

# **2022 REPORT BY THE EUROPEAN COMMISSION ON THE APPLICATION OF THE EU CHARTER OF FUNDAMENTAL RIGHTS: A THRIVING CIVIC SPACE FOR UPHOLDING FUNDAMENTAL RIGHTS IN THE EU**

## **CONSULTATION OF CIVIL SOCIETY UMBRELLA ORGANISATIONS**<sup>1</sup>

Civil society organisations (CSOs) and other rights defenders (National human rights institutions, equality bodies and ombuds institutions) are key actors for the enforcement of the EU Charter of Fundamental Rights. 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.

It is for these reasons that the European Commission decided to dedicate its 2022 annual report on the application of the EU Charter of fundamental rights to *A thriving civic space for upholding fundamental rights in the EU*.

To inform its work preparing the report, targeted consultations on this topic were undertaken during April 2022 by the European Commission and analysed by the EU Agency for Fundamental Rights (FRA) with the following key actors in the Charter's enforcement chain and in promoting an enabling environment for CSOs and rights defenders:

- Member States (contacted through the Council Working Party on Fundamental Rights, Citizens' Rights and Free Movement of Persons, FREMP);
- international organisations;
- the European networks of NHRIs (ENNHRI) and Equality bodies (EQUINET);
- umbrella organisations of European CSOs working in the area of fundamental rights;
- civil society organisations (consulted via the FRA Fundamental Rights Platform).

This report summarises responses from umbrella civil society organisations operating at EU level. Answers are presented in an anonymised way, with the exception of concrete practices. The contributions are available here: [https://ec.europa.eu/info/publications/2022-charter-report-targeted-stakeholder-consultation\\_en](https://ec.europa.eu/info/publications/2022-charter-report-targeted-stakeholder-consultation_en)

---

<sup>1</sup> This report was commissioned under contract by the European Union Agency for Fundamental Rights (FRA) to serve as background material for the European Commission's report on the application of the EU Charter. It is based on the information provided by stakeholders in the consultation. It does not reflect the views or official position of the Agency and cannot constitute legal advice or legal opinion.

## **A) Introduction and context**

The present report aims to summarise the responses provided through the consultation of key civil society umbrella organisations. In particular, the report aims to present in a concise manner the collected information by civil society umbrella organisations regarding their own contribution in ensuring the effective implementation of the Charter, as well as to illustrate their views on the EU and Member States' actions to protect, support, and empower CSOs and human rights defenders (HRDs).

In this context, the present report summarises the responses provided by the following civil society umbrella networks:

- Civil Society Europe (CSE), which clarified that its response was prepared by its Civic Space Working Group bringing together a number of CSOs;<sup>2</sup>
- European Civic Forum (ECF),<sup>3</sup> which mentioned that the report submitted as the response to the present consultation results from its long-lasting monitoring, research and advocacy work through the Civic Space Watch<sup>4</sup> and builds on joint statements and reflections ongoing in the ECF network and within Civil Society Europe and beyond;
- Civil Liberties Union for Europe (Liberties), which mentioned that its response includes illustrative examples from its member and partner organisations<sup>5</sup>;
- CIVICUS, the response of which had been submitted in relation to the European Commission stakeholders' consultation on the rule of law in the European Union;
- European Partnership for Democracy (EPD) and its members<sup>6</sup>;
- Artistic Freedom Initiative (AFI).

## **B) The role of CSOs and rights defenders in ensuring the effective implementation of the Charter**

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

As a preliminary remark, it should be mentioned that not each CSO performs the entirety of the functions and tasks mentioned below, but rather specialise and develop considerable expertise in one area or in certain types of tasks. Moreover, the EPD and AFI have highlighted in their responses that CSOs are not the enforcer of rights, and by contrast have a right to be protected under the rights set out in the Charter and under EU law.<sup>7</sup>

---

<sup>2</sup> The CSE mentioned in its response that it thanks in particular the following organisations for their contributions: the European Youth Forum, Reclaiming EU, the European Civic Forum, the European Network Against Racism, Philea, Civil Liberties Union, the Young European Federalists, the European Network for not-for Profit Law, and the European Partnership for Democracy.

<sup>3</sup> The ECF mentioned in its response that it thanks for their input the following persons: Martina Di Gaetano (Reclaim Europe), Veronika Mora (Okotars), Fernando Hortal Foronda (European Partnership for Democracy), Marta Gionco (PICUM) and Francesca Fanucci (ECNL)

<sup>4</sup> <https://civicspacewatch.eu/>

<sup>5</sup> <https://www.liberties.eu/en/about/our-network>

<sup>6</sup> <https://epd.eu/communityofpractice/>

<sup>7</sup> Consultation Report by EPD and its members, page 1; Consultation Report by AFI, page 1

The respondents mentioned that CSOs contribute to making the Charter rights a reality in a plethora of ways. In particular, CSOs exercise their advocacy-oriented function at national and EU level, by engaging with policy-makers **through advocacy and through contributions to consultations and legislative processes**, thus contributing to the shaping of rights-compliant and rights-based laws and policies.

#### EXAMPLES

- The Centre for Peace Studies in Croatia substantively contributed to the work of the working group drafting the National Plan for Roma Inclusion 2021-2027, including by providing baseline data for the monitoring and evaluation of the previous Roma inclusion strategy, collected on the basis of a large multimethodological research.
- In Ireland, years of intense civil society mobilisation led by Liberties' member, the Irish Council for Civil Liberties, prompted the government in April 2022 to publish a draft bill that recognises the "advancement of human rights" as a valid charitable purpose for the first time. The bill represents a significant win for human rights organisations and defenders in Ireland, insofar as, if passed, it will allow human rights organisations to register as charities and should remove any reservations funders may have had about supporting these organisations.
- In Italy, propositions and recommendations made by Antigone have been picked up by the government commission working on an important reform of the penitentiary system.
- In Romania, two years of advocacy towards the parliament by Liberties' member APADOR-CH led to the filling of an important unconstitutional gap in the police law, setting a limit to the time an arrested person can be kept in a police station.
- In Slovenia, as the parliament passed controversial amendments to the Water Act in a shortened procedure, the Peace Institute supported a coalition of civil society organisations leading the "Movement for drinking water" – including Eko Krog, Umanotera, Focus, Youth for Climate Justice, Greenpeace Slovenia and the Institute 8 March. The initiative was successful in asking the parliament to call a legislative referendum on the controversial amendments which led to their rejection with an overwhelming majority and a very large turnout.<sup>8</sup>

In addition, by advocating at the international level regarding precarious situations and fundamental rights violations, CSOs uphold the rule of law and people's rights by **contributing to make sure governments are held accountable**.

- Prior to, during and after the recent elections in Hungary, almost 20 CSOs called for the Organization for Security and Cooperation in Europe (OSCE) to send an election observer mission to increase public confidence in the electoral process, deter irregularities during the final campaign days (and on election day itself) and thus safeguard the fairness of the democratic process.<sup>9</sup>

<sup>8</sup> Consultation Report by Liberties, pages 7, 8

<sup>9</sup> Consultation Report by EPD and its members, page 1

Moreover, CSOs **enable citizens**, including minorities and other (vulnerable) groups at risk of discrimination, **to actively participate in the development of laws and policies**, thus ensuring that their views, rights and interests are taken into account by law and policy makers.

- The Coalition Against Hate Crime, led by the Irish Council for Civil Liberties, has intensively mobilised to ensure that targeted communities' voices are heard as the government drafts legislation on hate crime.
- In Sweden, Civil Rights Defenders has been working for several years to ensure the full realisation of the rights of the indigenous Sami people – efforts which recently led to the entry into force of a new law aimed at increasing the say of the Sami people over issues that particularly affect them.<sup>10</sup>

Additionally, CSOs regularly **cooperate with NHRIs and advocate to protect the independence and effectiveness of these organisations**, while also supporting and protecting whistle-blowers who report violations and abuses.

