

# **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 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 looks at how the EU Charter of Fundamental Rights is used by civil society organisations in their work. It also gives an overview of the main obstacles faced by CSOs in the key areas under the scope of the Charter.

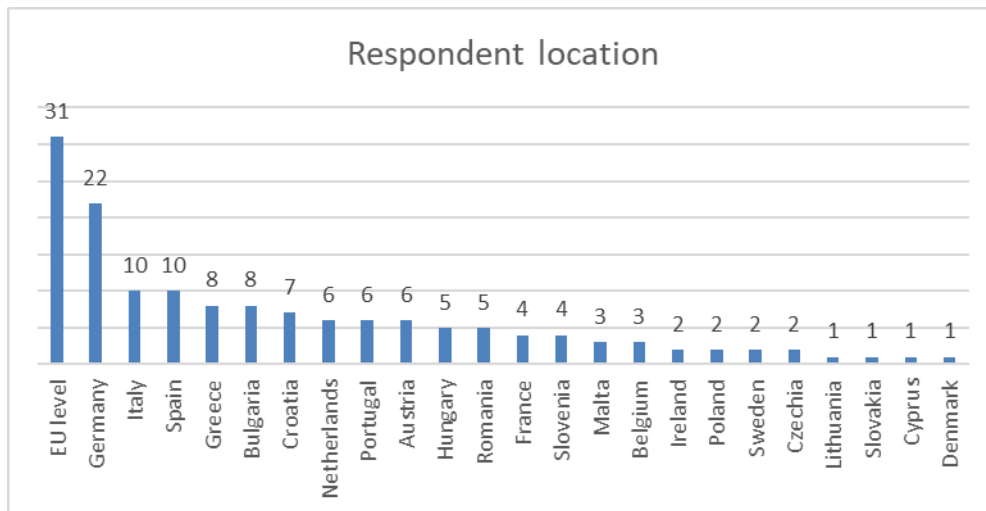
This report summarises responses from 150 CSOs from FRA's Fundamental Rights Platform (FRP) that responded to the invitation to complete an online consultation. Responses reflect the composition of the FRP, which is not representative for the NGOs within the EU or civil society at large but comprise CSOs active in the area of fundamental rights.

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<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) Geographical base of responding organisations' work

Among the FRP organisations consulted, a significant portion (30) work at the EU-level. Many organisations, however, work at the national level and are mostly based in Germany (22), followed by Italy (10) and Spain (10). Between 8 and 4 organisations work in Greece, Bulgaria, Croatia, Netherlands, Portugal, Austria, Hungary, Romania, France and Slovenia. 3 of the responding organisations work in Malta and Belgium, 2 in Ireland, Poland, Sweden and Czechia and 1 in Lithuania, Slovakia, Cyprus and Denmark.



Question: "Where does your organisation mainly work (or is based in)? Please choose only one of the following answers." (N=150)

Source: FRA Charter consultation 2022

## B) Core work activities

Advocacy represents the most common activity among the respondent FRP organisations (63%). This is followed by campaigning and awareness raising (49%) and service provision (29%). Approximately one-fourth of the organisations focus on research and data collection (23%), community engagement and development (23%) and litigation (20%) as their core activities. Victim support, counselling (legal, psycho-social) and legal training are the least frequent activities, taking place in 17% and 9% of the responding organisations.

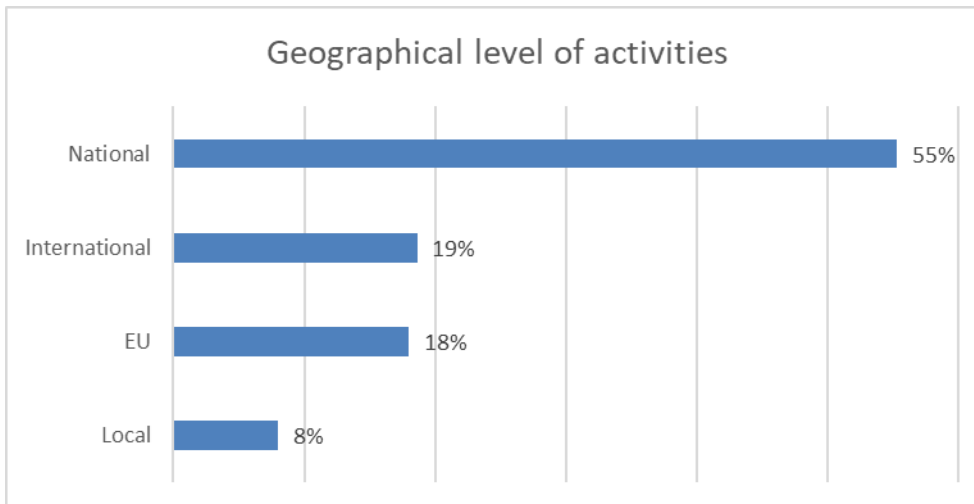


Question: "Which are the core activities that your organisation is engaged in? Multiple response option." (N=150)

Source: FRA Charter consultation 2022

### C) The geographical level of respondent organisations' activities

The national level stands out as the main geographical level of the consulted organisations' daily activities, as more than half of the respondents (55%) carry out activities at this level. This is followed by the international and EU level (19% and 18% respectively), while the local level is the least common geographical focus among the responding organisations (8%).



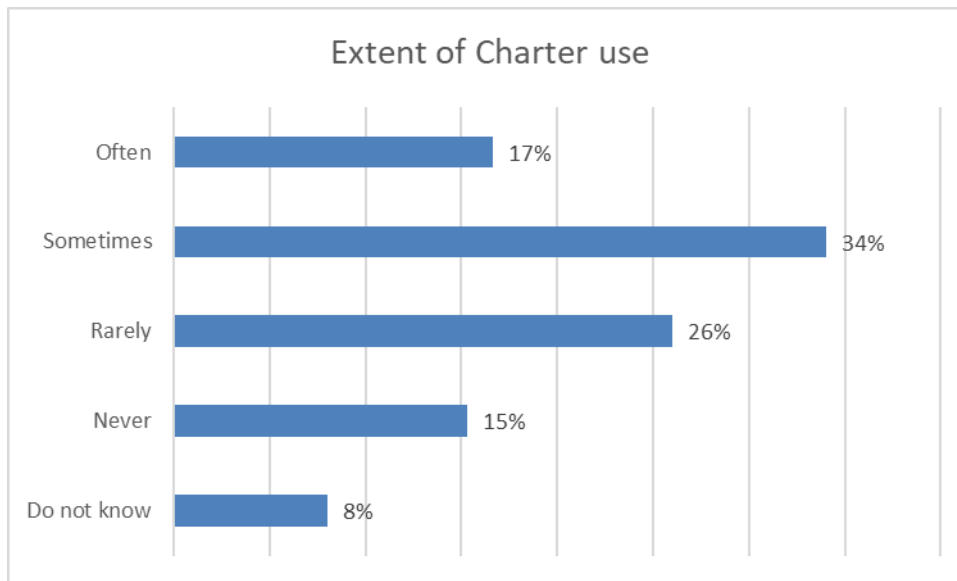
Question: "The most important geographical level of your organisation's daily activities is? Please choose only one of the following." (N=150)

Source: FRA Charter consultation 2022

## D) The EU Charter of Fundamental Rights in use: extent and purpose

### Extent of use

A large majority of the organisations use the Charter in their work, although to a differing extent. Only a minority (17% of the organisations) 'often' use the Charter in their activities, while one-third of the organisations 'sometimes' use the Charter and one-fourth of them use the Charter 'rarely'. The Charter is 'never' used or not known by almost a quarter of respondent organisations (23%).

