

2022 REPORT ON THE APPLICATION OF THE EU CHARTER OF FUNDAMENTAL RIGHTS: THE CIVIC SPACE AND ITS ROLE IN PROTECTING AND PROMOTING THE FUNDAMENTAL RIGHTS UNDER THE CHARTER

CONSULTATION OF EU MEMBER STATES

Civil society organisations (CSOs)¹ and rights defenders² are key actors for the enforcement of the EU Charter of fundamental rights (the Charter). They play an important role in protecting rights under the Charter and promoting a culture of values, based on the rule of law, democracy and fundamental rights.

This was underlined in the 2020 and 2021 rule of law reports³, in the democracy action plan⁴ and in the strategy to strengthen the application of the Charter in the EU (the Charter strategy)⁵. Promoting an enabling and supportive environment for CSOs and rights defenders is a shared responsibility of the EU and the Member States and was one of the four priorities of the Charter strategy.

It is for these reasons that the Commission decided to dedicate its 2022 annual report on the application of the EU Charter of fundamental rights to *the civic space and its role in protecting and promoting the fundamental rights under the Charter*.

The report will explain, in a factual manner and through concrete examples, the **role** of CSOs and rights defenders in ensuring the effective implementation of the Charter, and illustrate EU and Member State actions to **protect, support, and empower** them.

To inform its work on preparing the report, the Fundamental Rights Unit of DG Justice and Consumers of the European Commission is consulting key actors in the Charter's enforcement chain and in promoting an enabling environment for CSOs and rights defenders, such as CSOs,

¹ For the purposes of this consultation, civil society organisations (CSOs) are defined as “non-governmental organisations and institutions of civil society, active in the field of fundamental rights which are voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members”. See Council Regulation (EC) No [168/2007](#) of 15 February 2007 establishing a European Union Agency for Fundamental Rights (the Founding Regulation), OJ 2007 L 53, Art. 10 and the Council of Europe [Recommendation CM/Rec\(2007\)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe](#). They do not include political parties. This consultation covers CSOs that work to promote and strive for the protection and realization of human rights and fundamental freedoms at the national and/or international level. See the [UN Declaration on Human Rights Defenders](#). Please note that under that Declaration, the scope of those who may be defined as a ‘human rights defender’ is not limited to human rights NGOs/CSOs, but may include individuals and other groups as well. For more details, see the OHCHR webpage on human rights defenders.

² For the purposes of this consultation, rights defenders include national human rights institutions (NHRIs), equality bodies and Ombuds-institutions.

³ https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report_en

⁴ https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2250

⁵ COM(2020)711, available at :

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0711&qid=1608047356199>

international organisations and the European networks of NHRIs and Equality bodies. **Member States** are instrumental in ensuring the effective application of the Charter at the national, regional and local levels and their authorities often work in close connection with civil society actors in protecting and promoting Charter rights. Relevant contributions already submitted to the Commission, for instance in preparation to the Rule of Law reports, will also be taken into account.

The Commission would like to collect Member States' views on the questions below. Delegations are welcome to send their contributions in writing until 29 April 2022 at the following email address: JUST-C2-CHARTE@ec.europa.eu. Please limit the length of the answers to 500 words per question. A discussion around these questions will take place at a FREMP meeting before the summer 2022 (date to be confirmed).

The EU Agency for Fundamental Rights (FRA) will assist the European Commission in the assessment of the contributions received. Please refer to the privacy statement attached for information on data protection regarding this consultation.

Questionnaire:

A – The role of CSOs and rights defenders in ensuring the effective implementation of the Charter at national level

1. How do CSOs contribute to activities aimed at making the fundamental rights enshrined in the Charter a reality in your country? Please give examples.

Generally, CSO's are one of the most important actor in the implementation of fundamental rights on the ground in a democratic society such as the Czech Republic. They perform various tasks – from advocacy on rights to provision of services providing access to them, from education and awareness raising on rights to participation and empowerment to their full enjoyment by stakeholders. Many CSO's consolidate in their work various of these tasks. To name just a few examples:

- [Amnesty International](#)
- [People in Need](#)
- [Czech Helsinki Committee](#)
- [League for Human Rights](#)
- [Counselling Centre for Citizenship, Civic and Human Rights](#)
- [Iuridicum Remedium](#)
- [Czech Women's Lobby](#)
- [Defense for Children Czechia](#)
- [Lumos Czech Republic](#)
- [Czech National Disability Council](#)
- [Romodrom](#)
- [Slovo 21](#)
- [Consortium of Migrants Assisting Organizations](#)
- [Life 90](#)
- [Prague Pride](#)

2. In which areas do CSOs contribute the most to the protection of fundamental rights?

This can hardly be said. In the Czech Republic, as shown above, CSO's are active in almost all fundamental rights areas and topics. The landscape is wide and variable so each topic has some interest and coverage.