- In Poland, a coalition of more than 1,200 civil society organisations, led by the Helsinki Foundation for Human Rights, mobilised in 2020 to support the nomination of an independent Commissioner for Human Rights in accordance with the Constitution, after the five-year term of office of the previous Commissioner, Adam Bodnar, ended.
- The organisation Civil Rights Defenders has advocated for many years, together with other civil society organisations, for an NHRI to be established in Sweden. The Swedish Institute for Human Rights was eventually set up and started its operations in January 2022.
- In Romania, APADOR-CH is co-leading a project aimed at raising public awareness of the role of whistle-blowers and contributing to the creation of an effective protection system, in collaboration with state institutions and the private sector, including by promoting the effective transposition of EU rules in this area, developing a resource centre to provide whistle-blowers with legal and psychological support and increasing the knowledge, and understanding of the role of the whistle-blowers among the general public.<sup>11</sup>

In parallel, CSOs **promote a fundamental rights culture among policy makers and the general public through educational, training and awareness raising activities**. In this regard, CSOs aim to advance the understanding of the public regarding their fundamental rights and the way they can be enforced, as well as regarding democracy. CSOs also aim to enable citizens to make informed decisions by sharing trustworthy information, including about political debates impacting on their rights and quality of life and about existing European policies and actions, and by supporting citizens in accessing information which might affect them.

- The humanitarian organisation INTERSOS joined by the Greek Forum of Migrants and the Greek Forum of Refugees have launched the campaign "Vaccines for All" to open up access to COVID-19 vaccines for undocumented people in Greece. The campaign called for the removal of existing barriers to

<sup>10</sup> Consultation Report by Liberties, page 8

<sup>11</sup> Consultation Report by Liberties, page 11

vaccinations, including simplified registration, and a clear statement from the government that everyone in Greece can be vaccinated, without fear of immigration consequences. It also aimed to raise awareness and build trust among migrant communities around the vaccination.

- Elbarlement, one of EPD's members, provides training on civic education and leadership to promote democratic values and principles among citizens.<sup>12</sup>
- The Young European Federalists (JEF Europe) and its member sections implement the annual campaign Democracy under Pressure ([jef.eu/dup](http://jef.eu/dup)) to raise awareness of violations of fundamental rights across the EU and beyond. In addition, JEF Europe is implementing a year-long project (Work Plan 2022) supported by the Council of Europe and dedicated to raising awareness of fundamental rights among young people and developing their capacity to defend their rights. The project consists of an expert consultation, two capacity building trainings, a series of local advocacy actions and school interventions, and a closing conference.<sup>13</sup>
- In Belgium, the League of Human Rights is very active in disseminating a regular human rights magazine, performing activities on human rights topics in educational institutions, offering human rights training courses and organising citizens' debates also in partnership with local and national cultural institutions. The League also recently launched a new podcast to educate the public about human rights issues through individual stories of activists and victims.<sup>14</sup>
- Civic and peace education is one of the core missions of the Centre for Peace Studies in Croatia.<sup>15</sup>
- The Irish Council for Civil Liberties and the Italian Coalition for Civil Liberties have been publishing and updating for several years thematic user-friendly booklets on a wide range of human rights issues. The Peace Institute, Liberties' member in Slovenia, also recently published an online human rights guide aimed at helping individuals understand their rights and obligations and develop the ability to apply human rights in concrete situations<sup>16</sup>

Furthermore, CSOs also promote the inclusiveness of infrastructure, services and laws and assist in countering divisive narratives and hate speech in the public sphere in order to **strengthen the values of inclusion, equity and diversity**.

- In Estonia, the Estonian Human Rights Centre helps social media platforms fight illegal hate speech by regularly monitoring the speed and the quality of hate speech removal from the platforms.
- The Italian Coalition for Civil Liberties and Rights created the Narrative Lab, a space designed with and for those who work within civil society to build new narratives that help our society to emerge from divisive and excluding rhetoric.
- In Lithuania, the Human Rights Monitoring Institute, in cooperation with partners across Europe, has recently organised "Active Youth against Hate Speech" – an interactive international event to raise awareness among young people about hate speech and its consequences on society and train and

---

<sup>12</sup> Consultation Report by EPD and its members, page 1

<sup>13</sup> Consultation Report by CSE, page 4

<sup>14</sup> Consultation Report by Liberties, pages 10, 11

<sup>15</sup> Ibid, page 11

<sup>16</sup> Ibid, page 8

encourage them to develop skills and attitudes to counter this phenomenon.<sup>17</sup>

- CSOs have developed strategies and campaigns to counter the anti-migrant narrative in Austria through providing integration courses, language lessons and other services. AVESTA, for example, an Afghan cultural association in Klagenfurt in Austria, works with Afghan migrants to integrate them into society and to overcome misunderstandings and differences between communities.<sup>18</sup>
- At European level, the European Disability Forum has been critical in ensuring accessibility in EU legislation across different sectors, from artificial intelligence to public information.<sup>19</sup>

Furthermore, CSOs **promote the right to access to information** by bringing forward requests regarding access to public interest information.

- The Hungarian Civil Liberties Union recently made several access to information requests to the secret services to gain information on possible processing of data of Hungarian journalists and activists allegedly targeted by illegal surveillance through the Pegasus spyware.
- In Poland, Liberties' member, the Helsinki Foundation for Human Rights led civil society mobilisation to defend the right of access to information against an attempt to weaken existing rules.
- In Romania, after submitting multiple requests for access to information to the Ministry of Health, the government's General Secretariat and the National Committee for Coordination of Vaccination Activities, Liberties' member APADOR-CH successfully sued the latter for failure to provide information pertaining to the national vaccination plan in March 2021.<sup>20</sup>

Moreover, CSOs help defend victims of fundamental rights violations through legal action. Accordingly, **CSOs engage in strategic litigation initiatives and enable victims of fundamental rights violations to have access to and obtain justice and redress** through judicial and non-judicial mechanisms, including by offering free legal aid to victims.

- The Public Interest Litigation Project (PILP) is a prominent long-term litigation project run by the Dutch Section of the International Commission of Jurists in the Netherlands, through which the organisation routinely takes strategic cases in the field of human rights before national, regional and international courts.
- The Bulgarian Helsinki Committee, the Centre for Peace Studies in Croatia, the Italian Coalition for Civil Liberties and Rights, the Human Rights House Foundation in Poland and Civil Rights Defenders in Sweden (along with many other CSOs across the EU) provide free legal aid and assistance to victims in individual cases.
- Liberties' members in Bulgaria, Croatia, Italy and Poland devote a specific focus to cases related to the violation of rights of refugees and migrants.

---

<sup>17</sup> Consultation Report by Liberties, pages 11, 12

<sup>18</sup> Consultation Report by EPD and its members, page 2

<sup>19</sup> Ibid

<sup>20</sup> Consultation Report by Liberties, page 6

- Liberties' member in Italy, Antigone, is also involved through its litigation office in several criminal proceedings regarding violence, torture, abuses, ill-treatment or deaths that took place in penitentiary institutes of the country.
- The Society for Civil Rights (Gesellschaft für Freiheitsrechte/GFF) is at the forefront of strategic litigation in Germany regarding the protection of civil rights, protection of privacy and freedom of information in the digital age, non-discrimination and social equality.
- In Slovenia, as part of the project "Defending the watchdog role of civil society and journalists", the Peace Institute organised workshops on the use of legal means to counter repressive measures against civil society and journalists, engaged lawyers to advise and produce guidelines for other non-governmental organisations, and supported litigation. This contributed to empowering a coalition of non-governmental organisations (namely the PIC - Legal center for the protection of human rights and environment, Amnesty International Slovenia, the Institute "Danes je nov dan/Today is a new day" and the Institute "Open") to set up the "Legal Network for the Protection of Democracy", a network of public interest lawyers providing legal representation and counselling to individuals and associations involved in legal proceedings due to non-violent public action such as the exercise of the rights to freedom of assembly and expression.<sup>21</sup>
- ILGA-Europe uses European courts to advance the rights of LGBTI people, as part of its wider advocacy campaign.<sup>22</sup>

In addition, **CSOs also provide support services to victims.**

- In the Czech Republic, the League of Human Rights, recently created, has established in cooperation with other civil society organisations two dedicated support centres for victims of illegal sterilisations.<sup>23</sup>

In ensuring that fundamental rights violations and abuses are effectively redressed, CSOs **advocate towards the strengthening of the independence, effectiveness and fairness of the justice system** and pay particular attention to minorities and vulnerable groups receiving a treatment free from biases within the justice system.