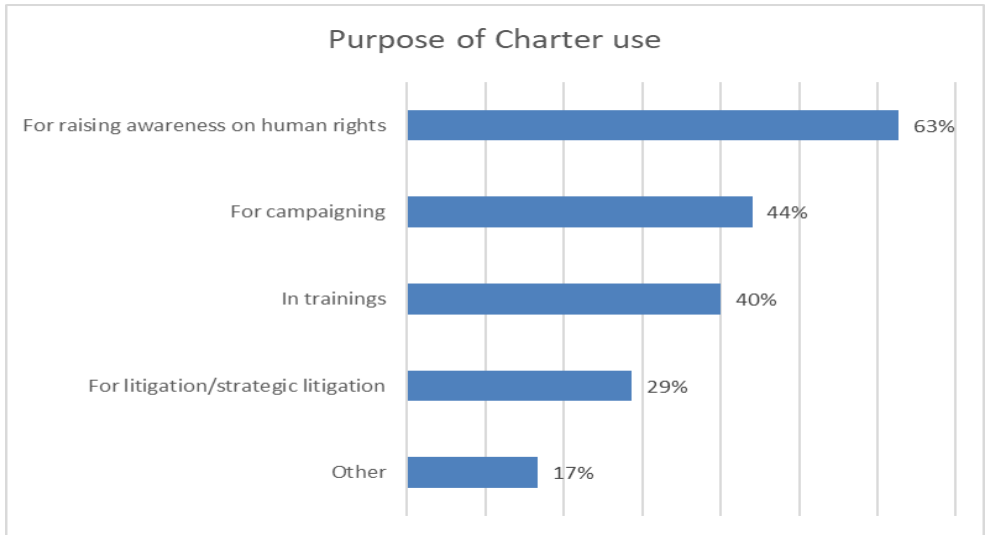


Question: "Does your organisation use the Charter in its work? Please choose only one of the following." (N=150)

Source: FRA Charter consultation 2022

### Purpose of Charter use

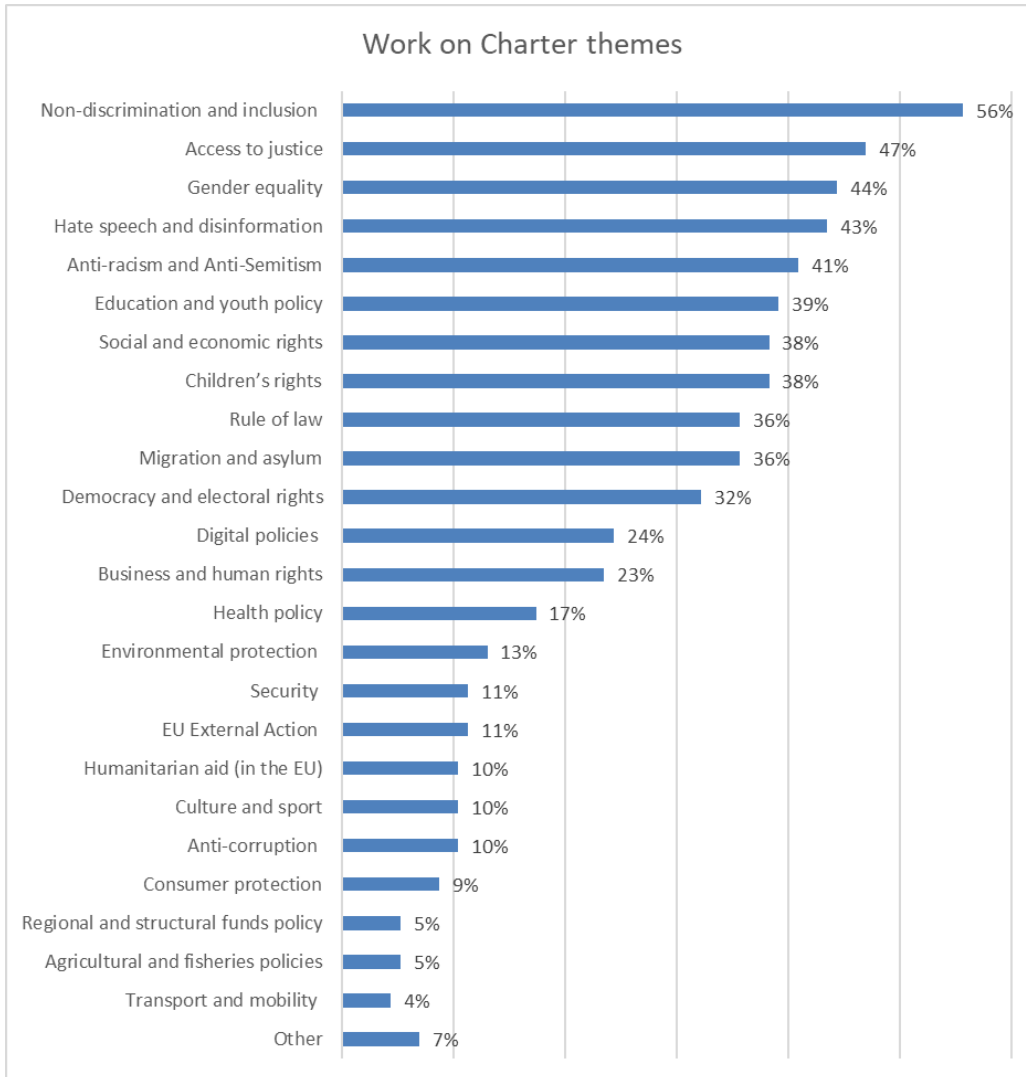
Among the responding organisations which use the Charter in their work, it appears to be mostly used for raising awareness on fundamental rights. Almost two-thirds (63%) of the responding organisations make use of it for these kinds of activities. In addition, in 44% and 40% of cases, organisations use the Charter for campaigning and training purposes, while less than one-third (29%) of organisations employ the Charter for litigation and strategic litigation. A sizeable number of organisations (17%) use the Charter for 'other' purposes, especially for advocacy and research activities.