3. How do rights defenders, including NHRIs, Equality bodies and Ombuds-institutions, contribute to activities aimed at making the fundamental rights enshrined in the Charter a reality in your country? Please give examples.

In the Czech Republic, we have at present only the Ombudsperson who is also the Equality Body and performs other human rights mandates (the National Preventive Mechanism against Ill-treatment or the CRPD Monitoring Body). The Ombudsperson can analyze the work of public authorities, monitor their work, handle complaints, give recommendations for improvement and advice to victims. They can also perform

analysis and research on various topics, support capacity building for public authorities and raise awareness of the general public on their rights. The examples of their work can be found on their [webpage](#).

4. In which areas do right defenders contribute the most to the protection of fundamental rights?

The Ombudsperson again works in many areas. Their main area of work is the public administration connected mainly with procedural issues, but also with civil and social rights. The National Preventive Mechanism focuses on protection against ill-treatment, whereas the Equality Body and the CRPD monitoring deal mainly with equality and non-discrimination, but also with access to rights and participation.

B – The work of the Member States to protect CSOs and rights defenders

5. How do you ensure that CSOs and rights defenders work in a safe and enabling environment?

The right of association is included in the Czech Constitutional Order (Art. 20 of the Charter of Fundamental Rights and Freedoms) as well as its international obligations (next to Art. 12 of the Charter also Art. 22 of the ICCPR and Art. 11 of the ECHR). Further regulation is then included in the Civil Code (see below) as well as the Criminal Code and other acts. CSO's and rights defenders have their rights protected in the same manner as any other person. In case of threats or attacks they can report them to the police and criminal investigation or misdemeanor proceedings can follow. The CSO can also claim damages for the harm infringed.

6. Please explain the main features of the legal framework applicable to CSOs (for example, rules on declaration/registration/dissolution, rules governing the exercise of their activities, court decisions relating to the application of this legal framework, etc.). Please add relevant references to such rules.

Czech law does not define a CSO and this term included in any specific regulation. The term CSO is used as an umbrella term for private legal entities like associations, foundations, endowment funds, public benefit organizations, institutes or ecclesiastical legal persons. The Civil Code sets rules for their establishment, functioning and dissolution. Each legal entity has to be registered by the court who controls if relevant rules have been followed and if their purpose is in line with the law and the democratic order. But that does not mean that the state authorizes the establishment of the entity. Subsequently, the public register shall include relevant data on the registered entities like name, address, organizational structure and governance bodies, finances, annual activity reports etc. The court oversees also the fulfilment of those duties.

7. Do you have in place a system for reporting and monitoring threats or attacks (including physical attacks) on CSOs activists and rights defenders? If yes, how does it work?

No such system exists in the Czech Republic at the moment. CSO's can report any attacks or threats to the police as any other person.

8. Do you provide for, support, or finance an alert mechanism and/or supporting services in case of physical and on-line attacks to CSOs activists and rights defenders?

No special systems for CSO's exist. If CSOs activists and rights defenders become victims to an attack, they can ask for support of crime victims (financial, psychological etc.) and participate in the criminal procedure seeking damages.

9. Are you part of the Open Government Partnership⁶ (OGP)? If yes, could you share the link to your latest OGP action plan?

Yes. The latest OGP action plan is [here](#).

10. Do you assess how CSOs are impacted by legislative proposals in the legislative preparatory work? If yes, please briefly describe the process/mechanism.

The impact on CSO's is not assessed separately in the legislative process. It is included mainly in the social impact, but also in the administrative and financial impact.

11. Do you consider it necessary to improve the cooperation between Member States and the EU to strengthen the level of protection of CSOs and rights defenders working to protect fundamental rights? How?

We do not have any special ideas, but any initiative beneficial to CSO's is worth considering provided it is in the EU competence.

C – The work of the Member States to support CSOs and rights defenders

12. Please indicate which public authorities are competent to disburse public funding and the main programmes of funding available at national and local level for CSOs working to protect and promote fundamental rights.