- In Croatia, the Centre for Peace Studies developed a dedicated manual for law enforcement officials on identifying and monitoring hate crime cases, creating effective reporting channels and effectively prosecuting hate crime cases.
- In Poland, the Helsinki Foundation for Human Rights has been engaging in a regular monitoring of justice reforms and has recently presented, as part of a broader coalition of civil society organisations, an "Accord for the rule of law". The latter presents the government with recommendations for concrete measures to address long-standing deficiencies affecting the independence and functioning of the judiciary in the country. The initiative was supported by all national opposition parties.
- In Romania, APADOR-CH is substantially contributing to the debate on the reform of the justice system and is active in seeking accountability for

<sup>21</sup> Consultation Report by Liberties, page 9

<sup>22</sup> Consultation Report by EPD and its members, page 2

<sup>23</sup> Consultation Report by Liberties, page 9

failures to deliver justice and respect rule of law principles: in this context, the organisation brought for example a legal action against the Ministry of Finance for failure to provide information on actions taken to determine the responsibility and liability of magistrates rendering judgments later determined by the European Court of Human Rights to be in violation of the European Convention on Human Rights.

- Rights International Spain has recently concluded an EU-wide research project aimed at drawing attention to and prompting measures to fight against the existing unconscious bias against Roma people in the criminal justice systems of EU Member States.
- In Sweden, Civil Rights Defenders has set up a digital platform to provide information to lawyers on the rights of persons with disabilities within the legal process and what support is available to ensure that procedural rights of persons with disabilities are upheld in practice.<sup>24</sup>

In addition, CSOs foster a **culture of active participation in public and community life** by mobilising citizens to action and protest around shared concerns and demands, including through public demonstrations, thus incorporating and exercising the right to freedom of assembly. Moreover, they promote democratic participation by organizing petitions, referenda and citizens' panels or by facilitating citizens' submissions to legislative processes.

- Liberties' member in Slovenia, the Peace Institute, was at the centre of an initiative gathering more than 100 civil society organisations aimed at informing and mobilising citizens to vote in the parliamentary elections held in April 2022, which succeeded in securing a record voting turnout of over 70%.
- In Slovakia, VIA IURIS recently launched a website to enable civic initiatives and encourage and facilitate civic organisations or groups of interest to submit their comments on laws and policies to public authorities.

Additionally, they **organise and provide services**, especially in times of crises and emergencies – such as initiatives to support people affected by the Russian invasion of Ukraine.<sup>25</sup>

Last but not least, CSOs are at the forefront of **monitoring and reporting on violations and abuses, as well as of monitoring the legality and proportionality of laws, measures and practices** and triggering their review in case of unlawfulness. Accordingly, their findings are disseminated to the public through a strategic use of media channels and to policy makers through targeted advocacy, while also informing the monitoring and reporting processes of international, regional and EU bodies.

- In Slovenia, as part of the joint project "Defending the watchdog role of civil society and journalists", the Peace Institute recently published, in cooperation with the Association of Slovenian Journalists, a report

---

<sup>24</sup> Ibid, page 10

<sup>25</sup> Consultation Report by Liberties, page 12



documenting attacks, threats and restrictions affecting watchdogs, including journalists, between 2018 and 2020.<sup>26</sup>

- In France, VoxPublic led the creation of the “Watch Network”, a project gathering several civil society organisations to monitor and critically assess restrictions on human rights and freedoms imposed by the government as part of its response to the COVID-19 pandemic. This led to, among other outputs, the publication of a comprehensive report in September 2021. Moreover, VoxPublic provides civil society organisations with contacts and information to launch effective actions to challenge decision-makers, including by offering advice to carry out successful advocacy campaigns and effective media and digital strategies and by encouraging and supporting inter-associative and mixed coalitions to reinforce synergies and coordination.
- In Germany, the Society for Civil Rights developed an “Online Q&A” to monitor developments, answer frequently asked questions and provide legal assessments about restrictions on human rights imposed during the pandemic.
- In Ireland, the Irish Council for Civil Liberties conducted a thorough analysis of the use and impact of emergency measures.
- The Italian NGO Antigone has led the European Prison Observatory since 2003, bringing together 16 organisations dealing with penitentiary issues from 13 European countries.
- The Centre for Peace Studies from Croatia is an active member of the Border Violence Monitoring Network, an independent network of associations monitoring rights violations against people on the move at the external borders of the EU.
- Civil Rights Defenders, Liberties’ member based in Sweden, has set up the Defenders’ Database – an online tool that helps human rights defenders and civil society organisations document rights violations globally.<sup>27</sup>

2. How do CSOs contribute to activities aimed at implementing EU policies or strategies related to fundamental rights at EU and/or national level? Please give concrete examples.

The respondents highlighted that CSOs **assist in better connecting the public to the EU layer of law and policy making** with the aim of implementing in practice the EU model of participatory democracy.<sup>28</sup> In fact, the importance of CSOs in protecting and promoting the EU values of rule of law, democracy and fundamental rights is mirrored in a wide variety of EU strategies such as the Strategy for the Implementation of the Charter of Fundamental Rights, the European Democracy Action Plan and sectoral policies in the area of the rule of law, equality, anti-racism, gender equality and LGBTIQ+ equality in light of the existing strategies, Roma inclusion, children’s rights, disability, victims’ rights, women’s rights and migrant integration.<sup>29</sup>

<sup>26</sup> <https://www.mirovni-institut.si/napadi-na-civilno-druzbo-v-sloveniji-pregled-znacilnosti-napadov-komunikacijski-nasveti-za-nevladnike-in-sistemska-priporocila-za-izboljsanje-zascite/>

<sup>27</sup> Consultation Report by Liberties, pages 5 -7

<sup>28</sup> Consultation Report by ECF, page 6

<sup>29</sup> Consultation Report by CSF, page 4

The contributing CSOs reported that they are in particular **involved in the annual rule of law reporting by conducting research and providing quality input** to the relevant consultations and country dialogues, while also striving to make their input more coherent and accessible to policy makers.

- CSOs have organised to make their input more coherent and accessible to policy-makers, for instance, by grouping together all CSOs' ideas for country-specific recommendations for a majority of EU countries in an internal working paper that was shared with the relevant Commissioners and policy-makers in March 2022 with a view to informing the development of country-specific recommendations in the 2022 report. These same civil society organisations also contribute to holding the EU accountable to their strategic goals on fundamental rights.<sup>30</sup>

Furthermore, CSOs **contribute to the implementation of the European Democracy Action Plan by monitoring online election campaigning and debunking online disinformation** campaigns online, while also monitoring its implementation through an implementation report.

- Who Targets Me monitored the German elections of 2021 and the Hungarian elections of 2022.
- CSOs such as EU DisinfoLab and Bellingcat monitor and debunk online disinformation campaigns online.<sup>31</sup>

Moreover, in relation to EU policies and strategies, **some CSOs contribute, among others, to the Online Political Advertising Regulation, as well as to the Digital Services Act and the Code of Practice on Disinformation.**

- On Online Political Advertising, EPD set up an information portal to help both civil society and policy-makers grapple with the difficulties of regulating online campaigning.
- On the Code of Practice, CSOs such as Who Targets Me and Avaaz have spent significant human resources in order to follow the process and match the large platforms' investments in preparing and influencing the process.<sup>32</sup>

Many CSO are **regularly participating in EU level consultations, thereby guaranteeing a civil society input to EU law and policy making.** CSOs are engaged in the European Commission's consultation on Equality Bodies, as well as in the Commission's Advocacy and strategic dialogues, which entails advocacy around the MFF and Youth Guarantee, invitations to strategic dialogues on platform work and minimum income to provide a youth perspective that are in-line with promoting equality and non-discrimination.<sup>33</sup> CSOs continue to contribute to the EU anti-money laundering and financing of terrorism policies and legislations as well as to artificial intelligence related issues.<sup>34</sup> Civil society also plays a crucial role in fostering the EU's fundamental rights protection mechanisms