Question: "How do you use the Charter in your work? Multiple response option." (N=150)  
 Source: FRA Charter consultation 2022

**E) Organisations’ work on EU Charter of Fundamental Rights themes**

More than half of the responding FRP organisations (56%) work on anti-discrimination and inclusion (e.g. rights of persons with disabilities, LGBTIQ+, minority groups), while almost half of them focus on access to justice (47%), gender equality (44%), hate speech and disinformation (43%), anti-racism and antisemitism (41%), education and youth policies (39%). A sizeable share of the organisations work on children rights (38%), social and economic rights (38%), migration and asylum (36%), rule of law and democracy (36%), electoral rights and transparency (32%). A lower number of organisations (less than 25%) work on digital rights (e.g. artificial intelligence, online platforms governance, data protection and privacy), business and human rights, health policies and environmental protection and climate change (e.g. biodiversity, environmental crime). Moreover, it is less common for organisations (less than 11%), to work on themes such as security (e.g. anti-terrorism, anti-radicalisation, anti-torture), anti-corruption and anti-money laundering, culture and sport, humanitarian aid and crisis management, consumer protection, agricultural and fisheries policies, regional and structural funds policy and transport and mobility (e.g. passenger rights), and themes related to EU external action (trade, international cooperation, emergency aid). 7% of organisations also work on ‘other’ themes such as freedom of expression and speech, freedom of assembly and political liberties.



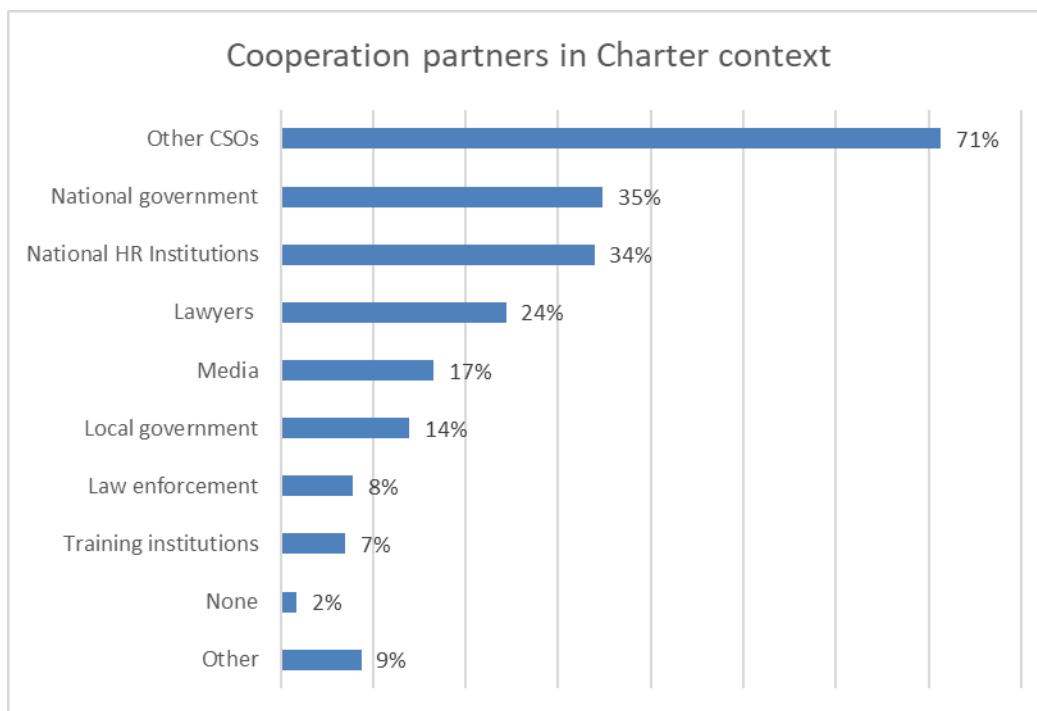
Question: "Does your organisation work on any of the following Charter themes? Multiple response option." (N=115)

Source: FRA Charter consultation 2022

## F) Cooperation with partners in the context of the EU Charter of fundamental rights

### Current partners

A number of responding FRP organisations indicate that they cooperate with national governments (35%), national human rights institutions, equality bodies, ombuds institutions (34%), lawyers (24%), media (17%) and local governments (14%). Rarely, organisations cooperate with law enforcement (8%) and training institutions (7%). At the same time, more than two-thirds of the consulted organisations (71%), regularly cooperate with other civil society organisations (CSOs) in the context of the Charter. In 'other' cases, a significant number of organisations (9%) regularly cooperate with EU institutions and agencies. 2% of the respondent organisations do not cooperate with any of the partners previously mentioned.

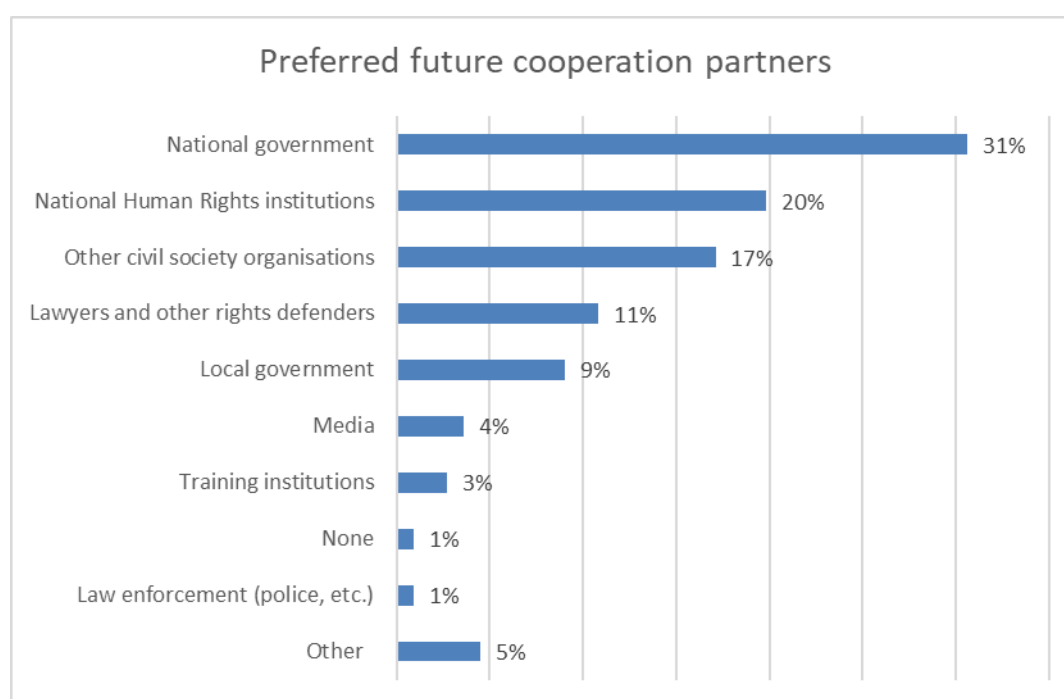


Question: "Who are currently the regular partners you cooperate with in the context of the EU Charter of fundamental rights? Multiple response option." (N=115)

Source: FRA Charter consultation 2022

## Future partners

National governments appear to be the preferred future partner of cooperation. Approximately one-third of responding organisations (31%) would consider it relevant to cooperate with national governments to enhance the implementation of the Charter. A small number of organisations mention national human rights institutions, equality bodies, ombuds institutions (20%), other civil society organisations (17%), lawyers and other rights defenders (11%) and local governments (9%) as future cooperation partners when it comes to enhancing the application of the Charter. An even lower number of organisations refer to cooperation with media (4%), training institutions (3%) and law enforcement (1%) as relevant. Moreover, 5% of organisations would be interested in establishing future cooperation with 'other' actors, such as for instance the EU institutions.



