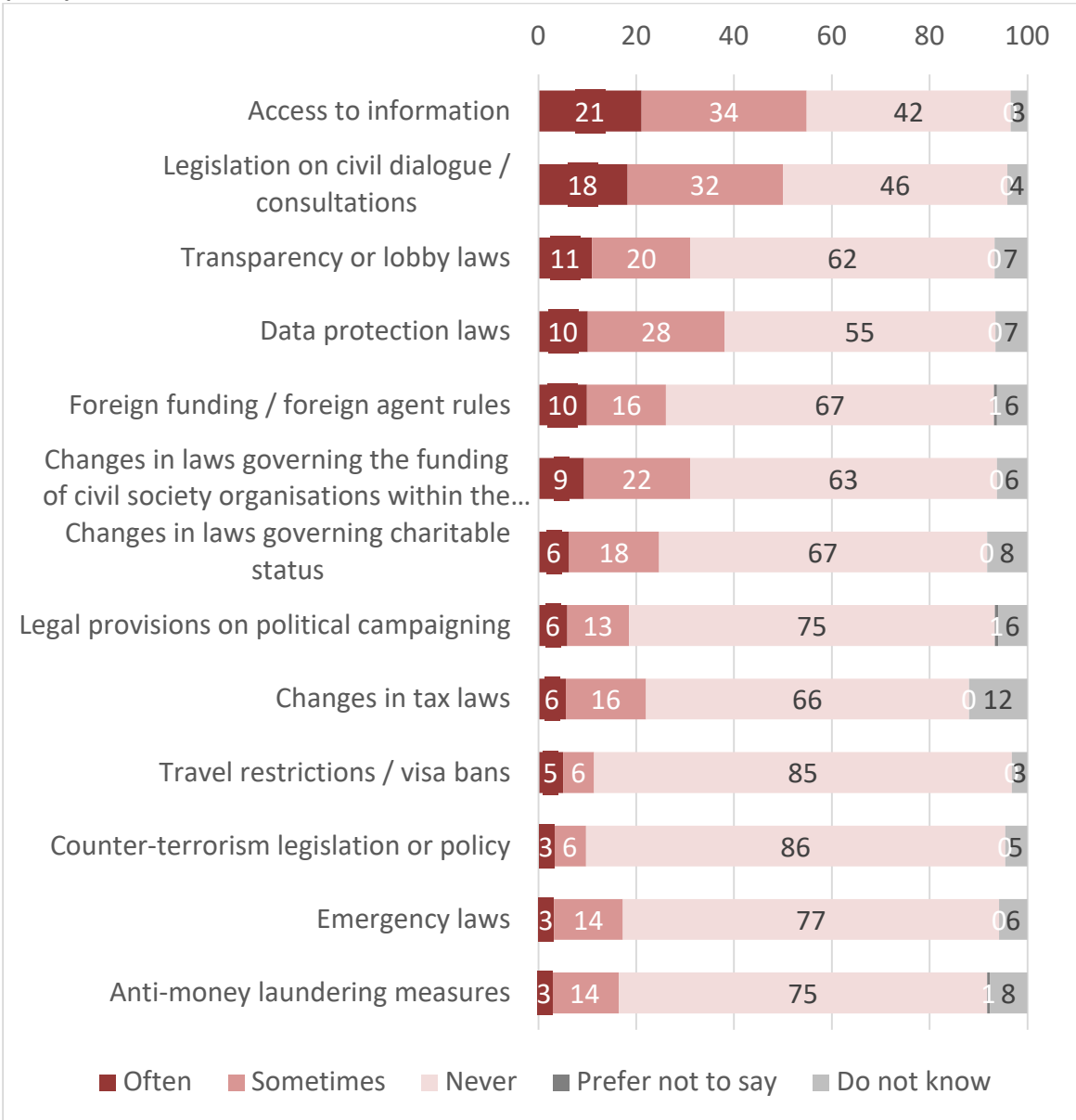
In 2023, the legal situation remained, overall, relatively unchanged in comparison to 2022 at Member State level, as indicated both by consultation findings and FRANET research. Overall, the consultation shows little improvement over the past five years as regards freedom of association, assembly and expression.

Figure 2.4. shows the answers of respondents to FRA’s civic space consultation for 2023 who reported facing challenges in the legal environment. As compared¹⁰⁵ to responses in 2022, a range of areas are indicated by more organisations as being problematic than in 2022: access to information (2022: 32%: 2023: 55%), transparency laws (2022: 15%; 2023: 31%) as well as data protection laws (2022: 18%: 2023: 38%)

¹⁰⁴ FRA (2021), [Protecting Civic space in the EU](#); FRA (2022) [Europe’s civil society – still under pressure](#),

¹⁰⁵ Note however that in 2022 respondents were asked to tick if they experiences yes/no, whereas in 2023 they were asked to choose from often/sometimes/never.

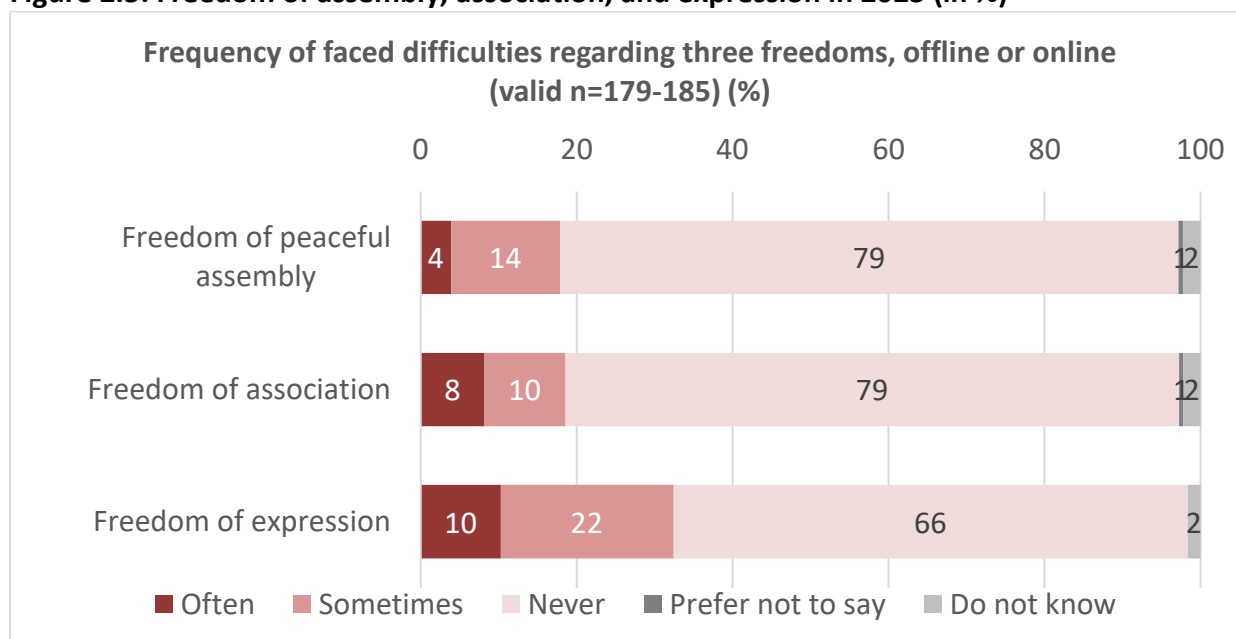
Figure 2.4. Challenges encountered by civil society in the legal environment in the EU in 2023 (in %)



Note: Question: “In the past 12 months, how often has your organisation encountered difficulties in conducting its work due to legal environment in any of the following areas?” (N=151-175)
 Source: FRA civic space consultation covering 2023

Figure 2.5 looks separately at freedom of peaceful assembly, of association, and expression.

Figure 2.5. Freedom of assembly, association, and expression in 2023 (in %)



Source: FRA civic space consultation covering 2023

2.3.1. Freedom of association

CSOs in the European Union continue to face verbal attacks by politicians and third parties and, in some cases, even by government officials, as the 2023 FRA update on ‘Protecting civil society’ describes.¹⁰⁶

The Federal Institute for the Protection and Promotion of Human Rights published a study on threats against CSOs in **Belgium**, concluding that about two-thirds of CSOs had received threats, online or offline, in 2021-2022.¹⁰⁷ In **Hungary**, some media outlets continued to label certain NGOs as ‘Soros’ organisations, linking them to the Hungarian-American philanthropist who supports liberal, democratic causes, and whom the Hungarian government has opposed and criticised. A major lesbian, gay, bisexual, transgender and intersex (LGBTI) rights organisation was accused of supporting paedophilia.¹⁰⁸ In **Serbia**, a prominent human rights defender was physically attacked, another attack took place on the premises of a major LGBTI organisation and certain politicians branded CSOs as ‘traitors’.¹⁰⁹

Concerns persist among civil society organizations regarding surveillance. A case by the NGO Reporters without Borders concerning the potential use of surveillance techniques employed by the German federal intelligence services was dismissed by the federal administrative court due to lack of sufficient indicators that the plaintiff was affected by surveillance measures. An application to the Federal Constitutional

¹⁰⁶ FRA (2023) [Protecting civil society – Update 2023](#)

¹⁰⁷ Belgium, Federal Institute for the Protection and Promotion of Human Rights, ‘[Research](#)’.

¹⁰⁸ Heinrich Böll Foundation, ‘[Hungarian government threatens its citizens’ courage with the so-called “Protection of Sovereignty Act”](#)’, 2023; Heinrich Böll Foundation, ‘[Smear campaigns are constant components of Fidesz’s recipe to stay in power](#)’, 2022; Hungary, Sixty-Four Counties Youth Movement (*Hatvannégy Vármegye Ifjúsági Mozgalom*) (2023), Proposals to curb the harmful activities of foreign-funded LGBTQP lobbying organisations ([Javaslatok a külföldről finanszírozott LMBTQP-lobbiszervezetek káros tevékenységének visszaszorítására](#)), 25 July 2023.

¹⁰⁹ Lawyers’ Committee for Human Rights – Yucom, ‘[The brutal attack on Voštinić is an attack on civil liberties](#)’ ([‘Brutalan napad na Voštinića je napad na građanske slobode](#)’), 2023; Lawyers’ Committee for Human Rights – Yucom, ‘[Map of Incidents](#)’, 2023; Belgrade Centre for Human Rights, [\[08\]](#), Belgrade, 2023, p. 26.