Public funding in fundamental rights areas is available in various national and international sources:

National sources:

Public authority	Topics to cover
Ministry of Labor and Social Affairs	<ul style="list-style-type: none"> - Social services - Rights of the elderly - Family and child protection
Ministry of Education, Youth and Sports	<ul style="list-style-type: none"> - Rights of Children and Youth - Integration of foreigners - Roma integration and education
Ministry of Health	<ul style="list-style-type: none"> - Access to health and rights of patients - Health and disease prevention - Rights of persons with disabilities
Ministry of Justice	<ul style="list-style-type: none"> - Assistance to victims of crimes - Integration and resocialization of prisoners
Ministry of Interior	<ul style="list-style-type: none"> - Crime prevention and assistance to crime victims

Ministry of Culture	<ul style="list-style-type: none"> - Culture of Roma and other national minorities - Culture of the elderly and persons with disabilities - Cultural diversity and integration of foreigners
Ministry of Industry and Trade	<ul style="list-style-type: none"> - Consumer protection
Ministry of Agriculture	<ul style="list-style-type: none"> - Food banks
Ministry of the Environment	<ul style="list-style-type: none"> - Environment protection - Sustainable development
Office of the Government	<ul style="list-style-type: none"> - Roma integration - National minorities - Gender equality - Rights of persons with disabilities - Prevention of addictions - Civil society umbrella organizations

Similar grant schemes can also exist at regional and local level.

International sources

Public authority	Topics to cover
Ministry of Labor and Social Affairs	<ul style="list-style-type: none"> - Employment and social inclusion (ESF+)
Ministry of Education, Youth and Sports	<ul style="list-style-type: none"> - Education, research and development (ESF+, ERDF) - Education (EEA/Norway grants)
Ministry for Regional Development	<ul style="list-style-type: none"> - Regional development (ERDF)
Ministry of the Environment	<ul style="list-style-type: none"> - Environment protection (ERDF, EEA/Norway grants)
Ministry of Justice	<ul style="list-style-type: none"> - Integration and resocialization of prisoners (EEA/Norway grants)
Ministry of Finance	<ul style="list-style-type: none"> - Human Rights (Norway grants) - Roma integration (Norway grants) - Fight against gender violence (Norway grants) - Health prevention (EEA/Norway grants)

- (a) How do authorities select the CSOs, and what are the main conditions they have to fulfil?

The process of subsidy provision is governed by the Act on Budgetary Rules as well as the Government Principles for the provision of grants from the state budget to non-governmental organizations which unify the basic principles of the subsidies provision to CSOs from the state budget (the definition of beneficiaries, the requirements for the subsidies provision, possibilities of co-funding, dates of the subsidies procedure etc.). The procedure is in general as follows:

1. public authorities publish call for proposals with terms and conditions (eligible legal forms, purpose of projects, maximum amount of subsidy and other requirements)
2. CSOs submit applications for subsidy.
3. formal review of acceptability by the awarding authority
4. substantial review and scoring by external evaluators according to the terms and conditions set in call for proposals
5. assessment by the evaluation committee and decision on the award of subsidy
6. issue of the grant decisions with terms and conditions for the individual subsidy

- (b) How do authorities ensure a fair distribution of funds among CSOs?

In general, the Call for proposals sets clear terms and conditions for the subsidy. The calls are published by the granting authority and are so widely accessible. The subsidy proceeding is conducted according to the Act on Budgetary Rules and the Code on Administrative Procedure which both guarantee equal treatment of all applicants. The evaluators are obliged to sign the declaration of secrecy and conflict of interest. Applicants can access their file anytime during the administrative proceeding. The results of the subsidy proceeding are announced to the applicants and published online.

In principle, the grants are awarded by the order of precedence of the scores from the evaluation. The evaluation committee cannot change the scoring of the applications made by evaluators in factual evaluation though it is not bound by their recommendation or the order of precedence of the evaluations. However, every deviation as well as every condition has to be duly justified for the applicant in order to stand any possible judicial review.

- (c) Is there public funding available for organisations' core costs for administrative expenditures and infrastructure?

In general, most subsidies are rather action grants than capacity building grants. However, some ministries more or less allow for the coverage for operating expenses related to the immediate implementation of supported actions and include them in the grants. A proportion of operating costs can also be covered. Few grant schemes aim directly at capacity building, but they are a minority.

- (d) Is there public funding available for human rights advocacy?