---

<sup>30</sup> Consultation Report by EPD and its members, page 2

<sup>31</sup> Ibid, page 3

<sup>32</sup> Consultation Report by EPD and its members, page 3

<sup>33</sup> Consultation Report by CSF, page 6

<sup>34</sup> Ibid, page 7

through its regular political advocacy, as was reflected, for instance, in the gathering of several CSOs in the context of the Civil Society Convention for the Conference on the Future of Europe.<sup>35</sup>

3. In your view, in which areas do CSOs contribute the most to the protection of fundamental rights in the EU?

The respondents stressed the active contribution of CSOs to all the areas covered by the six substantial titles of the Charter, namely **dignity, freedoms, equality, solidarity, citizens' rights and justice.**

Such areas cover in particular equality and non-discrimination, including gender equality, freedom from age-based discrimination, racism, the rights of LGBTIQ+ individuals and persons with disabilities, rule of law, privacy and data protection, freedom of expression and information, including their online dimension, media freedom and pluralism and safety of journalists, protection of rights defenders and protection of the right to asylum, access to justice and to a fair and independent judiciary, the rights of persons deprived of liberty, children and youth, including their social and economic inclusion, as well as the rights of migrants and asylum seekers.

- ILGA Europe has campaigned against the anti-LGBT Hungarian referendum that was held on the same day of the general elections.
- ARTICLE 19 does legal and policy work to support independent media, civil society and activists inside and outside Europe to exercise and defend the right to freedom of expression and access to information. It also challenges restrictive legislation, as well as attacks and imprisonment of individuals that violate freedom of expression through campaigns, advocacy, policy development and courts of law. Article 19 is also one of the organisations that shaped the coalition to recognize and fight the threat posed to public watchdogs by Strategic Lawsuits Against Public Participation (SLAPPs).
- EPD and its members have been in a continuous fight to advance rule of law in the EU. They have recently published a joint statement in collaboration with civil society and media organisations outlining a set of EU-wide and country-specific recommendations to strengthen the reporting process and make rule of law reports directly enforceable.
- Democracy Reporting International (DRI) has provided research, analysis and direct engagement with partners on the ground to improve democratic structures in different EU member states. For instance, DRI published different papers analysing the state of rule of law in Slovenia and Hungary before the elections.
- The European Council on Refugees and Exiles (ECRE), an alliance of 110 CSOs in 39 European countries, protects and advances the rights of refugees, asylum seekers and other forcibly displaced persons in Europe and in Europe's external policies. It implements this mission through offering legal support and litigation to displaced people to access their rights through the courts, advocacy to influence the governments' legislation on asylum and

---

<sup>35</sup> Ibid

migration, and communication to raise awareness among the public about this topic.<sup>36</sup>

Moreover, some of the respondents highlighted the **crucial role that CSOs have played in the context of certain crises and emergencies which have affected European societies**. Hence, in the context of the COVID-19 pandemic, CSOs have provided assistance to vulnerable communities and support to individuals whose rights were disproportionately restricted, as well as proposed policy solutions and advocated that measures adopted by public authorities are transparent and justified.<sup>37</sup> Additionally, CSOs have focused their efforts in providing multifaceted assistance and services to people fleeing the Ukrainian crisis, have advocated for their most comprehensive protection and for a peaceful resolution to the conflict and were engaged in monitoring fundamental rights violations and ensuring victims' access to justice.<sup>38</sup> Finally, the key role of CSOs in connection to the climate change and environmental crisis was also underlined, including their important function in ensuring the ongoing transition towards a green and fair economy.<sup>39</sup>

4. Which are the main obstacles that CSOs face in carrying out their activities aimed at protecting fundamental rights? Please give concrete examples.

A wide range of obstacles and restrictions have been cited by the respondents, which result in diminishing civic space and limiting CSOs' ability to carry out their activities to the fullest extent. Among these challenges, the following have been reported as the most significant:

CSOs are regularly faced with a **scarce availability of funding for their operations**. At the same time, public or private funding increasingly **focuses on services/ activities** or projects rather than on advocacy or monitoring work.

- Civil society in Hungary says it is underfunded despite activists' incessant battle in defending fundamental rights.<sup>40</sup>
- A study by the Croatian watchdog association GONG from June 2020 found that in 2020 most public tenders for "good governance" and "social inclusion" of the ESF announced at the beginning of the year were not opened in Croatia. GONG writes that the large discrepancy between announcements and publication of public calls leaves civic organisations unable to plan and financially exhausted. It is to be noted that organisations affected by the manoeuvres are those dealing with human rights, rights of vulnerable groups, corruption and transparency.<sup>41</sup>
- In the Czech Republic, the new EU Multiannual Financial Framework has brought difficulties to secure sufficient funding. In the previous programming period, an across-the board tax exemption was established for entities carrying out public benefit activities - i.e., typically CSOs where their share in ESF financed projects was reduced to 0%. The new rules no longer provide

<sup>36</sup> Consultation Report by EPD and its members, pages 3, 4

<sup>37</sup> Consultation Report by ECF, page 8

<sup>38</sup> Ibid, pages 8, 9

<sup>39</sup> Ibid, page 8

<sup>40</sup> Consultation Report by EPD and its members, page 5

<sup>41</sup> Consultation Report by ECF, page 22

for an across-the board exemption, they only allow the managing authorities to decide to reduce the beneficiary's share to 0% without clear conditions.<sup>42</sup>

In 2022, Liberties received reports of **further restrictions as regards access to public funds from Croatia, Estonia, France, Germany, Hungary, Ireland and Slovenia – with restrictive requirements in Croatia and Slovenia also limiting access to EU funds**. Besides a general difficulty to access and get funding, there is also a trend of politicisation of the shrinking resources. This means that civil society organisations that are critical of the government or do not share the same values have diminished access to the financial support the political community assigns to civil society activities.<sup>43</sup>

- In 2021, Hungary lost its eligibility for the European Economic Area (EEA) and Norway Grants, as the government was unwilling to accept the donor's decision on who should distribute funds to civil society and instead wanted a state-owned organisation to do this job. Shortly before the country lost its eligibility, the Urban Civic Fund (Városi Civil Alap) was set up by the Hungarian government to replace the EEA and Norway Grants. According to the analysis of investigative news portal Atlatzso, the first results of the state-financed funding program for NGOs are politically biased. More than half of the top winners are 'NGOs' directly controlled by politicians of Fidesz, the governing party. Among the winners of the largest grants, it is difficult to find an organisation that is not linked in some way to the Fidesz elite.<sup>44</sup>

Furthermore, a **hostile regulatory environment, consisting of bureaucratic measures, burdensome administrative obligations and restrictive legal frameworks** creates obstacles to CSOs' establishment and further disrupts CSOs' and fundamental rights activists'/defenders' ability to perform their activities and hence interfere with the right to freedom of association. **The normative context mostly includes administrative, registration and funding requirements**, applied in certain cases in a discriminatory manner by the authorities against CSOs they dislike, bans on specific kinds of assemblies, such as CSOs representing racialised minorities which are faced with the risk of deregistration or dissolution, as well as the politicised implementation of legislation or refusal to operationalise laws, including the abusive imposition (or over-implementation) of legislation on counter-terrorism, political campaigning and lobbying. It should be noted that such measures particularly target CSOs performing a watchdog role or expressing critical stances on sensitive political issues. In a number of EU countries, including Estonia, France, Germany and Ireland, Liberties members have reported about measures to dissolve associations or unfavourable charitable status rules targeting organisations advocating on public interest issues that conflict with the political goals of certain parties or are otherwise considered politically sensitive.<sup>45</sup>

But a hostile regulatory environment may also cover many other elements, beyond the question of registration of CSOs. For instance, certain bureaucratic and legal measures pose **barriers to CSOs' access to funding** and discourage them from operating. Such measures include the implementation of foreign agents laws and