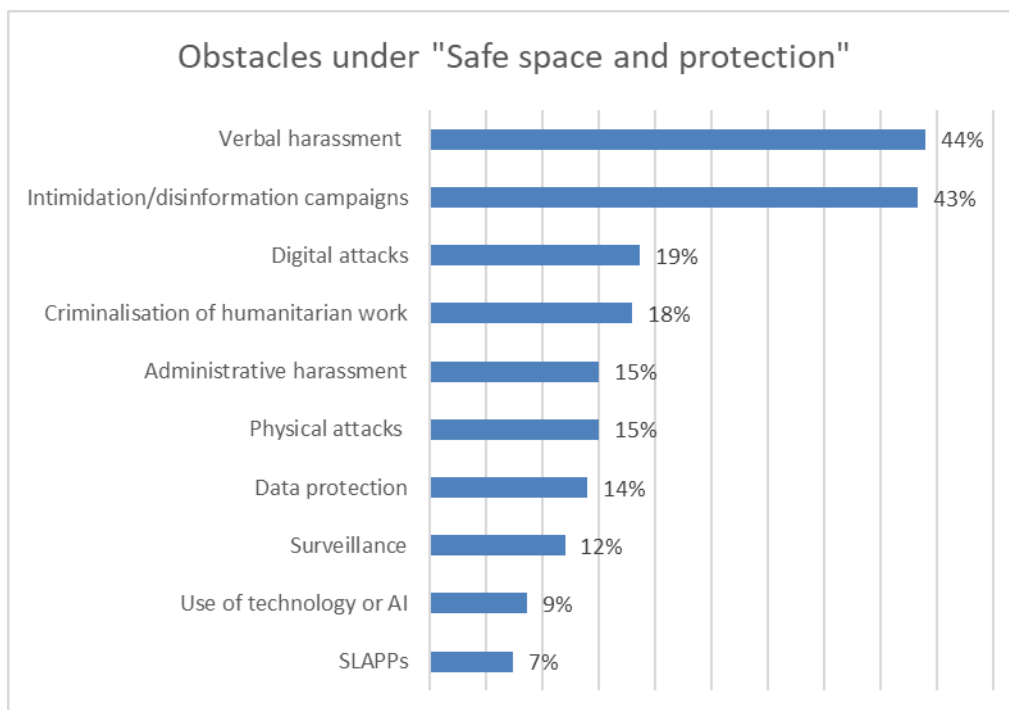
Question: "Whom would you consider the most relevant partner to cooperate with in the future in order to enhance the implementation of the EU Charter of Fundamental Rights? Please choose only one option." (N=111)

Source: FRA Charter consultation 2022



## G) Obstacles under "Safe space and protection"

Civil society organisations and other rights defenders may face a number of obstacles that limit their 'safe space' in the given society. Such obstacles may reach from physical or verbal attacks to the use of surveillance measures or legal threats. Almost two-thirds of the responding organisations (61%) report to face obstacles under the 'safe space and protection' area. In particular, approximately half of the organisations report two main barriers: i) verbal attacks and harassment (44%) and ii) intimidation/negative narrative/smear campaigns/disinformation campaigns (43%). In a fewer but still considerable number of cases, obstacles are reported in terms of digital attacks (19%), criminalisation of humanitarian or fundamental rights work (18%), administrative harassment (15%), physical attacks on people and property (15%), data protection (14%), surveillance (12%), use of technology or artificial intelligence (9%) and Strategic Lawsuits Against Public Participation (SLAPPs) (7%).



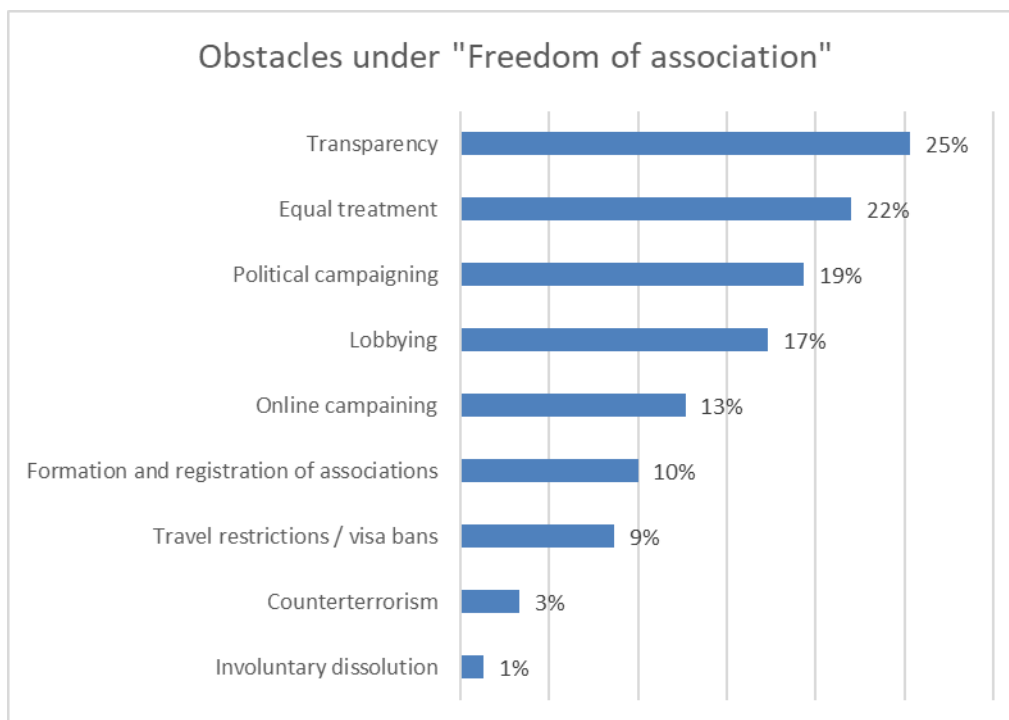
Question: "In your work, have you encountered obstacles in any of the following areas under "Safe space and protection"? Multiple response option." (N=150)

Source: FRA Charter consultation 2022

## H) Obstacles under "Freedom of association"

Freedom of association ensures that people are free to form and participate in associations and to engage independently in any legal and lawful activity. However, different obstacles can hinder the full exercise of freedom of association, such as hurdles to registering an association, or the prohibition or dissolution of NGOs. Sometimes, unintended side effects of different laws can limit the exercise of freedom of association, such as lobby laws, transparency laws, laws on political campaigning.

Less than half of the organisations (43%) reported facing obstacles under "freedom of association". Specifically, almost one quarter of them face obstacles in the areas of transparency (25%) and equal treatment (22%). To a lesser extent (less than 20%), respondents reported barriers in relation to political campaigning, lobbying, online campaigning, formation and registration of associations, travel restrictions and visa bans. A very small number of organisations replied that they encounter obstacles in the areas of counter-terrorism (3%) and involuntary dissolution (1%).