Court is pending. A European Parliament recommendation following up on its investigation into the use of Pegasus and equivalent surveillance spyware concluded that government actors in a number of EU Member States have used spyware against a range of groups, including journalists and CSOs, and highlighted that the “use of spyware on politicians, civil society and journalists has a chilling effect and severely affects the right to peaceful assembly, freedom of expression and public participation”. The Parliament also expresses concern over the “apparent reticence to investigate spyware abuse, both in cases where the suspect is a Member State or a non-EU country government body” and “notes the very slow progress and lack of transparency in the judicial investigations into spyware abuse against government leaders and ministers of EU Member States and the Commission, as well as against civil society members, journalists or political opponents”.¹¹⁰ In FRA’s online consultation, 17 % of CSOs expressed concern that their activities had been under surveillance by law enforcement. CSOs working in the sphere of migration also faced continuous pressure, including criminal sanctions for assisting refugees.

On the positive side, **Luxembourg** drafted a new association law that removes the requirement to annually submit a list of members and introduces accounting obligations proportionate to the size of the organisation.¹¹¹ At the same time initiatives that aim fighting foreign influence, might result in additional reporting obligations. The parliament of the **Netherlands** continued to debate a bill for the transparency of civil society organisations which imposes information and reporting obligations on donations¹¹². After CSO criticism of the law as unnecessary, discriminatory and stigmatising, the new version as revised in 2023 covers all donations, not just those from outside the EU, to avoid the risk of stigmatising foreign donations.¹¹³

2.3.2 Freedom of peaceful assembly

The freedom of peaceful assembly faced similar pressure as in the previous year.¹¹⁴ First, there were concerns about excessively restrictive legislation. For instance, in **Spain**, the Citizen Security Law contains a wide range of restrictions to freedom of peaceful assembly that the Venice Commission has deemed disproportionate. Efforts to reform it have stalled in what CSOs have referred to as a missed opportunity for human rights.¹¹⁵ The National Consultative Commission on Human Rights (CNCDH) in **France** criticised the planned use of automated video surveillance during the Olympic Games 2024, as video surveillance during this event would report on more than was necessary, for example people walking in the wrong direction, crowd movements or excessive densities of people.¹¹⁶ The CNCDH also criticised a proposal to

¹¹⁰ [European Parliament recommendation of 15 June 2023 to the Council and the Commission following the investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance \(2023/2500\(RSP\)\)](#); see also FRA, [Surveillance by Intelligence Services – Fundamental rights safeguards and remedies in the EU – 2023 update](#), Vienna, 2023.

¹¹¹ Luxembourg, Act of 7 August 2023 regarding non-profit associations and foundations ([Loi du 7 août 2023 sur les associations sans but lucratif et les fondations](#)), 19 September 2023.

¹¹² Netherlands, Bill for transparency civil society organisations act ([Wetsvoorstel Wet transparantie maatschappelijke organisaties](#)), 20 November 2020; Netherlands, Amendment memorandum: Bill for transparency civil society organisations act ([Nota van Wijziging Wetsvoorstel Wet transparantie maatschappelijke organisaties](#)), 18 April 2023.

¹¹³ Dutch Section of the International Commission of Jurists, [Contribution of the Dutch Section of the International Commission of Jurists \(NJCM\) and other stakeholders to the fourth Universal Periodic Review of the Kingdom of Netherlands](#), Leiden, 2022.

¹¹⁴ FRA, [Protecting Civil Society – Update 2023](#), Publications Office of the European Union, Luxembourg, 2023, Section 2.1.3.

¹¹⁵ Spain Organic Law 4/2015, of 30 March, on the protection of citizen security ([Ley Orgánica 4/2015, de 30 de marzo, de protección de la seguridad ciudadana](#)), 1 July 2015; Venice Commission, [Opinion on the Citizen’s Security Law](#), Strasbourg, 2021; Amnesty International Spain, ‘Spain / Gag law: Lost opportunity and slowdown in the protection of human rights’ ([‘España / Ley Mordaza: Oportunidad perdida y frenazo en la protección de los derechos humanos’](#)), press release, 2023.

¹¹⁶ France, Law No 2023-380 on the 2024 Olympic and Paralympic Games and introducing various other provisions ([Loi n° 2023-380 relative aux jeux Olympiques et Paralympiques de 2024 et portant diverses autres dispositions](#)), 19 May 2023.

France, Decree No. 2023-828 relating to the terms and conditions for implementing algorithmic processing of images collected by means of video protection systems and cameras installed on aircraft, laid down pursuant to Article 10 of law No. 2023-380 of 19 May 2023 relating to the 2024 Olympic and Paralympic Games and introducing various other provisions ([Décret n° 2023-828](#)

introduce fixed penalties without trial for certain activities, such as obstructing traffic, entering a sports field and graffiti – arguing that these are potentially excessive restrictions.¹¹⁷ Similarly, in **Italy**, the government has proposed that several people together blocking roads or railways should become a criminal offence.¹¹⁸ Also In **Italy**, CSOs criticised a law setting out prison sentences for illegal rave parties, arguing that this is overly broad and disproportionate.¹¹⁹

Second, there were serious concerns about the application of the law. In the **Netherlands**, reports highlight the practice of regulations and restrictions being imposed on demonstrations.¹²⁰ CSOs criticised **German** police for their use of ‘pain grips’ and the practice of ‘kettling’ demonstrators, that is, blocking protesters from leaving protest sites.¹²¹ In **Hungary**, it was alleged that the authorities used coercive measures to disperse an assembly of students and charged students with the offence of hiding their faces.¹²² The Hungarian police noted that they did give such warnings to demonstrators.¹²³ In **France**, the public defender of rights highlighted illegal arrests and the authorities’ disproportionate use of force in protests against pension reforms.¹²⁴

Climate-related protests also continued and the reaction to such protests differed both in nature as well as in the assessment of what constitutes a proportional reaction. Authorities took various measures to deal with demonstrations that blocked highways or major traffic arteries. For example, the authorities in

[relatif aux modalités de mise en œuvre des traitements algorithmiques sur les images collectées au moyen de systèmes de vidéoprotection et de caméras installées sur des aéronefs, pris en application de l'article 10 de la loi n° 2023-380 du 19 mai 2023 relative aux jeux Olympiques et Paralympiques de 2024 et portant diverses autres dispositions](#)), 28 August 2023. France, French National Consultative Commission on Human Rights (*Commission nationale consultative des droits de l'homme*), Letter from the President of the CNCDH ([Lettre du Président de la CNCDH](#)), 2023.

¹¹⁷ France, Law No 2023-22 on the French Ministry of the Interior framework legislation ([Loi n° 2023-22 d'orientation et de programmation du ministère de l'intérieur](#)), 24 January 2023, Art. 25; France, Commission nationale consultative des droits de l'homme, ‘Widespread application of fixed fines for misdemeanours: A step backwards for litigants’ ([Généralisation de l'amende forfaitaire délictuelle : un recul des droits pour les justiciables](#)), press release, 2022.

¹¹⁸ A summary of the contents of the draft law is available online: Italian Government (Governo Italiano), ‘Press release from the Council of Ministers No 60’ ([Comunicato stampa del Consiglio dei Ministri n. 60](#)), press release, 2023.

¹¹⁹ Italy, Law of 30 December 2022, n. 199, Conversion into law, with amendments to the legislative decree of 31 October 2022, n. 162, containing urgent measures regarding the prohibition on the granting of penitentiary benefits to prisoners or internees who do not collaborate with the judicial authorities, as well as regarding the entry into force of Legislative Decree 10 October 2022, n. 150, the obligations to vaccinate against SARS-COV-2 and to prevent and combat illegal gatherings.

¹²⁰ Zwart, N. J. L. and Roorda, B., ‘Does the mayor restrict freedom of demonstration too far? An analysis of legal practice on demonstrations at abortion clinics’ ([Beperkt de burgemeester de betogingsvrijheid te vergaand? Een analyse van de rechtspraak inzake demonstraties bij abortusklinieken](#)), Nederlands Juristenblad, Vol. 2023, No 16, pp. 1314–1321; Bosman, T., ‘Ruan (6) arrested with mother at A12 blockade, now follows Safe Home notification: “This is pure intimidation”’ ([Ruan \(6\) met moeder opgepakt bij A12-blokkade, nu volgt Veilig Thuis-melding: “Dit is pure intimidatie”](#)), AD, 2023; Van Benthem, D., Bosma, F., Dequeker, S., ten Klooster, D. and Polm, S., ‘Even details of family members of demonstrators are requested’ ([Zelfs gegevens van familie van demonstranten worden opgevraagd](#)), Groene Amsterdammer, 2023.

¹²¹ Espín Grau, H. and Singelstein, T., Pain grips as a method in police practice: on the gradual automatization and normalisation of police violence’ ([Schmerzgriffe als Technik in der polizeilichen Praxis: Zur Verselbständigung und Normalisierung polizeilicher Gewalt](#)), 2023; Amnesty International German Section, [Protect the protest: Freedom of the right to peaceful assembly under pressure in Germany](#), 2023.

¹²² Hungary, Boros, K. (2023), ‘Government plan for teachers could lead to school closures’ ([Iskolabezárásokhoz is vezethet a tanárokat érintő kormányzati terv](#)), RTL, 3 May 2023; Police (*Rendőrség*) (2023), ‘Measures at the Carmelite’ ([Intézkedések a Karmelitánál](#)), 3 May 2023; Hungarian Helsinki Committee (*Magyar Helsinki Bizottság*) (2023), Only impartial investigations can clarify what happened at the Carmelite ([Csak pártatlan vizsgálatok tisztázhatják, mi történt a Karmelitánál](#)), 4 May 2023.

¹²³ Hungarian National Police, ‘Tear gas at the Carmelite’ ([Könnycsökkentő a Karmelitánál](#)), 2023.

