

## Slovenian contributions 2022 - Charter Report

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

*The Advocate of the Principle of Equality is a Slovenian equality body. It provides assistance to victims, protection against discrimination, monitors the situation, makes recommendations, promotes and raises awareness. In 2021 the Advocate contributed an expert translation of the latest edition of the Handbook on European Anti-Discrimination Law (2018), published in English by the European Court of Human Rights and the European Union Agency for Fundamental Rights (FRA). This manual has not been available in Slovene so far. An important part of this manual is dedicated to the Charter, the question of when it is applicable and provides insight into its interpretation. The final design was prepared by the FRA, and the Advocate presented it at an online round table.<sup>1</sup> The manual is available on the Advocate's and the FRA's website.<sup>2</sup> The Advocate presents the Charter on his website. It has been offering miniature book editions of the Charter in various languages at his premises.*

*The Advocate uses and encourages the use of the Charter where relevant. For example, it cited the Charter as the basis for its recommendation to abolish the deprivation of the right to vote at the local elections when considering proposed amendments to the Local Elections Act.<sup>3</sup> In the process of adopting the Intervention Measures Act to help mitigate the consequences of the second wave of the COVID-19 epidemic (ZIUPOPĐVE), the Advocate specifically reminded the legislator that the proposal does not contain an equality impact assessment of compliance with EU primary law. It explicitly raised doubts about compliance with Article 15 of the Charter, which guarantees freedom of choice of profession and the right to work, and Article 21 of the Charter, which prohibits discrimination.<sup>4</sup> As the legislator did not follow these recommendations and allowed the termination of the employment contract of older workers who meet the conditions for acquiring the right to an old-age pension, without stating a valid reason, the Advocate later filed a request for review of the constitutionality of Articles 21 and 22 ZIUPOPĐVE. The decision of the Constitutional court suspended the provisions and then annulled them, but it was based on another legal basis.*

*Another example from the Advocate's recent practice is the Assessment of the discriminatory nature of the first paragraph of Article 11 of the Decree on Determining the Conditions of Entry into the Republic of Slovenia for Containment and Control of the Infectious Disease COVID-19.<sup>5</sup> The decree, for a certain period of time prohibited exit from the country also for foreigners living and working in the country. In assessing whether there was an interference with rights, the Advocate invoked Article 7 of the Charter (respect for private and family life). Furthermore, Article 45 of the Charter (freedom of movement) was mentioned in the footnotes. The Advocate assessed that the regulation was discriminatory on the grounds of people's health condition, their nationality, ethnic origin or/and citizenship.*

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<sup>1</sup> Available at <https://www.zagovornik.si/vec-o-diskriminaciji-prek-primerov-prirocnik-o-evropskem-protidiskriminacijskem-pravu/>.

<sup>2</sup> Available at <https://www.zagovornik.si/wp-content/uploads/2022/01/Prirocnik-o-evropskem-protidiskriminacijskem-pravu.pdf>.

<sup>3</sup> Available at <https://www.zagovornik.si/priporocila-2020/>.

<sup>4</sup> Ibid.

<sup>5</sup> Available at <https://www.zagovornik.si/ocene-diskriminatornosti-2021/>.

*The Human Rights Ombudsman of the Republic of Slovenia (from now on: the Ombudsman) is a constitutional body mandated to protect and promote human rights in Slovenia. Its mandate includes investigating complaints, monitoring, researching, addressing opinions, criticisms and recommendations to authorities, human rights education and awareness-raising. Anyone who believes that their human rights or fundamental freedoms have been violated by an act or action of state authority, local community authority or a holder of public authority may instigate a complaint procedure with the Ombudsman. The Ombudsman is also free to address any issues relevant to the protection of human rights and fundamental freedoms and can act as a friend of the court (amicus curiae). It also functions as the National Preventive Mechanism as per the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The Ombudsman manages an expert help program to enable children to express their opinions in all proceedings and cases they are part of and submit their opinions to the competent authorities and institutions that decide on their rights and benefits. The Ombudsman can also initiate before the Constitutional Court a procedure for the review of the constitutionality or legality of regulations and file constitutional complaints concerning violations of human rights or fundamental freedoms in individual cases before state or local authorities or holders of public powers. Its Human Rights Centre is tasked with promoting human rights, preparing analyses reports, organizing consultations regarding the realization, promotion and protection of human rights and cooperating with civil society, trade unions and other state authorities. In conclusion, the Ombudsman uses a variety of ways to assess and address a whole spectre of human rights violations by holders of public authority. When communicating with the complainants and authorities, the Ombudsman also highlights as much as possible the rights enshrined in the Charter of Fundamental Rights of the European Union and refers to the jurisprudence of the Court of Justice of the European Union concerning them.*