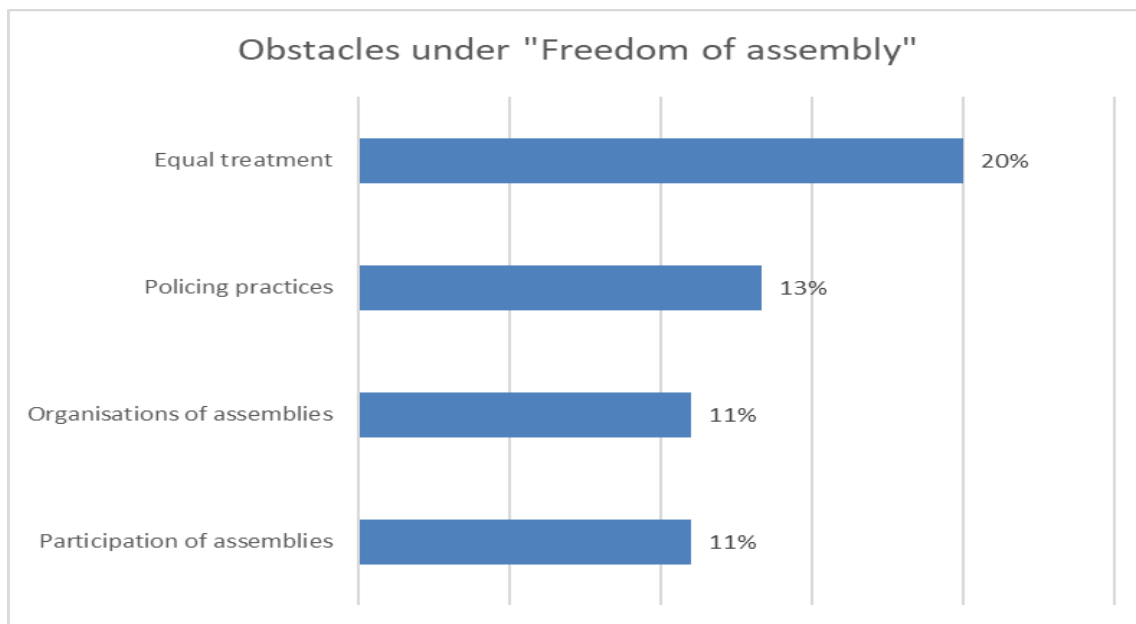


Question: "In your work, have you encountered obstacles in any of the following areas under "Freedom of Association"? Multiple response option." (N=150)  
Source: FRA Charter consultation 2022

## I) Obstacles under "Freedom of assembly"

Freedom of peaceful assembly covers a range of different gatherings such as public meetings, mass actions, flash mobs, demonstrations, sit-ins, pickets, parades and processions. Restrictions to freedom of assembly can either concern the content of an assembly or its organisation, as well as participation in assemblies. Also policing practices and the prohibition or dissolution of assemblies fall under this issue.

More than a quarter of the responding organisations (28%) report to encounter barriers under 'freedom of assembly'. One-fifth of the respondents said to face obstacles in relation to equal treatment, while fewer obstacles have been identified by the respondents in terms of policing practices (13%), organisations of assemblies (11%) and participation in assemblies (11%).



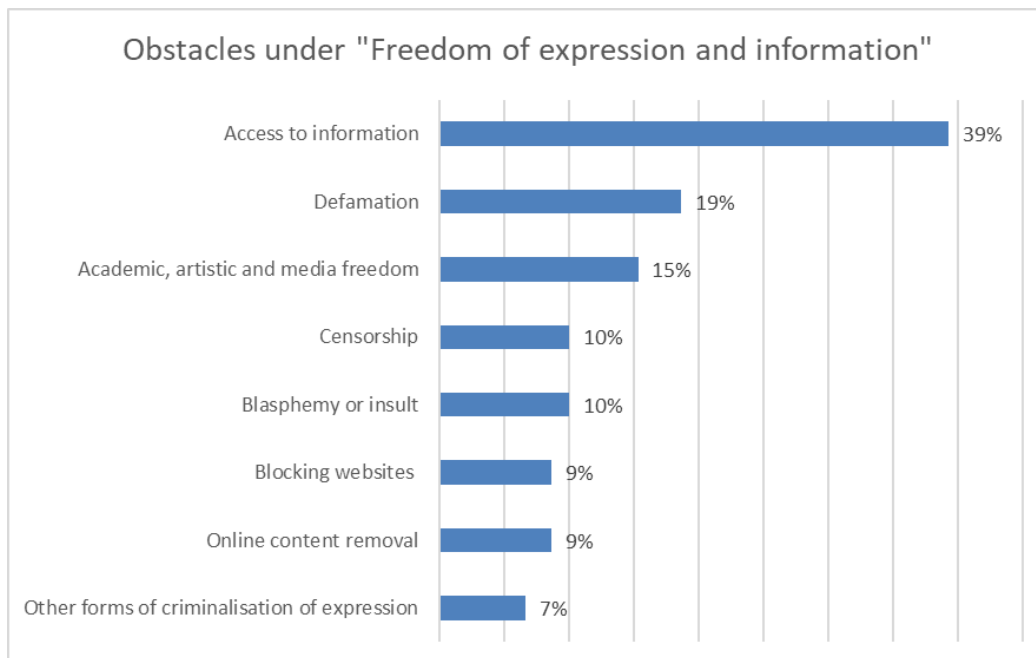
Question: "In your work, have you encountered obstacles in any of the following areas under "Freedom of Assembly"? Multiple response option." (N=150)

Source: FRA Charter consultation 2022

## J) Obstacles under "Freedom of expression and information"

The right to freedom of opinion and expression includes the right to impart and to receive information, and will typically cover activities aimed at promoting human rights. This right is therefore a vital tool for human rights civil society actors, both for advocacy purposes and to scrutinize public actions and hold authorities accountable.