¹²⁴ France, Public Defender of Rights (*Défenseur des droits*), ‘Demonstrations: the Human Rights Defender reiterates her recommendations on compliance with the rules of professional conduct by the security forces’ ([Manifestations : la Défenseure des droits rappelle ses recommandations sur le respect des règles de déontologie par les forces de sécurité](#)), press release, 2023; National Consultative Commission for Human Rights (*Commission nationale consultative des droits de l'homme*), ‘Freedom of demonstration and freedom of the press at risk’ ([Liberté de manifestation et liberté de la presse en danger](#)), 2023; Controller General of Places of Deprivation of Liberty (*Contrôleur général des lieux de privation de liberté*), ‘Letter sent to the French Minister of the Interior’ ([Courrier adressé au ministre de l'Intérieur](#)), 2023.

Germany placed climate activists under surveillance and carried out home searches.¹²⁵ Activists were subjected to preventive detention and prison sentences, sometimes of multiple months.¹²⁶ Authorities also banned specific types of climate protests in advance.¹²⁷ In **Austria**, a CSO accused the police of using excessive force after they used pepper-spray and batons against climate protesters.¹²⁸

In the **Netherlands**, large-scale climate protests took place. Police arrested 768 climate activists in one protest on the motorway.¹²⁹ The public prosecutor's office imposed various orders on activists to stay away from a particular highway and its surroundings, but a court overturned three such cases, as those activists had not previously engaged in illegal blockades.¹³⁰

In one road-blocking case in **Finland**, no punishments were given to protesters and, in a separate incident, a police commander was fined for ordering the use of pepper spray on climate activists.¹³¹ In **Czechia**, a court ruled that protesters can legitimately occupy one lane of a roadway, as this is part of the message being conveyed and would not cause undue disruption.¹³² In **Italy**, the Milan first instance court denied an application for surveillance of a climate activist, noting his peaceful intentions.¹³³

2.3.3 Freedom of expression

There were direct attacks and threats against journalists in various Member States; these are tracked on a number of platforms, including the CoE Platform to promote the protection of journalism and safety of journalists.¹³⁴ In an online survey of journalists in **Slovakia**, two thirds of the respondents report having experienced an attack or threat, with 16 % stating that the attack/threat caused them to self-censor.¹³⁵

¹²⁵ District court Munich (LG I), decision of 16.11.2023, 2Qs 14/23 11 (Landgericht München (LG I), '[Beschluss vom 16.11.2023 – 2 Qs 14/23 11](#)', 2023; Zeit Online, 'District court classifies Last Generation as a criminal association' ('[Landgericht stuft Letzte Generation als kriminelle Vereinigung ein](#)'), 2023; beck aktuell, 'District court Munich confirms initial suspicion: Last Generation as criminal association' ('[LG München I bejaht Anfangsverdacht: Letzte Generation als kriminelle Vereinigung](#)'), 2023; District court Munich, Press Release: investigation "Last Generation" telecommunication surveillance' (Amtsgericht München, '[Press Release: Ermittlungsverfahren „Letzten Generation“ – Telekommunikationsüberwachung](#)', 2023); BR24, 'Eavesdropping on activists: clear violation of media freedom' ('[Abhörung von Aktivisten: Klarer Eingriff in die Pressefreiheit](#)'), 2023; Süddeutsche Zeitung, 'Eavesdropping on media contact point of Last Generation legal' ('[Abhören des Pressekontakts der Letzten Generation rechtens](#)'), 2023.

¹²⁶ Amnesty International Germany, 'Germany-Preventive detention of climate protectors is a clear violation of human rights' ('Deutschland: Präventivgewahrsam für Klimaschützer*innen ist klarer Verstoß gegen die Menschenrechte', 2023).

¹²⁷ For example: District administration department of the state capital Munich, 'implementation of the Bavarian assembly law', (Landeshauptstadt München Kreisverwaltungsreferat, '[Vollzug des Bayerischen Versammlungsgesetzes \(BayVersG\)](#)', 2022; State capital Stuttgart, general ordinance in relation to assemblies in the context of street blockades and protest actions by climate activists on certain streets' Landeshauptstadt Stuttgart, '[Allgemeinverfügung zu Versammlungen im Zusammenhang mit Straßenblockaden und Protestaktionen von Klimaaktivist*innen auf bestimmten Straßen](#)', 2023.

¹²⁸ Amnesty International Austria, Police violence at climate protests: why police president Pürstl's hasty assessment is strange', ('[Polizeigewalt bei Klimaprotest: Warum die vorschnelle Beurteilung durch Polizeipräsidenten Pürstl befremdlich ist](#)'), 2023.

¹²⁹ Netherlands, NOS, '768 climate activists arrested at climate demonstration on A12 in The Hague' ('[768 klimaaktivisten opgepakt bij klimaatdemonstratie op A12 in Den Haag](#)'), news item, 2023.

¹³⁰ Netherlands, Council for the Judiciary (Raad voor de Rechtspraak), 'Court partially upholds area ban on climate activists' ('[Rechtbank laat gebiedsverbod klimaativisten deels in stand](#)'), press release, 2023.

¹³¹ Finland, Supreme Court, 'Supreme Court: Leave to appeal granted for the prosecutor in the Elokapina protester case' ('[KKO: Syyttäjälle valituslupa Elokapina-mielenosoittajia koskevassa asiassa](#)'), press release, 2023; Uusimaa, 'Uutisuomalainen: Police use of pepper spray against Extinction Rebellion demonstrators will proceed to the court of appeal' ('[Uutisuomalainen: Poliisin pippurisumutus Elokapina-mielenosoituksessa etenee hovioikeuden arvioitavaksi](#)'), news article, 2023.

¹³² Municipal Court in Prague 14 September 2023, ruling No. 6 A 115/2023.

¹³³ Tribunale di Milano, '[Decision No. 4/2023](#)', 10 January 2023.

¹³⁴ CoE, Safety of Journalists Platform, '[Platform to promote the protection of journalism and safety of journalists](#)'.

¹³⁵ The Investigative Centre of Ján Kuciak (Investigatívne Centrum Jána Kuciaka), 'Research: Do Slovak journalists feel safe?' ('[Výskum: cítia sa slovenskí novinári bezpečne?](#)'), 2023.

Such attacks included attacks by political parties.¹³⁶ CSOs claimed there had not been sufficient State action to protect journalists. The Ministry of Culture also announced measures to improve media freedom, such as training of judges and including journalists in Slovakia's crime prevention strategy.

The NGO Reporters Without Borders noted that although journalists in **Belgium** enjoy a relatively high level of trust, they have been subject to violence during demonstrations and online threats directed mainly at women. This has led to some events not being covered and even journalists quitting the profession.¹³⁷

FRA identified allegations of direct government interference in the work of the media through raids and surveillance. On 19 September 2023, a journalist who reported on the Franco-Egyptian anti-terrorist cooperation was arrested by **French** domestic intelligence police officers at her home. They searched her home and removed the data on her computer.¹³⁸ She went through 39 hours of alternating police custody and interrogation, leading journalist's unions to call her treatment "an unprecedented attack on the protection of journalists' confidential sources".¹³⁹

In **Albania**, a journalist's home was raided, and equipment was seized. The Special Prosecution Against Corruption and Organized Crime (SPAK) interrogated the journalist concerning leaks on the identity of a person providing information on a high-profile criminal group that had allegedly killed several people. The journalist published information and conversations that, according to SPAK were evidence in an ongoing investigation and therefore should not have been disclosed.¹⁴⁰

In **Ireland**, a journalist had been asked to hand over his phone following a home repossession incident. The Supreme Court found that the law contained insufficient protection against government actions aimed at obtaining journalists' sources. In **Spain**, media groups expressed concern about a court sentencing a journalist to 2 years in prison because the journalist had published too much material from a secret investigation report.¹⁴¹

Strategic lawsuits against public participation (SLAPPs) are aimed at intimidating activists and journalists into not reporting by threatening them with legal action, which can incur high costs. Owing to their financial and psychological impact, such lawsuits can have a chilling effect on freedom of expression.¹⁴² Criminal cases (e.g. individuals being charged with defamation) can have a similar effect, although they do not fall under the definition of a SLAPP (which only covers civil cases between two private parties). FRA describes a range of such cases in its 2023 civil society update report.¹⁴³

¹³⁶ The Investigative Centre of Ján Kuciak (Investigatívne Centrum Jána Kuciaka), 'Before the elections, Robert Fico and the Smer party attacked journalists and the media, they also paid for advertising' (['Pred voľbami na novinárov a médiá útočil Róbert Fico a strana SMER, platili si aj reklamu'](#)), 2023.

¹³⁷ Belgium, Reporters Without Borders, ['Belgium'](#).

¹³⁸ France, Barthe, B., "The journalist of the "Disclose" website, at the origin of the "Sirli" scandal on Franco-Egyptian military cooperation, taken into police custody" ("['La journaliste du site « Disclose », à l'origine du scandale « Sirli » sur la coopération militaire franco-égyptienne, placée en garde à vue](#)"), *Le Monde*, 2023.

¹³⁹ France, Collectif, "Ariane Lavrilleux in police custody: "The very exercise of the profession of journalist is in jeopardy", warn journalists' associations" ("['Ariane Lavrilleux en garde à vue: « L'exercice même du métier de journaliste est en péril », alertent des sociétés de journalistes](#)"), *Le Monde*, 2023.

¹⁴⁰ Albania, Mapping Media Freedom, ['Authorities seize journalist's documents and equipment in order to reveal his confidential sources'](#), 2023; Albania, SPAK, 'Statement for the media' (['Deklaratë për Mediat'](#)), press release, 2023.

¹⁴¹ Spain, Huelva Provincial High Court (Audiencia Provincial de Huelva), [Judgment 96/2023](#), 6 June 2023; APM, 'FAPE supports the Andalusian press associations in their rejection of a ruling that restricts press freedom' (['La FAPE respalda a las asociaciones de la prensa de Andalucía en su rechazo a una sentencia que coarta la libertad de prensa'](#)), press release, 2023; Tinto Noticias, 'The journalist convicted in the Laura Luelmo case asks for her acquittal' (['La periodista condenada por el caso Laura Luelmo pide su absolución'](#)), press release, 2023.

¹⁴² For an overview, see European Parliament, [Briefing: Strategic lawsuits against public participation \(SLAPPs\)](#), Brussels, 2013.

¹⁴³ FRA, [Protecting Civil Society – Update 2023](#), Publications Office of the European Union, Luxembourg, 2023.