---

<sup>42</sup> Ibid

<sup>43</sup> Consultation Report by Liberties, page 18

<sup>44</sup> Ibid

<sup>45</sup> Ibid page 16

transparency laws, which in certain cases impose disproportionate reporting obligations to CSOs, thus forcing them to dedicate their already scarce resources to meeting redundant administrative requirements or oblige them to be branded as “foreign-funded organisations” in all their publications and foresee severe penalties in case of non-compliance, including dissolution. Respondents say that additionally, such laws fuel a climate of public distrust towards CSOs, thus damaging their reputation and credibility, as well as their ability to raise funds. According to respondents, such initiatives have been reported by in recent years in a number of countries, like Bulgaria, Hungary, and Romania, with similar legislation being planned in Estonia.<sup>46</sup>

Another practice posing barriers to CSOs’ access to funding is the **abusive enforcement of Member States’ anti-money laundering and counter-terrorism financing obligations** under EU law. Some Member States, such as France, have imposed **mechanisms of control over donations**, such as the obligation of notification to or approval from public authorities prior to accepting donations from abroad, and foresee (disproportionate) penalties, including dissolution, in case of non-compliance.<sup>47</sup>

- In September 2020, the Greek government introduced a new Joint Ministerial Decision (Ministerial Decision 10616/2020) that places further restrictions on civil society organisations. According to the current legislative and regulatory framework, Greek and foreign NGOs working in the field of migration, asylum and social inclusion must fulfil an exhaustive list of formal and substantive requirements in order to be able to register both themselves and their staff members and volunteers with the Ministry of Migration and Asylum. That registration is a pre-requisite for these NGOs to be legally allowed to operate in Greece. This registration requirement was allegedly misused. On 26 November 2021, the well-established organisation Refugee Support Aegean (RSA) announced that their application for registration was rejected, and the authorities’ grounds for that rejection was that “supporting people under deportation is unlawful” and contrary to international, EU and national law.
- In France, a new anti-separatism law curbed freedom of association and freedom of expression by requiring organisations to adhere to the nebulous concept of “national values”, or else risk facing dissolution or loss of public funding. This materialised with the recent dissolution of the Collective against Islamophobia in France (CCIF) and the Coordination against Racism and Islamophobia (CRI).
- In Germany, a legal uncertainty still surrounding the rules on the tax-exempt status of civil society organisations (Gemeinnützigkeitsrecht) has led to a situation in which many organisations refrain from speaking out or working against anti-democratic and far-right causes as they might lose their tax-exempt status when their work is considered to be “too political”.<sup>48</sup>
- In Cyprus, Amendment 118 (I)/2020 of the 2017 Law on Associations and Foundations and Other Related Issues gives the Minister of Interior the power to start a dissolution process for NGOs if certain regulatory requirements were not met within a two-month notice period. Shortly after, KISA, a leading non-governmental organisation fighting for equality in Cyprus, and many

<sup>46</sup> Consultation Report by Liberties, page 14

<sup>47</sup> Consultation Report by CSE, page 10

<sup>48</sup> Ibid, pages 15, 16

other civil society organisations were removed from the Register of Associations.<sup>49</sup>

Moreover, CSOs and human rights activists/defenders are frequently confronted with **smear campaigns, online harassment and censorship**, as well as with **physical and verbal violence and intimidation**. Respondents say that state authorities often make little effort to monitor and respond to such attacks, while investigations and prosecutions, as well as alerting mechanisms and victim support services are scarce.

- In Sweden, the intensity of hate speech and threats directed at activists from vulnerable groups such as women, LGBTQI+ and ethnic minorities became so severe that some individuals from these groups chose to withdraw from public activity.
- In Bulgaria on Pride Day, anti-Pride protesters were aided by the police, who allowed them to deviate from their originally stated route in order to surround LGBTQI+ Pride attendees.
- In Slovenia, against the background of increasing attacks targeting public watchdogs, including civil society organisations and activists, the Peace Institute, together with the Association of Slovenian Journalists and the non-profit media portal Bottom Line, are since 2019 carrying out the project “Defending the watchdog role of civil society and journalists in Slovenia”, which has led to the publication of reports on attacks, threats and restrictions, awareness raising and capacity building initiatives.
- In Sweden, Civil Rights Defenders runs an Emergency Fund and a Security Help Desk which provide rapid assistance to human rights defenders who are in danger. The fund and the Help Desk can, for example, provide legal aid or temporarily relocate people, as well as offer security trainings and help with physical and digital security solutions.<sup>50</sup>

Civil society is allegedly often obliged to operate within an **unfavourable political and social environment, which is marked by an institutional disregard of its role** as a bridge between the citizens and the authorities, as well as by far-right narratives and hate speech, especially towards racialised communities, migrants and the LGBTQI+ community and those who defend them.<sup>51</sup>

In the past five years, **governments in several EU Member States have targeted civil society organisations with smear campaigns**, with CSOs reporting that the governments of Bulgaria, Croatia, Hungary, Romania and Slovenia tried to discredit and delegitimise civil society organisations who take a critical stance towards them.<sup>52</sup>

Added to this hostile environment, civil society is also faced with harassment on a legal basis, including **SLAPPs**.

- In Ireland, a notable increase in SLAPPs is reportedly used to hamper the efforts of environmental organisations in pursuing judicial review.

<sup>49</sup> Consultation Report by CSE, page 11

<sup>50</sup> Consultation Report by Liberties, page 17

<sup>51</sup> Consultation Report by CSE, page 8

<sup>52</sup> Ibid, page 13

- SLAPPs have been used in Poland against numerous activists campaigning against “anti-LGBT zones”.<sup>53</sup>

Respondents report that further impediments to CSOs’ activities include **abusive prosecutions and criminalisation of fundamental rights actions**, including the penalisation based on vague norms of content shared by particular kinds of associations, such as the LGBTIQ+ community or women or the criminalisation of aid provided to asylum-seekers. Accordingly, a number of EU governments have been criminalising aid given to people seeking refuge. According to respondents, Croatia, Greece, Hungary and Poland, for example, have tried to outlaw aid activities civil society organisations engage in, while practising illegal pushbacks. Such legislation can intimidate activists, can prevent them from providing food and medical help to people whose life is in danger, and drain CSOs’ resources if they are subject to criminal proceedings.<sup>54</sup>

- Since September 2021, the Polish government has banned non-residents, including the media and NGOs, from entering the area along the Belarus border without special permission. Activists attempting to help refugees in this area risk criminal prosecution. On 23 March 2022, activists of Grupa Granica, an organisation helping migrants and refugees, were detained. Prosecutor Jan Andrejczuk told Polish media that the activists were arrested on suspicion of illegally smuggling people over the border. Such acts are punishable by up to eight years in prison. Grupa Granica said the activists were providing humanitarian aid to a family that had been stuck at the border for three months.<sup>55</sup>

Finally, according to respondents, CSOs have been **excluded in some Member States from public consultation in the law-making processes** in a variety of areas or have been confined to a superficial role.

- According to Hungarian law, when a draft law or constitutional amendment is prepared by ministers, public consultation is mandatory and requires publishing the draft online for the public to comment upon. However, according to consultation respondents, in the past decade, the government arranged for important bills to be submitted by members of parliament rather than by the government, thus avoiding the requirement for public consultation and undermining transparency in the legislative process. When submitted by the government, the deadlines for giving feedback to the proposals were often so short that they could not be met. In 2021, the situation further deteriorated. A special legal order was in force for the whole year. The special legal order allowed the government to issue decrees on legislative matters, suspend the application of certain laws, derogate from statutory provisions and take other extraordinary measures. There is no obligation for transparency of the negotiating and legislative process in the case of decrees of the government, which are not preceded by a public debate, only the result (the promulgated decree) is public.<sup>56</sup>

---

<sup>53</sup> Ibid, page 17

<sup>54</sup> Ibid, page 16

<sup>55</sup> Ibid

<sup>56</sup> Ibid, page 19



In parallel, CSOs sometimes face **limited access to information and national authorities have sometimes refused to publish data which could provide insight in their actions**. Under the pretext of the pandemic this practice was according to consultation respondents exacerbated by a number of governments, including those of Austria, the Czech Republic, Italy, Hungary and Romania.<sup>57</sup>

- During the state of emergency in Romania (March-May 2020), a presidential decree established that institutions have a maximum of two months to answer requests for information. That is, under the pretext of an ongoing crisis, institutions were given double the time they previously had to answer freedom of information requests.<sup>58</sup>

**CSOs also reported about some problematic elements and developments at EU level.** Certain **policies were held to have unintended consequences** on civil society work. Besides anti-money laundering, these policies include migration policies, state aid and VAT regulations, as well as in the digital sector.<sup>59</sup>

Additionally, the respondents stressed that **more transparency is warranted in decision-making, since the limited access of CSOs to meetings or dialogue prevent them from fully exercising their watchdog role** regarding the implementation of the Charter.<sup>60</sup> In this regard, CSOs stress that their work is also affected by certain decision-making procedures and practices which they would like to see reviewed, such as the unanimity-based decision-making in the Council with regards to key procedures (Article 7), as well as the alleged delay in triggering the rule of law conditionality mechanism by the Commission.<sup>61</sup>

5. Are there examples of good cooperation between CSOs within the EU and with CSOs in non-EU countries, which strengthen the protection of the fundamental rights?