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

*The Advocate as an equality body can contribute predominately in the area of promoting equality, equal treatment, equal opportunities, inclusion and diversity. Considering cross-cutting nature of these issues, their significance and possible impact is important. Advocate can assist victims of discrimination in any situation where the equality issues tackled by the Charter might be applicable, may provide protection against discrimination in some instances, monitor the situation, make recommendations, give information, promote and raise awareness of various stakeholders. International cooperation and exchange of good practices, i.e. among peer equality bodies is also very important.*

### **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?
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.

*The largest number of non-governmental organizations which are part of CSOs are associations. <sup>6</sup>The basic principles of the association's, establishment and registration, as well as the rules applicable to the association's activities, termination of the association's activities and removal from the association's register are regulated by the Society Act (Official Gazette RS, nos. 64/11-upb and 21/18 - ZNOrg). The basic principles that apply to associations and are determined by law are:*

- ☐ *the principle of non-profit - the purpose of the establishment and operation of the association is not to make a profit,*
- ☐ *the principle of independence - the association (or its members) independently (without interference from the state or other legal or natural persons who are not members of the association) determine the purpose and goals, activity or tasks and mode of operation. The association is directly or indirectly (through elected representative) managed by members,*

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<sup>6</sup> On April 19th, 2022, there was 23.583 associations entered in the Register of associations (society)

□ the principle of voluntariness and equality - anyone voluntarily decides to join the association, becomes a member of the association under the conditions set by the association's charter, and activities in the association are based on equality of membership.

Regarding the performance of tasks, the law stipulates that an association may also perform a gainful activity in order to achieve a purpose, if this is related to the basic (non-profit) purpose and if it is performed as a supplementary activity to non-profit. The activity must be defined in the association's charter and must be performed in accordance with the regulations governing each gainful activity.

If association wishing to operate in legal transactions it must be registered - the competent authority in the registration process determines whether the association is established and whether the association's charter is in accordance with the law and issues an administrative act. An appeal against the decision of the registration authority is possible to the competent ministry (Ministry of the Interior) and an action to the administrative court. By registering, the association becomes a legal entity under private law, which resolves mutual disputes and disputes with other persons before a civil court. For legal transactions, important information about the association (name, address, registered office, registration number, legal representative, etc.) is entered in the Register of associations, which is public and accessible<sup>7</sup> on internet and which serves to protect third parties. If the association accepts the change for the legal circulation of important data, it is obliged to request the registration of the change with the competent registration authority.

Court decisions in connection with Society Act, which refers to the registration procedure and the resolution of disputes between members of the association, are available via the website: Sodna praksa RS (Sodna praksa RS (pisrs.si)).

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?

*According to Police Slovenia doesn't have a system for reporting and monitoring threats or attacks (including physical attacks) on CSOs activists and rights defenders, neither under the Society Act, nor under other precepts governing CSOs.*

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?
9. Are you part of the Open Government Partnership<sup>8</sup>(OGP)? If yes, could you share the link to your latest OGP action plan?

*No, we are not partners in OGP.*

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

*No, we do not have such assessment.*

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?

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<sup>7</sup> [Društva, politične stranke in ustanove - objave na spletu \(gov.si\)](http://druzstva.politice.stranke.in.ustanove.objave.na.spletu.gov.si)

<sup>8</sup> <https://www.opengovpartnership.org/>

## **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.

*NGOs, based in Slovenia, have access to different mechanisms of public funding:*

- *through calls for proposals, issued by the ministries/their agencies or municipalities. Means for funding are allocated either in the national budget or through European structural and investment funds and/or Asylum, Migration and Integration Fund,*
- *through calls for projects issued by Foundation for Funding Disability and Humanitarian Organizations of Slovenia and Slovenian Foundation for Sport, which are funded through taxation of the winnings of the conventional games of chance.*

*Ministry of Public Administration launches, manages and monitors calls for tenders through Budgetary fund for Development of NGOs. The Fund was established with Act on Non-governmental organizations adopted in 2018. Assets are provided annually from residual income taxes.*

*To be eligible for these funds, NGOs must fulfil the criteria set by the legislation and the fund provider. For accessing funds of the Foundation for Funding Disability and Humanitarian Organizations of Slovenia, the applicant NGO must have acquired the status of humanitarian organization or organization for the disabled, which is awarded by the Ministry of Health or the Ministry of Labour, the Family, Social Affairs and Equal Opportunities.*

*Furthermore, there are certain benefits that NGOs are entitled to if they prove that they are acting in public interest, i.e., acquire the status of action in public interest, which is granted for a specific field (e.g.: public interest in the field of culture/sports/environment etc.)*

*NGOs with the status of acting in public interests have the following benefits:*