A **Bulgarian** CSO highlighted the growing number of SLAPPs cases brought in the country and the increasing amounts of compensation sought in many cases.¹⁴⁴ In **Italy**, a journalist who had criticised the Prime Minister’s rhetoric, portraying it as being anti-immigrant, was charged with aggravated defamation.¹⁴⁵ In **Serbia**, the Mayor of Belgrade filed two lawsuits against the Balkan Investigative Research Network for articles that it published about his real estate holdings¹⁴⁶ and another for the network’s reporting on alleged corruption.¹⁴⁷ In **Greece**, the former secretary-general of the Prime Minister filed several lawsuits for defamation against news outlets which had reported on a spyware scandal, sparking concerns from media watchdog groups.¹⁴⁸

To reduce their chilling effect, it is crucial that SLAPPs are dismissed early. This has happened in a number of cases. In **Czechia**, a court dismissed a lawsuit that was asking for an apology for a political party being called a ‘parliamentary fascist movement’, as the defendant had not disproportionately infringed on the rights of the applicant.¹⁴⁹ In **Austria**, a lawsuit filed against a CSO by an organisation working on migration issues was also dismissed.¹⁵⁰ In **Romania**, the Bucharest Court of Appeal dismissed a case brought against investigative journalists who were alleging that sexual abuse was being committed in the Orthodox Church.¹⁵¹

At the same time, civil society expressed dismay at a court ruling in **North Macedonia** that found that an association that was engaging in investigative journalism was not considered to be part of the ‘media’ and that the person who published a story not to be a journalist. Therefore, they were not covered by the protections afforded to the media and journalists under the freedom of expression. This is despite the fact that journalism is defined functionally (i.e. that anyone carrying out the required activities can be a journalist)¹⁵²

2.4. Threats and Attacks

CSOs and HRDs continue to experience threats and attacks across the EU. They include threats and attacks against organisations, as well as against their staff or volunteers, ranging from online

¹⁴⁴ Georgieva-Mateeva, L. and Zheleva, S., *The Price of Free Speech – Analysis of lawsuits against public participation in Bulgaria exhibiting the characteristics of SLAPP litigation* (*Цената на свободното слово – Анализ на съдебни производства с характеристиките на SLAPP в България*), Anti-Corruption Fund (Антикорупционен фонд), Sofia, 2023.

¹⁴⁵ European Centre for Press & Media Freedom, [‘Italy: Support for Roberto Saviano in SLAPP case initiated by Giorgia Meloni’](#), 2023.

¹⁴⁶ Civic Initiatives, [‘Three Freedoms under the Magnifying Glass – 24 March–6 April 2023’](#), Belgrade, 2023.

¹⁴⁷ Civic Initiatives, [‘Three Freedoms under the Magnifying Glass – 9 June–28 June 2023’](#), Belgrade, 2023.

¹⁴⁸ Euractiv, [‘Greek Prime Minister fights to avoid resigning over Watergate-type scandal’](#), 2022; RSF, [‘Abusive lawsuits against journalists amid political tension in Greece’](#), 2022; International Press Institute, [‘Greece: Media and journalists targeted in second lawsuit by PM’s nephew over spyware revelations’](#), 2023; Balkan Insight, [‘Greek union condemns former govt official’s mass SLAPPs against media’](#), 2023; ESIEA, ‘The industry of lawsuits against journalists must stop’ ([‘Να σταματήσει η βιομηχανία αγωγών κατά δημοσιογράφων’](#)), 2023.

¹⁴⁹ Sedláček, Š., ‘The SPD can be called a “parliamentary fascist movement”. Why the court dismissed the case against *Respekt*’ ([‘SPD lze označit za “Parlamentní fašistické hnutí”. Proč soud smetl žalobu na Respekt’](#)), *Respekt*, 2023.

¹⁵⁰ Amnesty International Austria, ‘SLAPP lawsuit against SOS Balkan route dismissed: Success for civil society in Austria’ ([‘SLAPP-Klage gegen SOS Balkanroute abgewiesen: Erfolg für Zivilgesellschaft in Österreich’](#)), 2023.

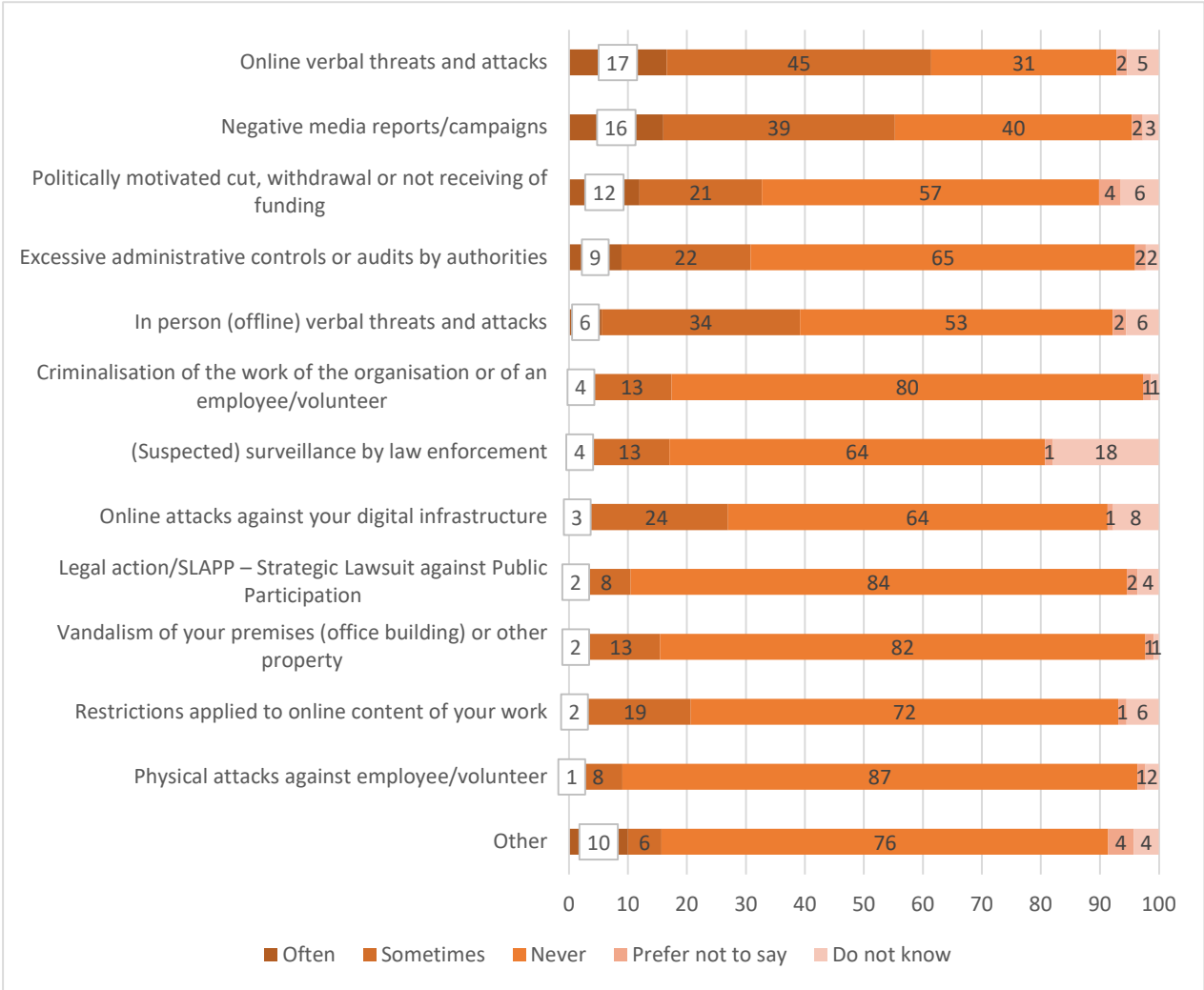
¹⁵¹ Bucharest Court of Appeal, [Case 5997/3/2021](#), 30 May 2023.

¹⁵² RL, ‘IRL are found guilty for existing, not for slander’ ([‘ИРЛ не се осудени за клевета, осудени се затоа што постојат’](#)), 2024; European Centre for Press and Media Freedom, [‘North Macedonia: Ruling against Investigative Reporting Lab and its editor must be overturned’](#), 2023; FRA, [‘Violence, threats and pressures against journalists and other media actors in the EU’](#), Vienna, 2016; see also CoE, [‘How to Protect Journalists and Other Media Actors?’](#), Strasbourg, 2023; CoE, Safety of Journalists Platform, [‘Platform to promote the protection of journalism and safety of journalists’](#).

and offline intimidation and harassment, negative public statements and smear campaigns and verbal threats, to legal and physical attacks.¹⁵³

The results from the 2023 consultation consolidate FRA findings from previous years. As in previous years, online verbal threats and negative media reports and campaigns were, again, the most experienced forms of threat and attacks by responding CSOs in 2023. In addition, more than a third of the responding CSOs claim having been targets of politically motivated funding cuts, and of excessive administrative controls and audits. The percentage of organisations being victim of legal action such as SLAPPs remained stable around 1 in 8 in the past 3 years.¹⁵⁴

Figure 2.6. Experiences by CSOs of threats and attacks in 2023 (in %, multiple answers possible)



Note: Question: “In the last 12 months, how often did you or any of your employees/volunteers face any of the following? [Type of attacks]” (N=267).