The respondents cited several examples of good cooperation between CSOs within the EU as well as with CSOs in non-EU countries. Such examples include the **cooperation of over 60 CSOs which drafted country-specific recommendations on the rule of law** in view of the 2022 EU rule of law report and the cooperation of nearly 50 CSOs which worked together to assemble a **70+ page input-paper with ideas for the European Democracy Action Plan**.<sup>62</sup> Additionally, Civil Society Europe launched in February 2021, together with 82 pan European civil society organisations, the **Civil Society Convention on the Future of Europe** to ensure that civil society would be part of the Conference on the Future of Europe and that non-EU countries would also be involved.<sup>63</sup> Furthermore, the International Disability Alliance, of which the European Disability Forum is an active member, is an example of organisations working on an

---

<sup>57</sup> Ibid, page 18

<sup>58</sup> Ibid, page 19

<sup>59</sup> Consultation Report by CSE, page 11

<sup>60</sup> Ibid

<sup>61</sup> Ibid, page 12

<sup>62</sup> Consultation Report by EPD and its members, page 6

<sup>63</sup> Consultation Report by CSE, page 12

international level and engaging in cooperation with civil society from non-EU countries.<sup>64</sup>

Moreover, CSOs collaborate in the context of networks and coalitions. These include the **Human Rights and Democracy Network (HRDN)**, which operates as an informal grouping of NGOs operating at the EU level in the broader areas of fundamental rights, democracy and peace, the **Media Advocacy Network**, which is a loose grouping of over 40 organisations representing free expression and media advocates, including journalists and media associations themselves, in order to advance shared goals for free expression and pluralistic media.<sup>65</sup> Further examples include the **Coalition Against SLAPPs in Europe (CASE)**<sup>66</sup> and the capacity and alliance-building program **Recharging Advocacy for Rights in Europe (RARE)**, which brings together 26 leading European rights defenders committed to preserving and promoting civic space in their societies.<sup>67</sup> Additionally, JEF Europe along with more than 15 youth councils and organisations established in March 2022 the **Youth Response for Ukraine**, a network of CSOs coordinating their efforts to support Ukrainian youth amid the Russian invasion, including the protection of fundamental rights.<sup>68</sup> Further examples from Germany include the '**Gesellschaft für Freiheitsrechte**', which is a CSO that uses lawsuits to fight for fundamental rights in Germany and the EU, as well as the '**Allianz Rechtssicherheit für politische Willensbildung**', which is a 200 member alliance that aims at reforming the tax exemption laws for German CSOs.<sup>69</sup>

### **C) The work of EU institutions and the Member States to protect CSOs and rights defenders**

6. Which EU or national initiatives/actions to promote a safe and enabling environment for CSOs in the EU do you consider as being effective? Please give examples.

The respondents stressed that most effective initiatives aiming at protecting and promoting civic space are CSO-led, whereas only a few national government-led initiatives exist in this regard.<sup>70</sup> Such national initiatives include coalitions for the development of national action plans against racism, as the one implemented in Belgium,<sup>71</sup> as well as the German initiative 'Zivilgesellschaft in Zahlen', which consists of a broadly funded think tank that gathers data on civil society dynamics and the funding landscape in Germany and publishes analyses and recommendations for CSOs, politics and companies.<sup>72</sup> Additionally, respondents stated that CSOs and the civic space are well protected in Finland through its institutional structures, which include public hearing mechanisms for CSOs in legislation processes.<sup>73</sup> Moreover, the Law on Non-governmental Organisations in Slovenia, which sets the foundations for civil society development was also

---

<sup>64</sup> Ibid

<sup>65</sup> Consultation Report by EPD and its members, page 7

<sup>66</sup> Ibid

<sup>67</sup> Consultation Report by Liberties, page 20

<sup>68</sup> Consultation Report by CSE, page 12

<sup>69</sup> Consultation Report by EPD and its members, page 7

<sup>70</sup> Ibid

<sup>71</sup> Consultation Report by CSE, page 13

<sup>72</sup> Consultation Report by EPD and its members, page 7

<sup>73</sup> Ibid, page 8

mentioned as a positive development which provides for an enabling environment for CSOs.<sup>74</sup>

At EU level, the respondents acknowledged some positive steps taken in recent years, such as the strengthened monitoring of existing challenges and action to address certain problematic national laws and practices.<sup>75</sup> Moreover, the significance of certain EU tools aiming at fostering and protecting democracy, the rule of law and fundamental rights was also recognised, such as the **European Rule of law toolbox, the European Democracy Action Plan (EDAP) and the Strategy on the European Charter of Fundamental Rights**.<sup>76</sup> Similarly, the EU external human rights defenders mechanism '**ProtectDefenders.eu**' was also acknowledged as a promising practice with the potential to be implemented also for rights defenders in danger within the EU.<sup>77</sup>

A number of initiatives by the European Commission were also praised as promising and in particular measures to tackle **SLAPPs** against public watchdogs and the Citizens, Equality, Rights and Values (**CERV**) funding programme.<sup>78</sup> Additionally, the two infringement proceedings initiated by the Commission against Hungary's law on foreign funding for civil society and the bill criminalising aid to asylum seekers were recognised as setting a precedent against similar legislation, while also highlighting the key role that the European Court of Justice (CJEU) can play through its judgments and interim measures in protecting civic space and fundamental rights both at national and European level.<sup>79</sup>

7. Please give examples, and explain why you consider those examples relevant, of:

a. Any national system to monitor of the civic space?

b. Any international system to monitor of the civic space?

With regard to initiatives aiming at monitoring civic space, the respondents cited as examples the 'CSO Meter', which supports regular and consistent monitoring of the environment in which CSOs operate in the Eastern Partnership countries, the 'CIVICUS Monitor', which is an online research platform that tracks fundamental freedoms in 197 countries and territories, as well as the efforts of Civic Space Watch, which collects findings and analyses from actors in Europe on the conditions for civil society to operate and captures national and trans-European trends in civic space.<sup>80</sup> Further initiatives also include the Council of Europe's Expert Council on NGO Law which carries out thematic and country studies on specific aspects of NGO legislation, as well as the monitoring of civic space by FRA through an annual survey and annual research in all EU Member States.<sup>81</sup>

---

<sup>74</sup> Consultation Report by ECF, page 28

<sup>75</sup> Consultation Report by Liberties, page 20

<sup>76</sup> Consultation Report by CSE, page 13

<sup>77</sup> Consultation Report by EPD and its members, page 8

<sup>78</sup> Consultation Report by CSE, page 13

<sup>79</sup> Ibid

<sup>80</sup> Ibid, page 14

<sup>81</sup> Ibid, page 15

c. Any alert mechanism and/or support services in case of physical and on-line attacks to CSOs activists at national level? d. Any alert mechanism and/or services in case of physical and on-line attacks to CSOs activists at international level?