As stated above, most subsidies are action grants where the majority takes form of social services,

counselling or education/awareness raising. Human rights advocacy or strategic litigation is again rather minority issue. It is included for example in the EEA/Norway grants programs, where a special Active Citizens Fund focuses on the development of long-term sustainability and capacity of the civil society strengthening its role in promoting democratic participation, active citizenship and human rights. However, this program is administered by the CSO's themselves in cooperation with the Norwegian Government without the involvement of the Czech government.¹

13. Do you have a system in place to get an overview or to coordinate the funding opportunities available at the different levels? By whom is it coordinated, and how does it work?

At present, there is not such a system at place in the Czech Republic.

14. Has any process to simplify and speed up access to funding been considered/adopted/implemented?

The key problem with public funding is that the subsidies are provided only annually, e.g. for one budgetary year. Furthermore, the subsidies are provided during the same year (e.g. in the spring) in which they are to be used. The current legislation does not enable to provide the long term funding for non-investment (soft) projects including the funding for CSOs. Unfortunately, till now no attempts to change this have been successful.

15. Does your taxation system provide for a tax exception/relief/incentive in case of donations to CSOs?

Yes, there are various tax exemptions or tax discounts. CSOs receive subsidies, grants and donations tax-free. CSOs have exemptions from the income tax, road tax, and real estate tax when purchases are related to their organizational purpose. Both individuals and companies can deduct the value of their donations from their taxable incomes. The deduction limits for donations are 15 % for individuals and 10 % for companies.

16. What is the legal framework applicable to donations for other EU countries or third countries to CSOs?

There are no special rules for foreign donations. They are treated in the same way as domestic donations.

D – The work of the Member States to empower CSOs and rights defenders

17. Is there a structured dialogue policy between CSOs and public authorities at local, regional and national level? Is there a body representing the interest of CSOs? How is it composed and which are its competences?

CSO's can cooperate with public authorities at various levels. At present, if a ministry, other public body, region or community start to create a policy, they usually

¹ For more information see here: <https://www.activecitizensfund.cz/en/> and here <https://eeagrants.org/topics-programmes/culture-civil-society-good-governance-and-fundamental-rights-and-freedoms/civil>

invite relevant actors and experts to have their say and to contribute or comment to the planned action. At the central level, the Government has created advisory bodies on various human rights issues like the Council for Human Rights, the Council for Roma Minority Affairs, the Council for National Minorities, the Council for Gender Equality, the Committee for People with Disabilities, the Council for the Elderly and Population Ageing or the Council for Sustainable Development.² In all these bodies, CSO's play an important role as members who can provide expertise, share their experiences and participate in the work of the government. A special Council for CSO's also exists where the key issues concerning their work can be discussed and the government can get feedback on their situation.³ The Council also widely participated in the creation of the new strategy on cooperation between the state and the CSO's adopted in 2021.

18. What is the process of consultation of CSOs regarding legislative proposals having an impact on civil society and civic space?

At present, there is no set strict process of consultation. The Regulation Impact Assessment Rules include an obligation to discuss any new legislation with all relevant stakeholders. As stated above, the government councils provide the appropriate fora for such discussion, next to other ad hoc bodies set e.g. to create new legislation or strategic documents.

19. Do you have an easily accessible one-stop-shop online platform in place, which regroups all consultations with CSOs and the public?

Such a website does not exist at the moment in Czech Republic, but will be probably introduced in the future.

20. Do you have any guidelines or standards on public participation?

Such guidelines are being developed at the moment in the Czech Republic inspired by the OECD standards.

21. Are CSOs or, where relevant, NHRIs included in the committees set up to monitoring the implementation of EU funded programmes under the Common Provisions Regulation (CPR) and are they involved in the arrangements set up under the horizontal enabling condition to ensure compliance with the Charter? If so, what is their role in this context?

In the Czech Republic, participation and partnership with CSO's in EU funds has already a long term tradition. CSO's are included in all relevant bodies for the preparation, implementation and monitoring of the funds (preparation committees, program partnerships, monitoring committees) so they can take part in all relevant procedures and can influence the content of the program and the calls and oversee

² For more information see here: <https://www.vlada.cz/en/pracovni-a-poradni-organy-vlady/>

³ For more information see here: <https://www.vlada.cz/en/pracovni-a-poradni-organy-vlady/>

their evaluation as well as the monitoring performance. In this position, they can also monitor the compliance of the operations with the Charter. The Ombudsperson is included in the government Council for EU funds which supervises the implementation at the central level. Its participation in more detailed operation is limited to avoid any conflict of interest as the Ombudsperson can handle complaints by applicants of beneficiaries against the managing authorities of the programs.