Source: FRA civic space consultation covering 2023

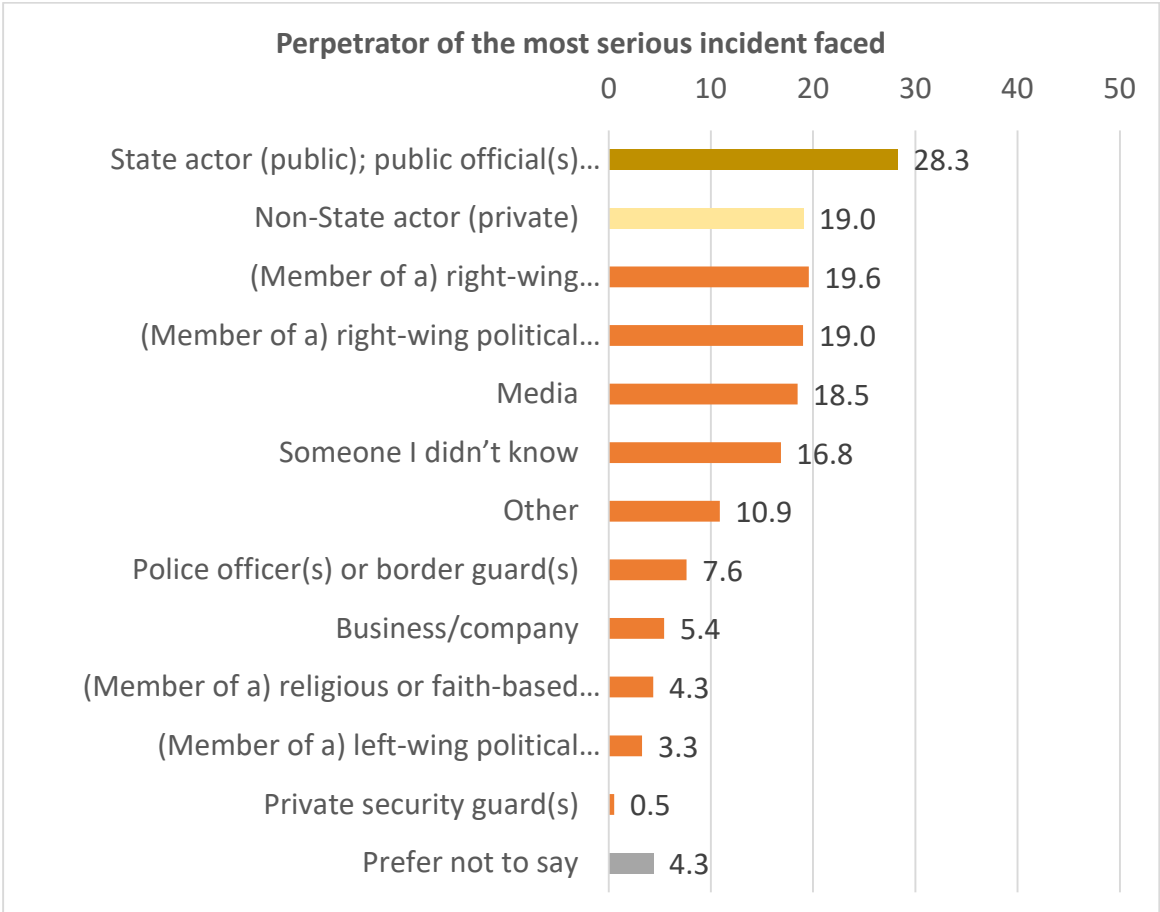
Moreover, reports about experiences of suspected surveillance by law enforcement have much increased since 2021.

¹⁵³ FRA, civic space consultations 2021, 2020, 2019, 2018

¹⁵⁴ See FRA, civic space consultations 2021, 2022, 2023

Over a quarter of respondents (28.3 %) identified a State/public actor as the main perpetrator of the most serious attack against their organisation in 2023, whereas approximately 40% said the perpetrator was a right wing extremist party or movement.

Figure 2.7. Perpetrator of the most serious incident faced in 2023 (in %, multiple answers possible)

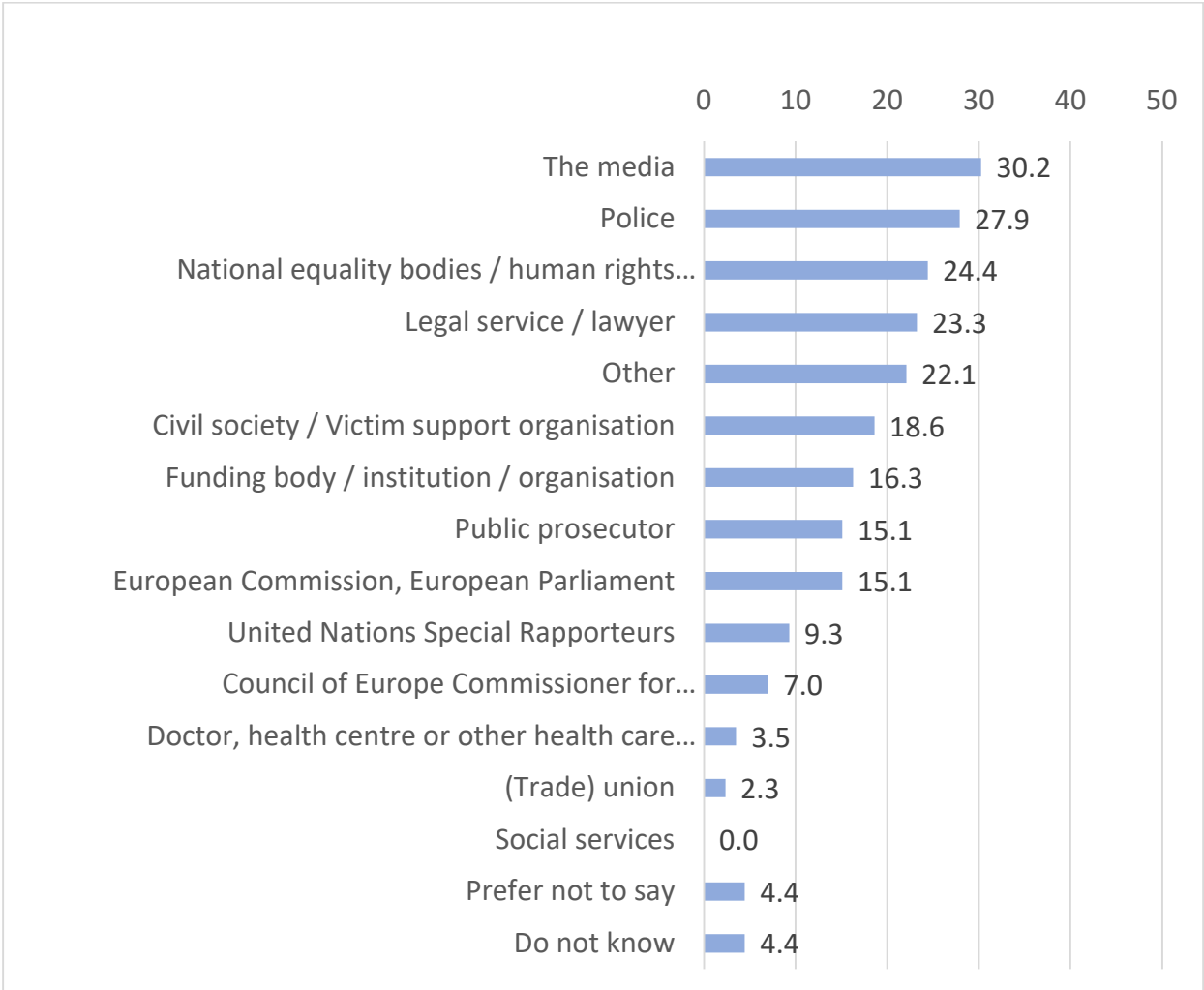


Note: Question: “Please think about the most serious incident. Who did this to your organisation / employee / volunteer?” (N=184)

Source: FRA civic space consultation covering 2023

Yet, only just over half of the organisations reported any these incidents to a competent body or the media. The main reasons given by respondents for not reporting was that the incident was not regarded as serious enough (52%), they felt nothing would come out of reporting (34%), lack of trust in the authorities or the police (17%) or finding it too much trouble to report (17%).

Figure 2.8 Who received reports or complaints about incidents from the CSO (in %, multiple answers possible)

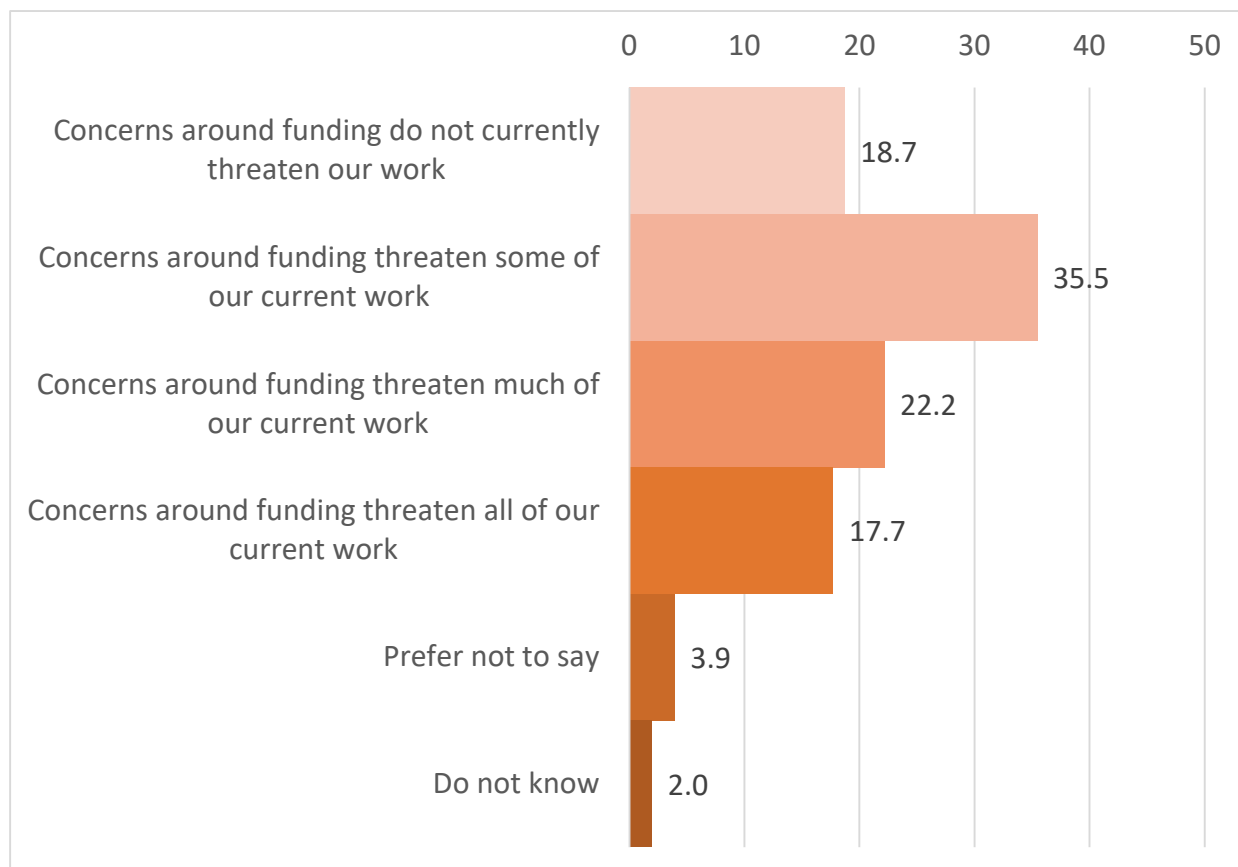


Note: Question: “Did your organisation report or make a complaint about any of these (incidents)? If YES, who did you report or make a complaint to?” (N=156)
 Source: FRA civic space consultation covering 2023

2.5. Access to resources

Finding and accessing resources and funding for their work remains an ongoing concern for CSOs¹⁵⁵.