Concerning the existence of any alert mechanisms and/or support services in case of physical and on-line attacks against CSOs activists at national and international level, the respondents mentioned in particular the Council of Europe's media freedom platform, which traces attacks on journalists, indicating whether they are initiated by state actors, or non-state actors and the gravity of the attack.<sup>82</sup> Moreover, the EU external human rights defenders mechanism 'ProtectDefenders.eu' and the 'Front Line Defenders', which provides rapid and practical support rights defenders at risk, including through an emergency line were also cited by respondents.<sup>83</sup>

8. Are there initiatives or actions which raise concerns as regards the possibility of CSOs to effectively carry out their activities? Please give up to 10 most important examples and (possible) measures of improvement.

A number of concerning trends limiting the CSOs' ability to effectively operate were identified by the respondents. In particular, the respondents reported several **restrictive legislative measures**, including the adoption of foreign agents/transparency laws, the imposition of strict financial rules under the pretext of countering money laundering and terrorism, the management of the inflow of foreign funds to rights defenders by the national authorities through the centralisation of the fund allocation system and the imposition of disproportionate taxes on CSOs and their donors or the taxation of CSOs due to the loss of their status as charitable in case they promote political positions beyond what is provided through 'political education'. Potentially restrictive legislation also encompasses a draft bill to criminalise persons travelling to areas controlled by terrorist organisations, thus impeding the operation of aid organisations and journalists, as well as bills which enable the banning of legal entities or the dissolution of "subversive" organisations, namely organisations which might upset the legal order.

Furthermore, several non-legislative initiatives and actions can potentially disrupt CSOs' ability to effectively carry out their activities. According to respondents, these include the launching of **smear campaigns**, such as the Stop-Soros smear campaign and the latest defamation campaigns against political opponents and HRDs in Hungary, the use of existing **defamation and treason laws** to sue and silence rights defenders, such as in Poland, Italy, France, Croatia, Slovenia and Ireland, the use of **flaws and ambiguities in national legislation** which risks undermining CSOs' work and reverse their status, such as in Germany and the Czech Republic, the adoption of **dissuasive mechanisms such as audits and funding investigations** (e.g. intimidating auditing controls and police raids) and the intentional misuse of EU law to impose fines or criminal proceedings against HRDs and discourage them.<sup>84</sup> Examples of this trend are the misuse of GDPR provisions to silence journalists (e.g. in Romania, Lithuania and Slovakia) or of

---

<sup>82</sup> Ibid

<sup>83</sup> Ibid

<sup>84</sup> Ibid, page 17

the EU Facilitation Directive to discourage search and rescue operations (e.g. in Italy).<sup>85</sup>

## **D) The work of EU institutions and the Member States to support CSOs and rights defenders**

9. Are there effective public funding schemes that provide support to CSOs? If so, explain why that is a good financing mechanism? Please give examples.

The respondents cited a number of **examples of national public funding schemes** within the EU. In Germany, three effective public funding schemes were mentioned, namely the 'Deutsche Stiftung für Engagement und Ehrenamt', which is a new public foundation to support and sponsor small initiatives in the civic space and volunteering, the 'Programm für bürgerschaftliches Engagement und demokratisches Handeln', a public funding programme for projects on civic engagement and democracy implemented by local NGOs and associations in rural areas and the 'Demokratie leben!', which is a funding programme that supports civil society projects in the wider democracy context on a regional level.<sup>86</sup> Furthermore, the Maltese Civil Society Fund offers financial assistance to facilitate the creation and strengthening of national CSOs with and within European coalitions, networks and platforms, with the goal of promoting the exchange of best practices, knowledge and information among CSOs and of providing CSOs with training and other capacity building activities related to EU policies.<sup>87</sup> Moreover, the respondents referred to the relatively stable and transparent public funding system in Finland, where the government allocated additional funds during the last two years of the pandemic in order to compensate for the consequences of COVID-19 restrictions to CSOs.<sup>88</sup> Additionally, the Swedish foreign policy approach to civic space was praised, according to which key partners in civil society are more structurally supported through long-term financial support of 5 to 10 years in the form of core grants rather than programmatic support.<sup>89</sup>

Finally, at **EU level, the CERV programme** foresees the possibility to support civil society organisations at national and local level in the area of advocacy and fundamental rights through a regranting system, albeit co-funding requirements have been introduced to the program which often impedes small-medium organisations' to access funding.<sup>90</sup> Additionally, the European Structural Funding (**ESF**) is another important funding scheme which supports CSOs in the implementation of a number of Charter rights.<sup>91</sup>

---

<sup>85</sup> Ibid

<sup>86</sup> Consultation Report by EPD and its members, page 10

<sup>87</sup> Consultation Report by ECF, page 32

<sup>88</sup> Consultation Report by EPD and its members, page 10

<sup>89</sup> Ibid, page 8

<sup>90</sup> Consultation Report by CSE, pages 17, 18

<sup>91</sup> Consultation Report by ECF, page 21

10. What are the shortcomings in the public funding mechanisms? Please give examples and explain why you consider them not effective.

At EU level, respondents underlined the lack of civil society consultation when defining priorities and modalities of support, mentioning in that regard that the **CERV program and the European Recovery Package were developed without any civil society or public consultation**. In addition, concern was raised regarding the enforcement of Regulation 2020/1092, which does **not ensure sufficient protection of final beneficiaries**, since in the event that states do not comply with their payment obligation final beneficiaries need to exhaust national remedies before having the possibility to submit a complaint to the Commission, which in turn may launch an infringement action, a long-lasting procedure impacting on final beneficiaries' access to financial resources. Moreover, the fact that existing **EU funding policies are not sufficiently flexible** to adapt to crisis situations has been remarked as another shortcoming. In this regard, it was recommended that intermediaries regrating EU funding at national level should be enabled to rapidly disburse emergency action grants with simplified application, reporting processes and flexible timeframes in addition to longer-term grants.

At national level, the stakeholders stressed that public funding mechanisms need to be long-term and flexible and pointed out that common obstacles of access to funding include **burdensome, complex, not always transparent procedures and challenging eligibility criteria**, as well as the **lack of internal capacity**. Further barriers to access to public funding by CSOs mentioned by the respondents include lack of transparency, counter terrorism and anti-money laundering laws, as well as politicised distribution of public funding excluding CSOs critical to the government and the increasingly widespread practice of cutting access to public funds for CSOs by considering CSOs' advocacy activities as political activities.

Finally, in many EU Member States, funding is mostly distributed to CSOs involved in social care, service provision and sport activities. CSOs claim that the **scarcity of the funding opportunities in the fields of rule of law, democracy and fundamental rights** – notably in the area of advocacy - brings as a consequence that CSOs enter in an unhealthy competition between each other for funding, which undermines the space for cooperation. Furthermore, the interference with CSOs' independence and autonomy in shaping their agendas and pursuing public interest goals was cited as another shortcoming of funding mechanisms, which dictate the activities of the CSOs that rely on such funds to carry on their operations.

## **E) The work of EU institutions and the Member States to empower CSOs and rights defenders**

11. Are there dialogues between CSOs and public authorities at national, EU or international level that work well? Which are the most effective forms of inclusion of CSOs in the decision-making process and, more generally, on matter of public interest? Please give examples.

At international level, the respondents mentioned as good practices the Council of Europe participatory status granted to NGOs, the establishment of an INGO Conference, as well as the Code of Good Practice for Civil Participation in the Decision-Making process.<sup>92</sup>

At EU level, the respondents cited several effective platforms which foster the dialogue between CSOs and public authorities. Accordingly, the Civil Dialogue on the Common Agricultural Policy (CAP) is organised through 13 Civil Dialogue Groups which meet on a regular basis to address matters related to CAP and its implementation. Additionally, Directorate-General (DG) Trade's Transparency, Civil Society and Communication Team coordinates relations with civil society that serve the implementation of a regular and structured dialogue with CSOs in order to inform about and discuss the ongoing developments of the EU trade policy. In this context, the dialogue is carried out in close consultation with the Civil Society Dialogue Contact Group, a support structure which includes one representative from each of the broad categories of organisations involved in the civil society dialogue. Another example concerns the consultations organised by the Commission's Directorate-General for International Partnerships (DG INTPA), albeit it was noted that that the consultations mostly take the form of information sessions, where civil society representatives are allocated a short timeslot to make meaningful contributions.