- *entitlement to receive tax assignments (taxpayers can decide which NGO receives 1% of their paid income tax),*
- *entitlement to pro bono legal assistance in disputes regarding carrying out activities in public interest or other activities for which they have been established,*
- *the state or municipality can decide to let them use the governmental or municipal real estate without paying rent, the organization only has to pay the operating costs and taxes for using the premises.*

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

*To be eligible for these funds, NGOs must fulfil the criteria set by the legislation and the fund provider. The criteria largely depend on the purpose of the call for proposal.*

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

*By setting transparent conditions and criteria in advance within calls for proposals. All the beneficiaries and members of the committee, which chooses the proposals, must be publicly announced and must fulfill specific criteria to be selected as members of the committee – such as working experiences in the field of call of proposal and certain level of education. NGOs have the right to appeal to the decision.*

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

*Covering of administrative expenditures is usually enabled as flat rate sum within the project budget.*

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

*Advocacy can be one of the goals within calls for proposals and a certain sum is allocated for this purpose. There is no single call for proposals that would be dedicated entirely to human rights advocacy. Funds for this predominantly come from foreign donors (EEA Funds, etc.)*

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?

*There is a steering mechanism in place for EU Funds, while for the integral budget coordination happens on an informal level.*

*The system of Cohesion Policy implementation in Slovenia has been centralized from the beginning. There is one Managing Authority (Government Office for Development and European Cohesion Policy), one Paying Authority (Ministry of Finance), and an independent Audit Body (Ministry of Finance, Budget Supervisory Office). The individual ministries are responsible for the implementation of the instruments. More details are available at: <http://eu-skladi.si/>.*

*All public calls are published at centralized government website. The horizontal network CNVOS<sup>9</sup> also gathers information on all funding opportunities for NGOs on different levels – EU, state and municipality level, foundations, and funds, which are available at: <https://www.cnvos.si/razpisi/>.*

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

*This is done through promoting good practices like flat rates and lump sums. On a macro level a process to simplify and speed up access to funding for NGOs has not been considered.*

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

*In October 2021, an amendment to the Law on Corporate Income Tax was adopted, which loosens the rules of existing tax reliefs for corporate taxpayers. Thus, in 2022, the exemption for donations will increase from 0.3 % to 1 % of taxable income for the tax period.*

*Since 2007, each personal income taxpayer may allocate a part of his or her personal income tax to publicly beneficial purposes. Until 2019 it amounted to 0.5 % of personal income tax, while from 2020 the amount is 1 %. Potential recipients of “personal income tax donations” are NGOs acting in public interest, as well as political parties, trade unions, religious communities, and others (totaling 6,544 subjects in 2020). If taxpayer does not assign his or her personal income tax to a specific organization, the funds go to the Fund for NGOs, which is administered by the Ministry of Public Administration.*

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

*There is no particular legal framework, however, NGOs face legal and administrative barriers when it comes to operating across borders. As a result, their contribution to the European projects is likely below their potential in a wide range of areas such as education, culture, health care, social services, research, development aid, humanitarian assistance and disaster preparedness.*

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<sup>9</sup> CNVOS is a national NGO umbrella network.



## **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?

*The Council for the Promotion of the Development of Volunteering and Volunteers and Non-Governmental Organisations is an expert and consultative body of the Government of the Republic of Slovenia. The Council is composed of 20 members from which ten are representatives of ministries and government offices, seven from NGOs, and three from volunteer organisations.*

*The members of the Council, their deputies, non-governmental organisations, the Government of the Republic of Slovenia, ministries, and the public concerned may submit initiatives to the Council for consideration. Such initiatives are to be sent to the Council in the form of a question or a proposal for a decision.*

*There are also other councils that include NGOs, like Council of the Minister of the Environment and Spatial Planning for cooperation with non-governmental organizations, Social Economy Council, and regional development councils.*

*In order to increase the role of stakeholder participation in the regulation drafting process, the Ministry of Public Administration has also strengthened and improved the training activities for regulation drafters. In 2021 the Ministry carried out workshops in cooperation with CNVOS - Centre for Non-Governmental Organizations of Slovenia. So far, 4 training sets (amounting to approximately 80 participants) for public servants were carried out, with the specific emphasis on increasing the role of cooperation with different stakeholders in the process of regulation drafting. We will continue to provide training in the coming years. In 2022, follow-up workshops for participants who have already been to the trainings will be organized, with the aim of further strengthening and encouraging cooperation with the interested public.*

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

*In November 2009, the National Assembly adopted a Resolution on Legislative Regulation, a political commitment of the government to respect the principles of good preparation of regulations and to include the public in the process of forming new policies or in the procedure for preparing new regulations. The Resolution represents a starting point and basic orientation of legislative work, since it sets the principles for regulation drafting, guidelines for conducting the impact assessment and cooperation with expert circles and other interested groups.*