Figure 2.9. Funding concerns threatening human rights work (in %, multiple answers possible)



Note: Question: “In the past 12 months, how much of a concern was funding for your organisation? (N=203)

Source: FRA civic space consultation covering 2023

At the same time, FRA’s research identified a range of positive developments at national level. Several countries improved their general financing frameworks, while others explored a more favourable taxation framework for CSOs.¹⁵⁶

3. Democracy and participation

Meaningful participation of individuals and civil society in public affairs is a crucial tool for a democracy and ensures full implementation of fundamental rights. Next to participation in the electoral process, participation is also key in the daily routine of a political systems such as in the

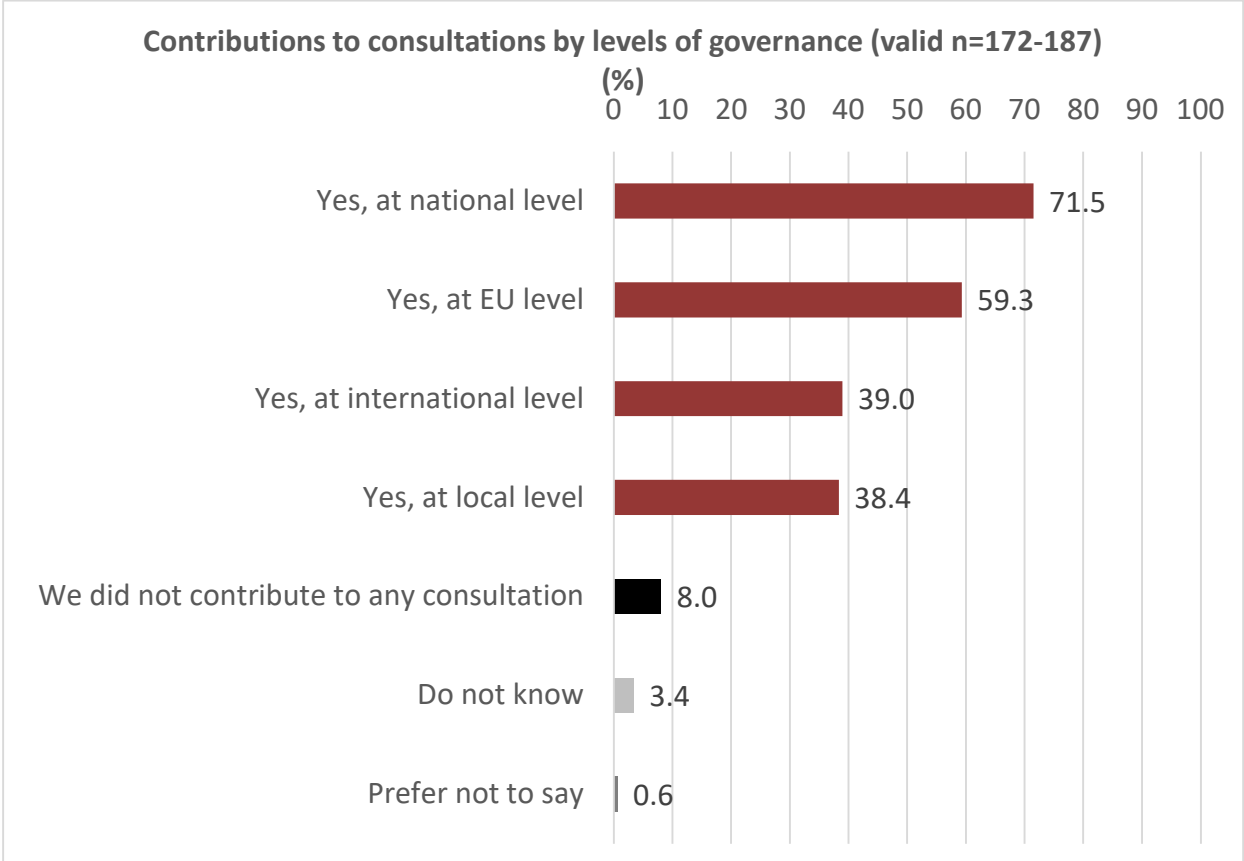
¹⁵⁵ FRA, civic space reports covering 2018, 2021, 2022, 2023

¹⁵⁶ See FRANET reports

context of law and policy making. Consultations are one way to make sure that respective policies and laws consider actual or potential impact on rights of diverse groups in society . However, FRA’s evidence shows that human rights civil society organisations often have too little time or lack opportunity for meaningful comment or engagement with draft legislation, in particular when accelerated procedures are used or when bills cover multiple issues.

CSOs appreciate the importance of consultation. In FRA’s civic consultation covering 2023, only 8% of respondents indicated that they had not participated in any consultations over the preceding year.

Figure 3.1. CSO contributions to consultations (in %, multiple answers possible)

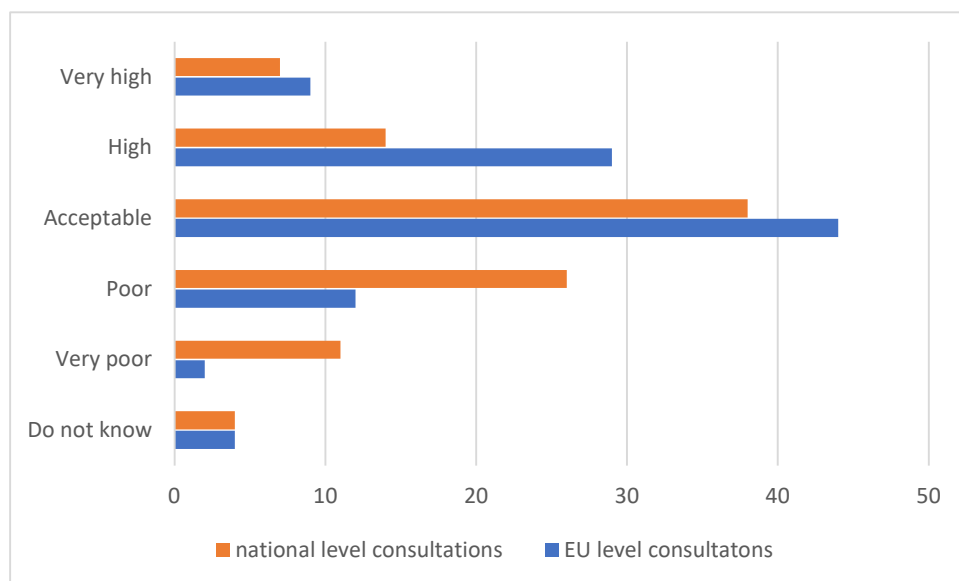


Note: Question: “In the past 12 months, have you contributed to consultations by the following levels of governance? (N=172-187)

Source: FRA civic space consultation covering 2023

However, the quality of consultation varies. What emerges from the agency’s consultation is that CSO consider the quality of EU consultations overall higher than that of national consultations.

Figure 3.2. Quality of consultation processes in 2023 as perceived by CSOs (in %)



Note: Question: “Think about the last consultation process at EU level / at national level that you participated in. How would you rate the quality? (N=122)

Source: FRA civic space consultation covering 2023

It is important that Member States “provide appropriate and necessary information regarding a specific participation exercise in a timely manner and in easily accessible formats, including the context and the type of measures envisaged, the procedures, the timeline for participation, the authority responsible for the exercise and its contact details” (see point 5 (e) of the Commission’s recommendation on participation).¹⁵⁷ This was an issue in some Member States and accession countries in 2023. For example, **Slovakia** amended its environmental impact legislation with the aim of simplifying and optimising investment projects and reducing delays.¹⁵⁸ However, the President of Slovakia and civil society criticised the law for lowering the standards of public consultation, violating international standards, poor drafting and insufficient consultation. The president even vetoed it, although the veto was overridden.¹⁵⁹

¹⁵⁷ European Commission (2023) [RECOMMENDATION on promoting the engagement and effective participation of citizens and civil society organisations in public policy-making processes](#), C/2023/8627 final.

¹⁵⁸ Slovakia, Act of May 10, 2023 on the amendment and supplementation of certain laws in the field of environmental protection in connection with the reform of construction legislation, returned by the President of the Slovak Republic for reconsideration by the National Council of the Slovak Republic - wording approved on June 20, 2023 ([Zákon z 10. Mája 2023 o zmene a doplnení niektorých zákonov v oblasti ochrany životného prostredia v súvislosti s reformou stavebnej legislatívy, vrátený prezidentkou Slovenskej republiky na opätovné prerokovanie Národnou radou Slovenskej republiky – znenie schválené 20. Júna 2023](#)).

¹⁵⁹ Slovakia, Act of May 10, 2023 amending and supplementing certain laws in the field of environmental protection in connection with the reform of construction legislation - returned law ([Zákon z 10. mája 2023 o zmene a doplnení niektorých zákonov v oblasti ochrany životného prostredia v súvislosti s reformou stavebnej legislatívy – vrátený zákon](#)); Slovakia, Ministry of Environment of the Slovak Republic (Ministerstvo životného prostredia SR), The parliamentary amendments to be approved next year will abolish public control over the construction process and subordinate the protection of the environment to the interests of investors ([‘Poslanecké pozmeňujúce návrhy, ktoré sa majú schváliť v utorok, zrušia verejnú kontrolu nad stavebným konaním a ochranu životného prostredia podriadia záujmom investorov’](#), 2023); Slovakia, Ministry of Environment of the Slovak Republic (Ministerstvo životného prostredia SR), Approval of the proposed construction legislation proposed by *Sme rodina* can mean the end of nature protection in Slovakia ([‘Schválenie návrhy stavebnej legislatívy z dielne Sme rodina môže znamenať koniec ochrany prírody na Slovensku’](#)), 2023; Via Iuris, ‘Let us stop the disastrous reform permitting large constructions together’ ([‘Zastavme spolu katastrofálnu reformu povoľovania veľkých stavieb’](#)), 2023.