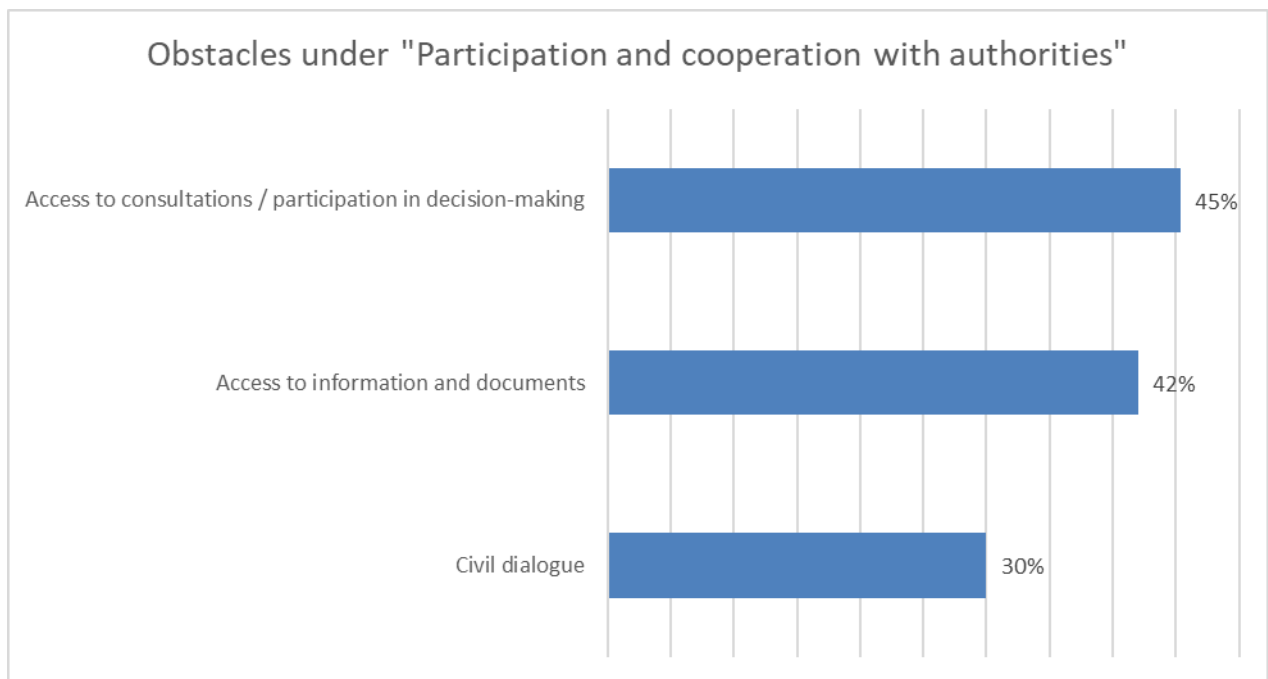
Approximately half of the responding organisations (51%) report to face obstacles under "freedom of expression and information". In particular, almost half of them (39%) have reported obstacles restricting their access to information. To a lesser extent (less than 20%), organisations said they faced barriers related to defamation, academic, artistic and media freedom, censorship and blasphemy or insult. Fewer obstacles have been identified with regard to blocking websites and online content removals and criminalisation of expression, which are reported by only 9% and 7% of respondents.



Question: "In your work, have you encountered obstacles in any of the following areas under "Freedom of Expression and Information"? Multiple response option." (N=150)  
Source: FRA Charter consultation 2022

### K) Obstacles under "Participation and cooperation with authorities"

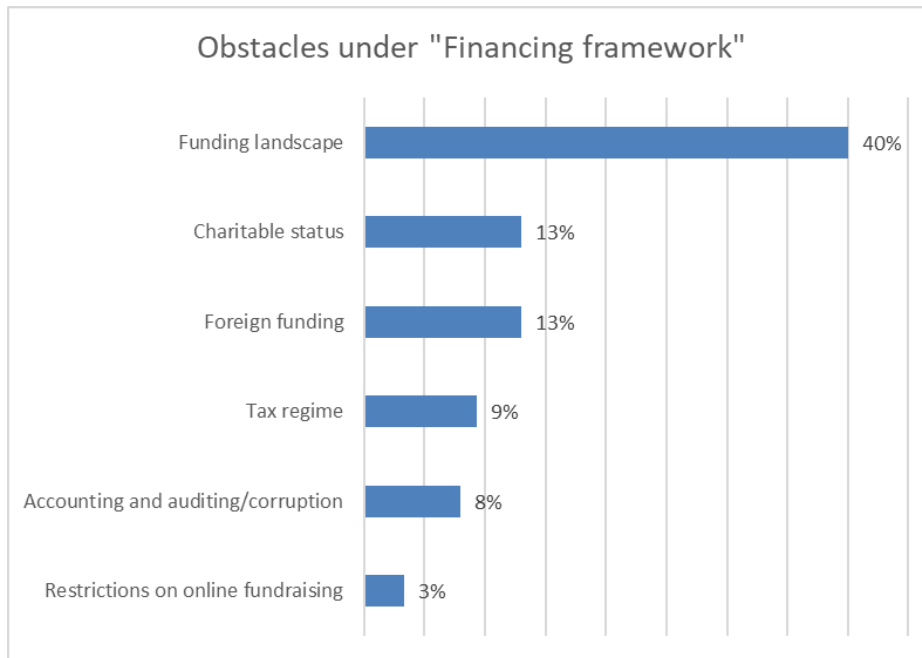
Given that national authorities are responsible for the fundamental rights situation in any given country, it is key for civil society organisations and other rights defenders to cooperate with authorities and aim at efficient forms of cooperation and to be consulted. However, more than half of consulted organisations (53%) report obstacles under "participation and cooperation with authorities". The biggest challenges reported in this area concerned obstacles restricting organisations' access to consultations/participation in decision-making (45%) and access to information and documents (42%). In addition, a significant number of organisations (30%) stated that they have encountered obstacles to civil dialogue more generally.



Question: "In your work, have you encountered obstacles in any of the following areas under "Participation with authorities"? Multiple response option." (N=150)  
Source: FRA Charter consultation 2022

## L) Obstacles under "Financing framework"

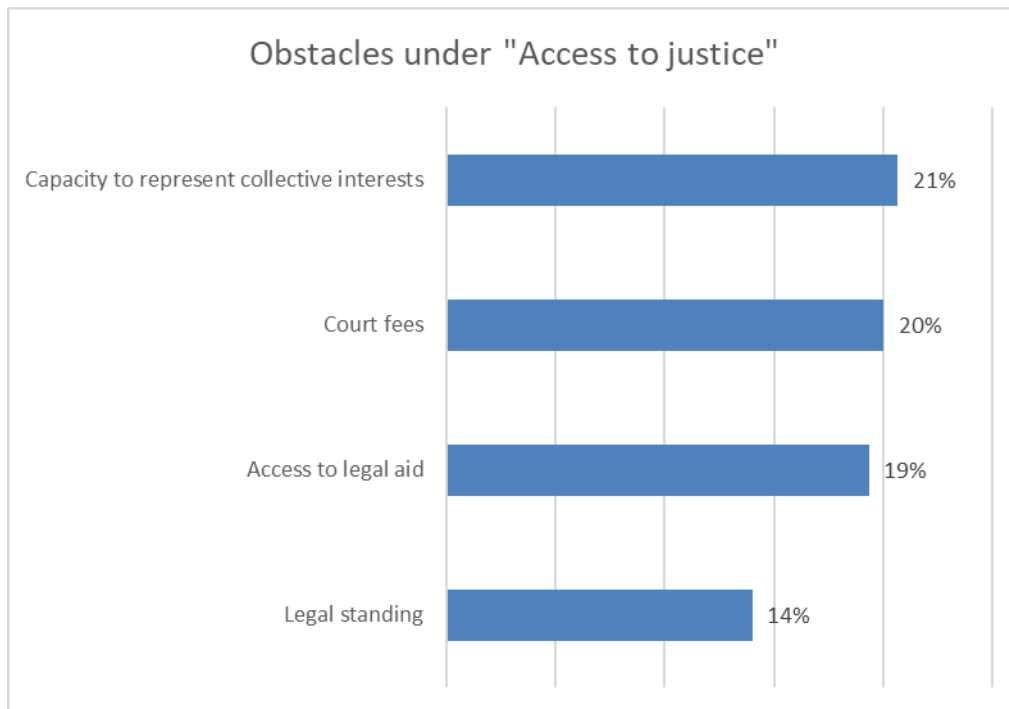
Civil society organisations and other rights defenders depend on a solid financial capacity to carry out their mandates in an efficient manner. However, almost half of responding organisations (49%) have reported obstacles under "financing framework". In particular, 40% of them have reported barriers in relation to the funding landscape. A fewer number of organisations (less than 15%) have said that they faced obstacles concerning charitable status, foreign funding, tax regime, accounting and auditing/corruption and restrictions around online fundraising.