*In 2010, amendments to the Rules of Procedure of the Government of the Republic of Slovenia and Instruction No. 10 for Implementing the Provisions of the Rules of Procedure of the Government of the Republic of Slovenia were made. Special attention has been given to public participation, publication of the materials on websites, and prior inter-ministerial coordination. The general public must be enabled to participate in drawing up a regulation in 30 to 60 days from the day of publication on the internet. The proposer of a regulation must also inform the expert circles and general public of the essential proposals and opinions that were not taken into consideration and explain the reasons for this within 15 days of the adoption of the regulation or the submission of the proposed regulation for further procedure.*

*The public is also informed of planned amendments to regulations through the Regulatory Programme of Government Work. The Government Work Programme is an extensive document containing a list of proposed laws and other acts that the Government will submit to the National Assembly. The Programme sets out the procedures and the deadlines for deliberation by the Government and for debate and adoption by the National Assembly. The legal obligation to publish proposed regulations online is also provided by Article 10 of the ZDIJZ. Additionally Article 7 of the implementing regulation, the Decree on communication and re-use of public sector information, provides that official bodies must publish draft regulations, programmes, strategies and other*

*documents on the internet for purposes of public announcement and consultation with the public and key stakeholders, and that regarding the method and deadlines, the provisions of the resolution governing regulatory activities and the Government Rules of Procedure should be applied mutatis mutandis.*

*The State sees NGOs as partners and consults them when preparing legislation or adopting strategic documents, action plans, etc. Some sectoral laws envisage advisory bodies and participation of NGO representatives in them. NGO representatives are included in government and municipal level advisory and interdepartmental working bodies also in other fields. However, the practice is not homogenous.*

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

*Yes. Ministries publish draft regulations and other acts that are published in the Official Gazette of the Republic of Slovenia on the single national designated E-democracy portal. The interested public can, therefore, participate in the regulation drafting process by sending their comments, proposals, opinions via the portal to those who are preparing the draft and to final decision-makers and can through these activities influence the drafting. The public can access the tool through the E-democracy portal that enables citizens to actively cooperate and take part in the decision-making process.*

*Open and inclusive policy making builds upon the idea of designing policies by broadening the evidence base. For this we have an innovative web-based tool called SME test that enables the public (citizens, business entities, economic and other interest groups), in addition to substantiating their comments and proposals on a public policy proposal, to quantify the impact on economy of their alternative policy proposals. The SME test was officially introduced into the policy process in 2016 and is mandatory for use since January 2017 and available for public on E-democracy portal.*

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

*Yes, see answer under question no. 18.*

*In addition, a Resolution on Legislative Regulation also sets out four principles to be followed by state bodies when drafting regulations: the principle of assessing the effects of regulations on all walks of life, the principle of simplification of legislation, the principle of removing administrative barriers, and public cooperation. The government has also upgraded its rules of procedure with more detailed arrangements for public participation in drafting regulations.*

*Ministry of Public Administration together with CNVOS also prepared the Guidelines for Inclusion of the Public in Drafting Regulations. The Guidelines were published in 2015 and aim for effective inclusion of the public in the drafting of regulations. Documents are available at: [https://www.stopbirokraciji.gov.si/fileadmin/user\\_upload/mju/templates/pdf/Prirocnik-vkljucevanje\\_javnosti.pdf](https://www.stopbirokraciji.gov.si/fileadmin/user_upload/mju/templates/pdf/Prirocnik-vkljucevanje_javnosti.pdf) and at: [https://www.stopbirokraciji.gov.si/fileadmin/user\\_upload/mju/Boljsi\\_predpisi/Vkljucevanje\\_javnosti/MJU-SMERNICE-FINAL\\_842015.pdf](https://www.stopbirokraciji.gov.si/fileadmin/user_upload/mju/Boljsi_predpisi/Vkljucevanje_javnosti/MJU-SMERNICE-FINAL_842015.pdf).*

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?

*Yes, NGOs are members of the monitoring committees for EU funds. Election procedures are usually conducted by CNVOS and enable all interested non-governmental organizations to participate actively and on an equal footing. This guarantees that NGOs are truly autonomous in appointing their representatives and that their work is legitimate.*

*The rules of procedure require representatives to act in public, to inform all interested parties and CNVOS about their work, who then publishes information through their notices and website. The representative must also collect, coordinate and, in the bodies to which he or she has been appointed, present proposals from various non-governmental organizations. More details about the work of the committees are available at: <https://www.gov.si/zbirke/delovna-telesa/?title=odbor+za+spremljanje&nrOfItems=20>.*