In **Croatia**, the Information Commissioner criticised the general policy of shortening consultations, especially local consultations and the non-publication of consultation reports and plans, while civil society organisations criticised what they perceive as often merely formal process of consultation.¹⁶⁰ The Bar Association of **Slovenia** also noted that it is often given insufficient time to prepare a response to draft laws.¹⁶¹

In **Latvia**, the Association of Journalists and the Ombudsman criticised the lack of consultation and sufficient time for comment when amending the Freedom of Information Law to reclassify a category of documents as ‘State secrets’.¹⁶² In **Albania** public consultations are considered “overly formalised and due follow up on substance is not always ensured through a sufficiently meaningful dialogue.”¹⁶³

The Commission recommendation also stresses that there should only be “proportionate and clearly communicated limitations” to the overall framework on regular participation and consultation processes (point 5 (c) of the recommendation). In a number of Member States, the use of urgent procedures can reduce the duration of public consultations or even cancel them. For example, in **Romania**, the government used urgent procedures 129 times in 2023 (down from 192 in 2022 and 145 in 2021). The Ombudsman, with support from CSOs, urged the Constitutional Court to rule on the constitutionality of a new law that allows the government to declare legislation urgent to bypass the regular consultation process¹⁶⁴

Civil society levelled similar criticism in **Slovenia**, citing as an example the passage of key amendments to the legislation on financing political parties outside the committee procedure.¹⁶⁵ A non-governmental organisation (NGO) in **Greece** highlights a number of cases of amendments to bills that did not allow sufficient time for public consultation.¹⁶⁶ In **Slovakia**, both CSOs and

¹⁶⁰ Croatia, Human Rights House Zagreb (*Kuća ljudskih prava Zagreb*), [Human Rights in Croatia: Overview of 2022](#), April 2023; Croatia, Information Commissioner (*Povjerenik za informiranje*), Report on the Implementation of the act on the Right to Access Information for 2022 (*Izveštje o provedbi Zakona o pravu na pristup informacijama za 2022.*), Zagreb, 2023.

¹⁶¹ Slovenia, Bar Association of Slovenia (*Odvetniška zbornica Slovenije*), correspondence from 27 September 2023.

¹⁶² Latvia, Latvian Association of Journalists (*Latvijas žurnālistu asociācija*), ‘Call to postpone the amendments to the Freedom of Information Law’ (*Aicinājums atlikt grozījumus Informācijas atklātības likumā*), 2023; Latvia, Ombudsman (*Latvijas Republikas tiesībsargs*), ‘Letter to the Parliament No 1-8/11’ (*Vēstule Saeimai Nr. 1-8/11*), 2023; Latvia, Freedom of information law (*Informācijas atklātības likums*), 29 October 1998.

¹⁶³ European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, [Screening Report 2023 – Albania](#), Brussels, 2023.

¹⁶⁴ Romania, Government’s Emergency Ordinance No 16/2022 amending Art. 7, paragraph (13) of the Law 52/2003 on transparency in decision making ([Ordonanță de urgență nr. 16 din 2 martie 2022 pentru modificarea art. 7 alin. \(13\) din Legea nr. 52/2003 privind transparenta decizională în administrația publică](#)), 2 March 2022; Romania, Exception of unconstitutionality (*a posteriori constitutional review*) regarding the provisions of the Government’s Emergency Ordinance no. 16/2022 for the amendment of art.7 paragraph (13) of Law no. 52/2003 regarding transparency of decision-making in public administration, published in the Official Gazette of Romania, Part I, no. 204, 2 March, 2022 ([Exceptia de neconstituționalitate cu privire la prevederile Ordonantei de Urgență a Guvernului nr. 16/2022 pentru modificarea art. 7 alin \(13\) din Legea nr. 52/2003 privind transparenta decizională în administrația publică, publicată în Monitorul Oficial al României, Partea I, nr. 204 din data de 2 martie 2022](#)), 5 April 2022; Romania, Coalition NGOs for Citizen, ‘Amicus Curiae for the amendments to the Transparency Law’ ([‘Amicus Curiae pentru modificările aduse Legii transparenței’](#)), 2023; Romania, The Group NGOs for Citizen, The Law regarding transparency of decision-making amended in a completely non-transparent way. Under the pretext of urgency any decision may be made without informing and consulting the public ([‘Legea transparenței decizionale modificată complet netransparent. Sub pretextul urgenței, orice decizie va putea fi luată fără informarea și consultarea publicului’](#)), 2022. ‘,

¹⁶⁵ Slovenia, Legal Network for the Protection of Democracy (*Pravna mreža za varstvo demokracije*), correspondence from 27 September 2023.

¹⁶⁶ Greece, GovWatch, [‘Law 5042/2023 and the rules of good legislation’](#), 2023; Greece, GovWatch, [‘Unjustified shortening of the public consultation period by the Ministry of Interior’](#), 2023.

the president criticised the government for using a fast-track procedure to amend criminal legislation on corruption.¹⁶⁷

Finally, the recommendation calls on Member States to “envisage sufficient resources and time to ensure meaningful impact and take into account the holiday seasons in national contexts to allow appropriate participation” (point 5 (h) of the recommendation). Such meaningful participation is further complicated when bills contain a range of different measures.

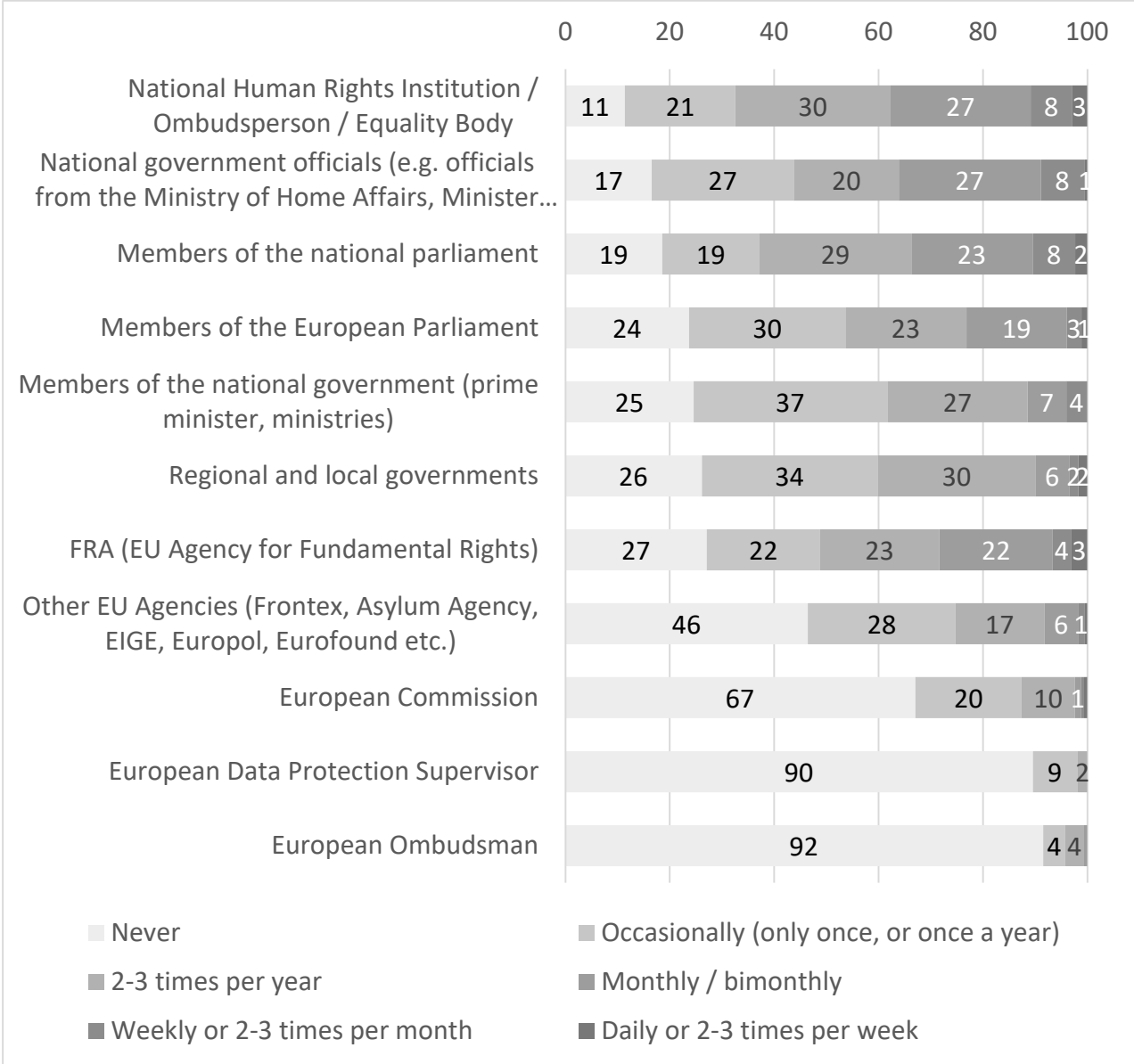
For example, the **Greek** Parliament’s final bill passed in 2023 included last minute provisions for the needs of 13 ministries. It covers amendments to Recovery Fund programmes and comprises 98 articles, each of which regulates different issues.¹⁶⁸ Similarly, in **Estonia**, the Chancellor of Justice (the national human rights institution) expressed concerns about the practice of combining amendments to different laws in one bill, which can lead to confusion as to what legal changes are actually being passed, and asked legislators not to accept this practice.¹⁶⁹ Overall, both the frequency and the quality of interactions with European and national actors varies as the findings reflected in figures 3.3. (frequency) and 3.4. (quality) show. The findings visualised in figure 3.5. suggest that the most important steps to improve participation of civil society organisation is to involve them early on in any consultation and participation process; to better inform them about existing consultation and participation possibilities; and to provide funding for the time they need to provide expert input.