Question: "In your work, have you encountered obstacles in any of the following areas under "Financing Framework"? Multiple response option." (N=150)  
Source: FRA Charter consultation 2022

## M) Obstacles under "Access to Justice"

As with all rights holders, also for or civil society organisations and other rights defenders the right to access to justice is key. However, more than one-third of respondent organisations (34%) reported barriers under "access to justice". Many of them reported obstacles restricting their access to justice, in particular the capacity to represent collective interests (21%), court fees (20%) and access to legal aid (19%). Fewer barriers are reported by the consulted organisations in terms of legal standing (14%).

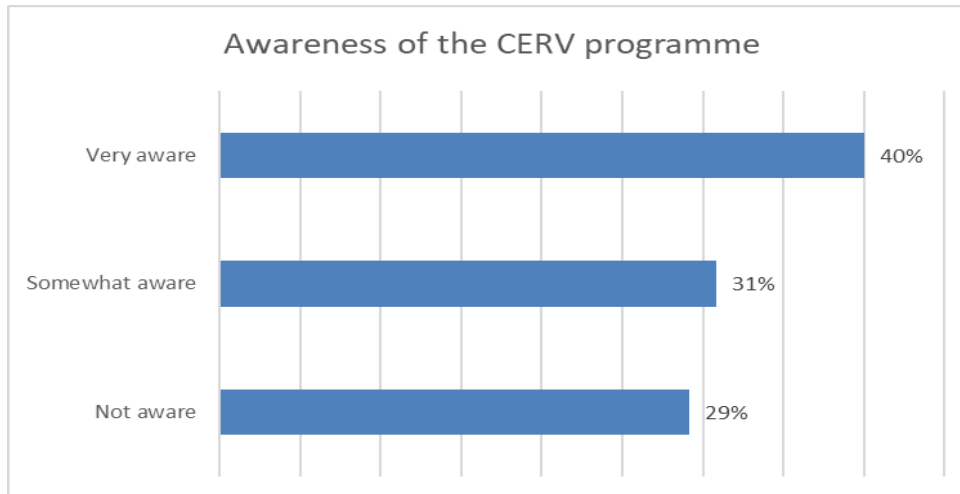


Question: "In your work, have you encountered obstacles in any of the following areas under "Access to Justice"? Multiple response option." (N=150)  
Source: FRA Charter consultation 2022

## **N) The European Commission’s funding programmes in the area of rights and values (‘CERV programme’)**

### **Awareness**

Over two thirds of responding of organisations are aware of the European Commission’s Citizens, Equality, Rights and Values Programme funding programme (CERV), but to varying degrees. 40% of respondent organisations are ‘very aware’ of the CERV programme, while 31% of them are ‘somewhat aware’ of this programme. However, 29% of the consulted organisations are not aware at all of the CERV programme.

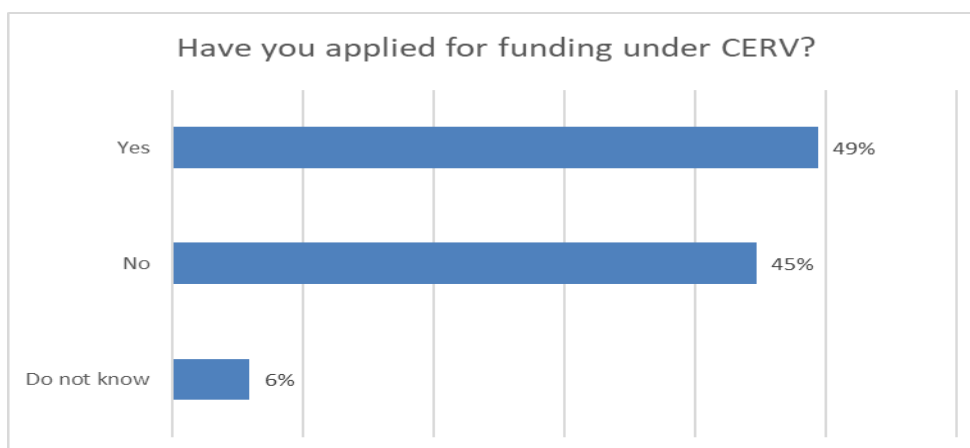


Question: “Are you aware of the European Commission’s funding programmes in the area of rights and values (‘CERV programme’)? Please only choose one option.” (N=120)

Source: FRA Charter consultation 2022

### **Past funding applications**

Approximately half (49%) of respondents who had indicated knowing about CERV (or 28% of all respondents) have applied in the past for funding under CERV, while 45% of informed organisations (or 25% of all respondents) have not done so.



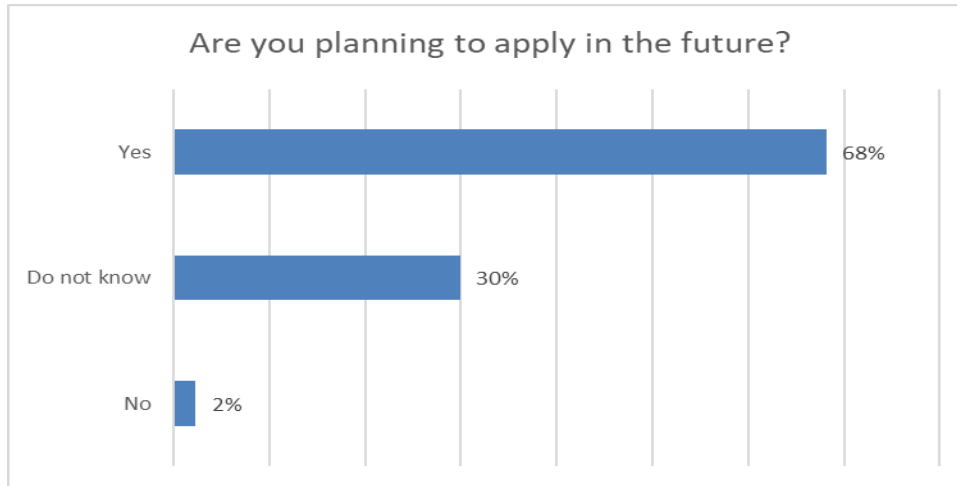
Question: “Have you applied for funding under CERV? Please only choose one option.” (N=85, excluding 30 organisations which did not respond to this question, and 30 organisations which were not aware of the CERV programme)

Source: FRA Charter consultation 2022



### Future funding applications

A vast majority of the responding organisations (68%) are planning to apply for funding under CERV in the future, while almost a third of them (30%) do not know yet whether to apply or not. Only 2% of the respondents are not planning to apply at all for funding under CERV.