Moreover, the Commission's tool 'Have Your Say' was cited as a good practice which enables citizens' input into legislative processes, albeit many of the questionnaires are of such a technical nature that allow for responses only by experts and not by non-specialised citizens.

In parallel, promising examples of sectoral dialogue concern the Aarhus Convention on the consultation of civil society on environmental matters, as well as the implementation of the UN Convention on the rights of persons with disabilities to which the EU is party to. Additionally, the CSO Forum led by the EU anti-racism coordinator provides for the inclusion of minorities, as well as excluded and discriminated groups. Furthermore, the respondents remarked as a good practice the initiative by the Greens/EFA in the European Parliament to create a space for discussion and Q&A on some of the most contentious questions within the Digital Services Act file.

At national level, the respondents cited as positive practices the dialogue organised by Denmark with national CSOs on the European Semester, as well as the participatory platform 'working in the arts' in Belgium. Further national good practices were mentioned in the form of the charter of reciprocal commitments in

---

<sup>92</sup> Council of Europe, [Code of good practice for civil participation in the decision-making process](#) (2009)

France, which provides political recognition to the role of civil society and a framework for civil dialogues, the National Development Plan in Latvia, aiming at strengthening civic participation and establishing a social dialogue, that is an equal dialogue with civil society as social partners, as well as the Polish self-organised public hearings on the National Recovery and Resilience Plan.

12. Please give examples of effective EU or national processes where CSOs are systematically consulted regarding legislative proposals with potential impact on CSOs/civic space?

At EU level, the respondents cited as examples of effective consultation processes with CSOs the **EU Youth Dialogue** which is a youth participation mechanism aiming to bring youth voice to EU policy-making through dialogue between young people, youth organisations and policy and decision-makers, as well as experts, researchers and other relevant civil society actors. Additionally, the respondents cited as a good practice the Commission's CSO and key stakeholder consultations before each **annual rule of law report**, albeit also mentioning that the process should be further reinforced through a clearer, more transparent and inclusive methodology for involving civil society organisations both throughout the process and afterwards by developing a dialogue on its follow up. Further, the **Conference on the Future of Europe** was also cited as a promising platform to engage citizens, with discussions and proposals related to the EU's fundamental values.

At national level, respondents shared several good practices from Finland. These include the Advisory Board on Civil Society Policy, consisting of representatives of civil society, research, business sector, ministries and other public agencies which is systematically consulted on legislative proposals impacting on CSOs, as well as the 'Lausuntopalvelu.fi' which is an online service that enables and streamlines public administration consultation processes and the National Dialogue Model that is being prepared to enhance the communication and dialogue between government officials, CSOs and citizens. With regard to Germany, the respondents remarked that although, per national legislation, the integration of the interests of civil society actors into the legislative process is a mandatory intermediate step in the preparation of the draft law by the federal government, the ministries ask nevertheless mainly associations (business/industry/labour) for feedback on certain draft laws, whereas no laws were identified, regarding which charitable CSOs were consulted.

13. Could you give examples of the impact or result on adopted legislation and its implementation when CSOs were not consulted beforehand?

The respondents expressed their concern regarding the gaps in consultation processes with CSOs by the adoption of relevant legislation. Such gaps were visible for instance regarding the adoption of the national legislative and funding measures to address the consequences of the pandemic, thus having as a result that disadvantaged groups of the population were not taken into account. In this regard, the fact that CSOs were not invited to participate in the design of such measures leads to their diminished impact and quality.



Moreover, respondents underlined that the National Recovery and Resilience Plans were shaped by lobbying corporations, whereas consultation with CSOs in their development was lacking, which resulted in gaps between the needs on the ground and the actual allocation of the funds. Furthermore, respondents noted that the lack of transparency and public disclosure of the draft recovery plans posed challenges to external scrutiny by NGOs or sectoral experts which could have guaranteed that harmful measures were identified, modified or rejected.

Finally, CSOs were not consulted when the confinement measures in the context of the pandemic were introduced. Accordingly, the lack of meaningful dialogue with civil society is held by respondents to be an important factor for lack of reactivity of the government to many societal emergencies, as is exemplified in the case of LGBTI couples, who were left out from public policies allowing reunification of married couples, as well as in the case of government mismanagement of the migrants' situation, which was also linked to lack of involvement of CSOs.

14. Are CSOs or, where relevant, NHRIs included in the national 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?

The respondents noted with concern that the involvement of civil society organisations in the different funds under the Common Provision Regulation **remains still too limited**. Where they are consulted, the impact of their participation is often too limited. Positive developments nevertheless include the introduction of the European Code of Conduct on Partnership, as a legal act attached to the Common Provision Regulation, as well as the granting of voting rights to all participants to the monitoring committees, albeit the selection of their members is not sufficiently transparent, since it remains at the discretion of Member States, which could lead to the exclusion of certain organisations.

Moreover, the participation of civil society organisations in monitoring committees **entails an important investment in terms of time and human resources which only few organisations are able to sustain**. Accordingly, a lack of investment in CSOs' capacity building which would enable them to address very technical discussions is also noticeable, albeit in some cases technical assistance has been provided in order to support the participation of civil society organisations. In this regard, it was recommended that the Technical Support Instrument could be used to that end.<sup>93</sup>

Finally, the respondents highlighted that although CSOs play an important role in signalling projects that are not compliant with EU legislation, they often remain an isolated voice and their contributions are not valued enough, whereas there is allegedly rarely a follow up by the Commission representative.<sup>94</sup> Accordingly, the respondents stressed the **need to ensure that all partners are involved in an equal way, both in programming and in monitoring, and that associations**

---

<sup>93</sup> Consultation Report by CSE, page 29

<sup>94</sup> Ibid

**and NGOs are provided with equal place as compared with other partners.** To this end, the quality of consultation and involvement of CSOs needs to be improved and their contributions need to be given more consideration.

## **F) Conclusion**

The answers of respondents from civil society umbrella organisations indicated that CSOs contribute in many ways to making the Charter rights a reality on the ground. Respondents highlighted the crucial function of CSOs as key pillars of strong democratic and pluralist societies based on fundamental rights under the rule of law. Accordingly, CSOs play a crucial societal and democratic role in that they ensure that EU values are protected and promoted at national level and that participatory democracy is fostered both at national and at EU level, while also contributing to the creation of a European public space.

Despite their crucial role, CSOs say they are regularly faced with obstacles and challenges which hamper and disrupt their ability to operate effectively and thereby restrict civic space. Among these challenges, the scarcity of funding opportunities, a hostile regulatory environment, as well as unfavourable political and social climate and incidents of attacks, harassment and smear campaigns are cited as the most concerning, along with lack of meaningful involvement in policy-making.

In response to these challenges, a number of policies and measures have been implemented at national and EU level in order to protect, empower and support CSOs. However, as was remarked by the respondents, these positive steps merely address in a piecemeal manner some of the most urgent problems with which CSOs are being confronted and do not form part of an all-encompassing, strategic and far-reaching solution which would address these challenges in a holistic manner. For this reason, many of the respondents have proposed the development, in close consultation with CSOs, of a full-fledged EU Strategy on Civil Society, which would recognise CSOs' key role and would ensure that CSOs receive the necessary protection and support to perform their roles.<sup>95</sup> Additionally, respondents called for the creation of an EU mechanism to protect rights defenders and civil society organisations contributing to EU fundamental rights processes from potential reprisals, as well as serving as an early warning mechanism to alert to attacks, smear campaigns, hate speech and online harassment against civil society.<sup>96</sup> Respondents referred to initiatives in the area of media freedom and safety of journalists such as the Recommendation on the Safety of Journalists and the code of conduct on disinformation, which could be taken as an inspiration for similar initiatives to be developed for CSOs and rights defenders.<sup>97</sup>

---

<sup>95</sup> For example: Consultation Report by Liberties, page 21

<sup>96</sup> Consultation Report by CSE, page 13

<sup>97</sup> Ibid, pages 13, 14