¹⁶⁷Slovakia, Law amending Law No .300/2005 Coll., the Criminal Code, as amended, and amending and supplementing certain acts ([Návrh zákona, ktorým sa mení a dopĺňa zákon č. 300/2005 Z. z. Trestný zákon v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony](#)), 6 December 2023; Slovakia, Proposal for a fast-track legislative procedure on the Government Law amending Law No 300/2005 Coll., the Criminal Code, as amended, and amending and supplementing certain acts ([Návrh na skrátené legislatívne konanie o vládnom návrhu zákona, ktorým sa mení a dopĺňa zákon č. 300/2005 Z. z. Trestný zákon v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony](#)), 6 December 2023; VIA IURIS, Nadácia zastavme korupciu and INEKO, ‘Let’s protect the rule of law-public call’ ([‘Ochráňme právny štát – verejná výzva’](#)), 2023; Slovakia, President of the Slovak Republic (Prezident SR), ‘Declaration on the cancellation of the Special Prosecutor’s Office’ ([‘Vyhlásenie k rušeniu Úradu špeciálnej prokuratúry’](#)), 2023.

¹⁶⁸ Greece, VouliWatch, ‘Multiple-provision Draft Law of the Ministry of Finance’ ([‘Πολυνομοσχέδιο Υπουργείου Οικονομικών’](#)), 2023.

¹⁶⁹ Chancellor of Justice (Õiguskantsler), ‘Chancellor of Justice Ülle Madis’s presentation “Climate protection and restrictions on fundamental rights”’ ([‘Õiguskantsler Ülle Madise ettekanne “Kliima kaitse ja põhiõiguste piirangud”](#)’), 2023

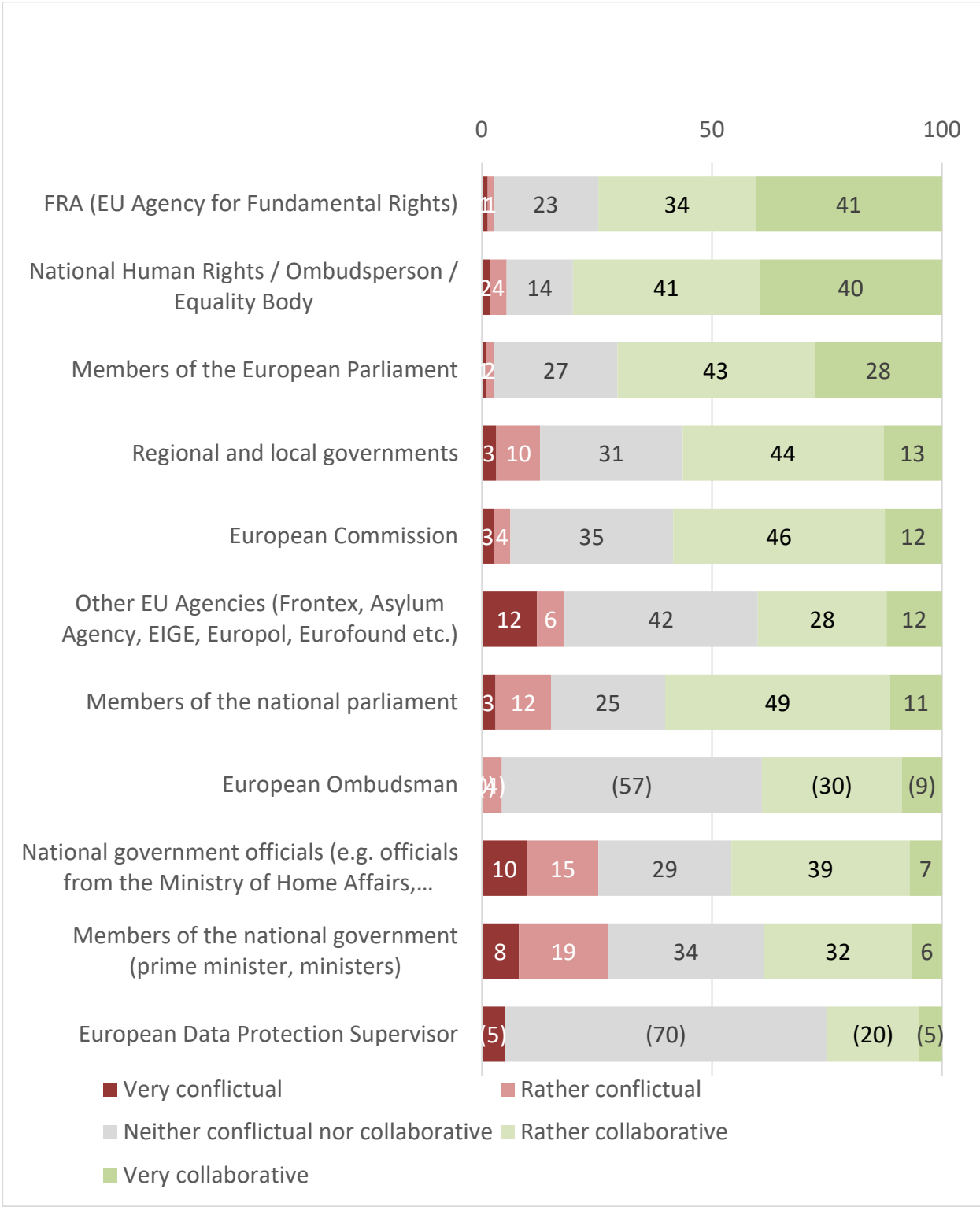
Figure 3.3. Frequency of interactions between CSOs and relevant actors in 2023 (in%)



Note: Question: “How often did your organisation have interactions / discussions / exchanges with these European / national actors in the last 12 months? (N=177)

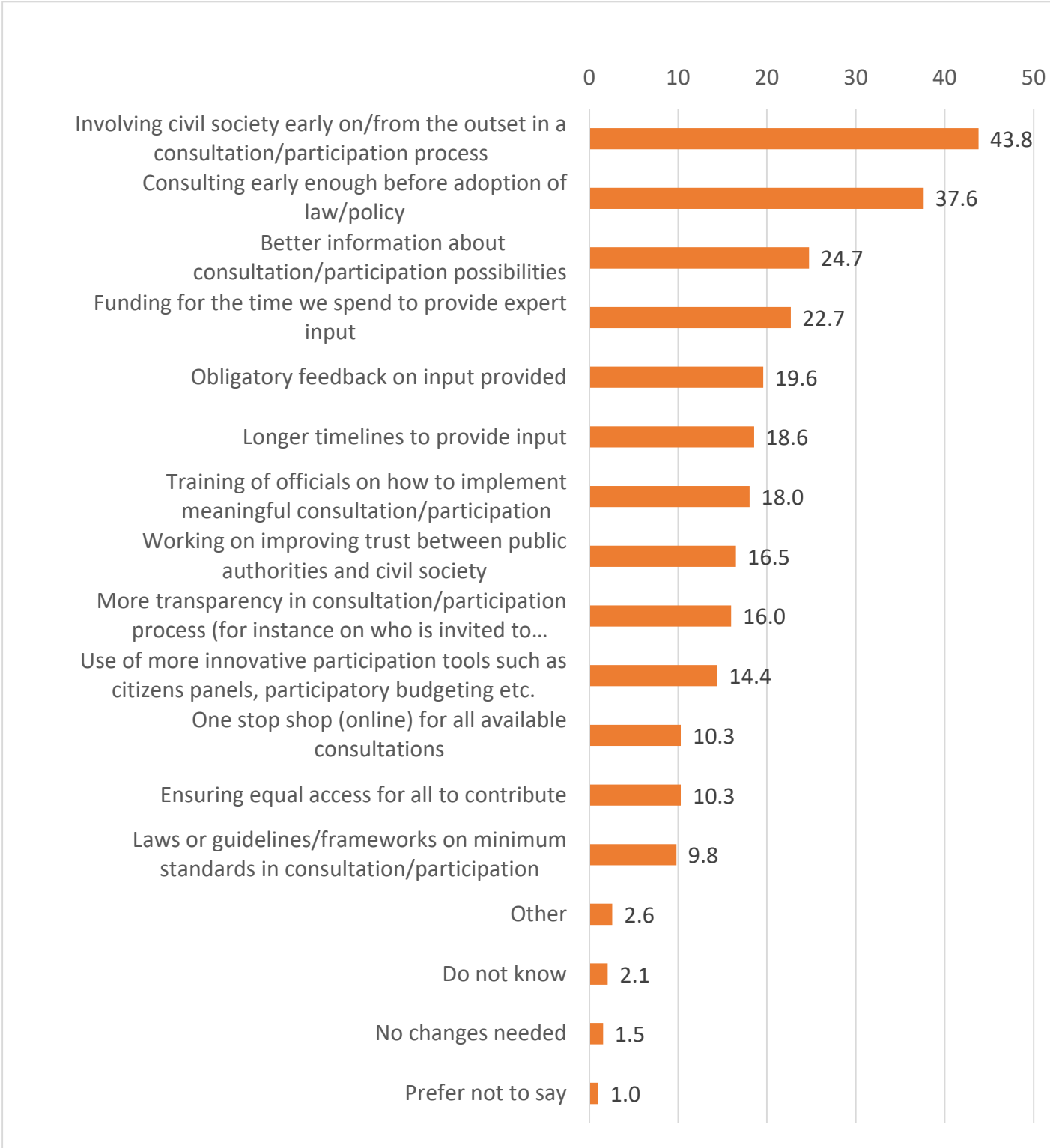
Source: FRA civic space consultation covering 2023

Figure 3.4. Quality of interactions between CSOs and different actors (in %)



Note: Question: “How would you describe these interactions / exchanges / discussions between your organisation and the following actors? (N=142)
 Source: FRA civic space consultation covering 2023

Figure 3.5. Needed changes in access to decision making (in %, up to three responses possible)



Note: Question: “What changes in the access to the decision-making would you consider the most relevant? (Three changes selectable) (N=194)
 Source: FRA civic space consultation covering 2023

CSOs have a range of proposals on how to improve consultation processes and access to decision making. This starts with involving CSOs earlier in the process (43.8%) and goes to consulting on

time before decision are actually being taken (37.6%). As many as 22.7% say they would need some kind of funding for the time and effort spent in consultations, and 19.6 % of respondents would like to see obligatory feedback on the input provided. These views can provide some guidance for national reform efforts.