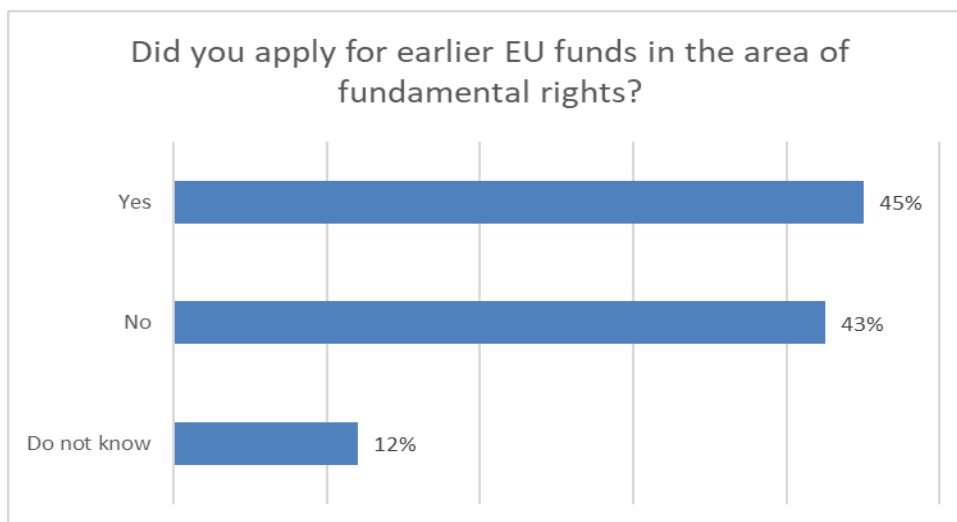


Question: "Are you planning to apply in the future? Please only choose one option." (N=85, excluding 30 organisations which did not respond to this question, and 30 organisations which were not aware of the CERV programme)

Source: FRA Charter consultation 2022

### Earlier EU funds in the area of fundamental rights

Almost half of responding organisations (45%) have already applied for earlier EU funds in the area of fundamental rights, while 43% of them have not applied for this type of funds. A small number of organisations (12%) do not know whether they applied or not to earlier EU Funds in the area of fundamental rights.

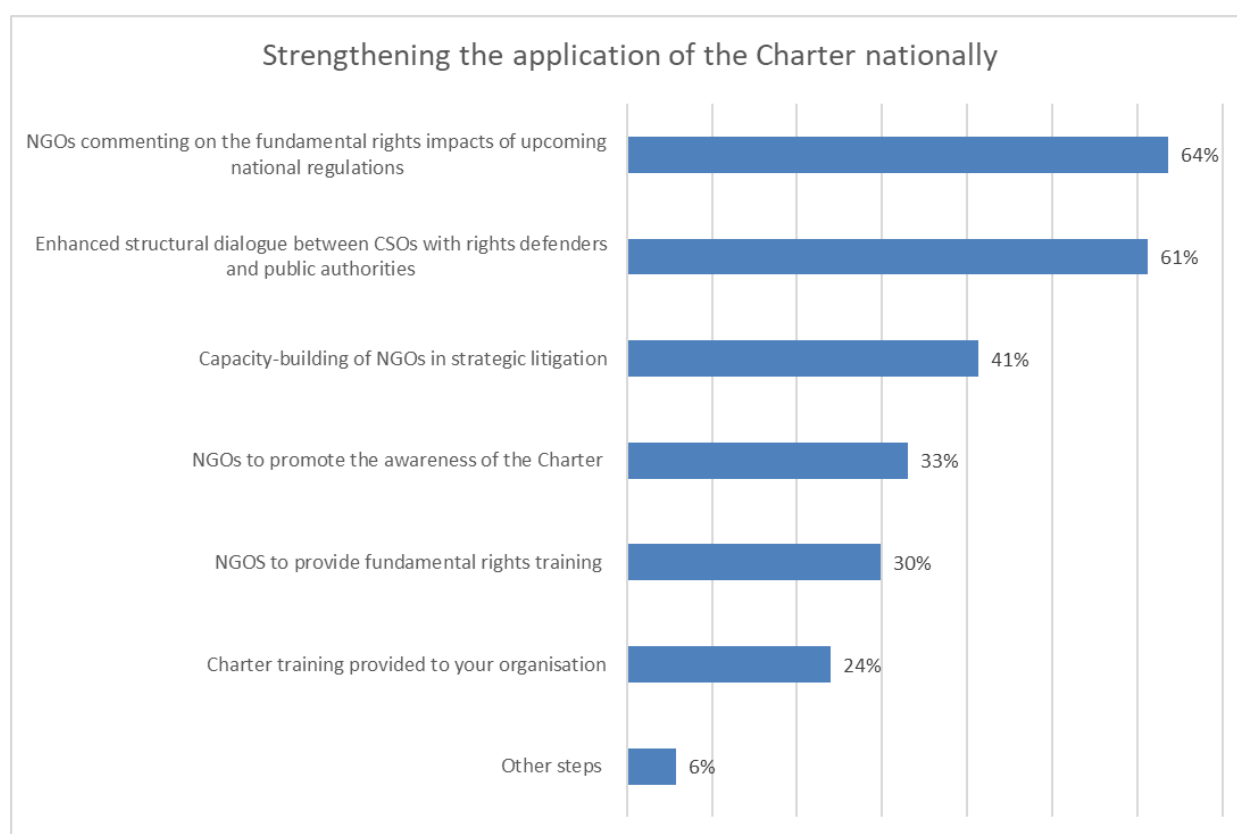


Question: "Did you apply for earlier EU funds in the area of fundamental rights? Please only choose one option." (N=120)

Source: FRA Charter consultation 2022

## O) Steps to strengthen the application of the EU Charter of Fundamental Rights in Member States

Asked what step would best allow them to significantly strengthen the application of the Charter in their country, most respondents (64%) chose the step to increasing the role, capacity and avenues for NGOs in commenting on the fundamental rights impacts of upcoming national laws and policies. 61% of the respondents selected the step to enhance structural dialogue between CSOs, rights defenders and public authorities. Another step selected by 41% of the respondent organisations is to increase investment in capacity of NGOs in strategic litigation. In addition, over a third of organisations (33%) indicate increasing the role, capacity and avenues for NGOs to promote the awareness of the Charter amongst the general population or key segments of society, and 30% indicate as a step forward increasing the capacity of NGOs to provide fundamental rights training including on the Charter to relevant practitioners. 24% of organisations would like to receive trainings on the application of the Charter. Among the 'other' steps, some organisations (6%) have mentioned increasing training for members of the judiciary on EU law and the application of the Charter, enlarging the scope of application of the Charter, ensuring better access to funding opportunities and financial support to human rights organisations.



Question: "Please choose up to three steps that would best allow you to significantly strengthen the application of the Charter in your Member State. Multiple answer option." (N=121)

Source: FRA Charter consultation 2022