

# **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 ENNHRI AND EQUINET AND THEIR MEMBERS**<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 ENNHRI (European Network of National Human Rights Institutions), EQUINET (European Network of Equality bodies) and their respective members. 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)

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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) Introduction and context

The present report aims to summarise the responses provided by:

- ENNHRI
- EQUINET
- the Irish Human Rights and Equality Commission (IHREC)
- the Chancellor of Justice of Estonia
- the Slovak National Centre for Human Rights (SNCHR)
- the Commissioner for Administration and the Protection of Human Rights (Ombudsman) of the Republic of Cyprus (Commissioner).

(see: [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))

It aims to present in a concise manner the information collected by these stakeholders regarding their own contribution in ensuring the effective implementation of the Charter and their working conditions, as well as regarding the contribution and the working environment of CSOs. In addition, it illustrates the stakeholders' views on the EU and Member States' actions to protect, support, and empower CSOs and human rights defenders (HRDs).<sup>2</sup>

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

With regard to the role of CSOs and other rights defenders in ensuring the effective implementation of the Charter, the respondents provided the following information to the corresponding questions:

1. How do you as NHRI /Equality body 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 emphasised that they contribute to activities aimed at implementing EU policies or strategies related to fundamental rights at EU and/or national level in a variety of ways.** In particular, ENNHRI mentioned that NHRIs have broad state mandates, which include human rights monitoring, advising government and parliament, complaints-handling, legal assistance, reporting, litigation, human rights education, and training and awareness raising.<sup>3</sup> Moreover, it was stressed that the broad mandate and thematic scope of NHRIs is manifested in their collective work through ENNHRI on a variety of areas, including rule of law, asylum and migration, economic and social rights, climate change and human rights, business and human rights, rights of persons with disabilities, rights of older persons and the Sustainable Development Goals. Additionally, the impact of COVID-19 on human rights and

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<sup>3</sup> Consultation Report by ENNHRI, page 1

on the NHRIs' own work, as well as the human rights impacts deriving from the war in Ukraine were mentioned as falling within the scope of NHRIs' work.<sup>4</sup>

The Cypriot Commissioner further referred to the responsibility to **submit opinions, recommendations, proposals and reports related to violations of human rights**, as well as to the national situation with regard to human rights in general and on more specific matters.<sup>5</sup> In particular with regard to activities aiming at awareness raising/sensitizing on human rights issues and addressing public opinion, the Commissioner mentioned that this is achieved through the organisation of or participation in various events, also in cooperation with other relevant stakeholders including CSOs, as well as through the use of social network accounts, the media and the publication of various materials, such as Codes of Practice, information leaflets and annual reports.<sup>6</sup>

Moreover, some NHRIs shared good practices on how the Charter can be effectively implemented in tackling rule of law challenges. In this regard, the IHREC mentioned that **strategic litigation can be employed in order to safeguard the essence of rights under the Charter**, including the right to an effective remedy under Article 47 of the Charter.<sup>7</sup> Further, the Polish NHRI mentioned that Article 47 of the Charter in conjunction with Articles 2 and 19 of the Treaty on European Union (TEU) were used in cases concerning disciplinary proceedings against judges, with the aim of protecting the right to an independent court.<sup>8</sup>

EQUINET underlined the importance of Equality Bodies in **promoting the EU value of equality and defending the right to non-discrimination**, both in the public and private sector, by assisting victims of discrimination, monitoring and reporting on discrimination issues and contributing to an awareness of rights and a societal valuing of equality, as well as by engaging with the Parliament on the human rights and equality implications of proposed legislation.<sup>9</sup> Additionally, it stressed the fundamental role that Equality Bodies play in the implementation of the equality-related EU legal framework and of several EU strategies, particularly those included in the Union of Equality, as well as in the governance of European Structural and Investment Funds.<sup>10</sup>

Moreover, IHREC referred to a number of activities contributing to the protection of fundamental rights, including the formulation of recommendations to the government and policy makers, the reporting procedure and the engagement with human rights and equality treaty monitoring bodies, legal functions such as amicus curiae interventions, legal assistance to individuals and equality reviews, information provision to the public on the rights, remedies and obligations provided for under national human rights and equality law, and awareness raising activities concerning fundamental rights.<sup>11</sup>

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<sup>4</sup> Ibid, page 3

<sup>5</sup> Consultation Report by the Commissioner for Administration of the Republic of Cyprus, page 1

<sup>6</sup> Ibid, page 2

<sup>7</sup> Consultation Report by ENNHRI, page 2

<sup>8</sup> Ibid

<sup>9</sup> Consultation Report by EQUINET, page 2

<sup>10</sup> Ibid, pages 2, 3

<sup>11</sup> Consultation Report by IHREC, pages 2, 3

## 2. Could you give concrete examples how you cooperate with CSOs in the implementation of Charter rights?

The NHRI and Equality Body respondents commented on the various ways in which an effective cooperation with CSOs is materialised, including through **advisory committees, networks, consultations or public forums**. In this regard, the Estonian Chancellor of Justice referred to its direct relationships with human rights NGOs and HRDs through three advisory bodies, namely the Advisory Committee on Human Rights, the Advisory Council for Persons with Disabilities and the Advisory Committee for Children's Rights.<sup>12</sup> Similarly, the IHREC referred to three advisory committees in place, namely a Disability Advisory Committee, a Worker and Employer Advisory Committee, and a Future of Equality Law Advisory Committee.

Additionally, EQUINET highlighted that most of its members have incorporated **CSOs to their governance mechanisms**, such as advisory boards. Relevant examples include, among others, the establishment of several ad-hoc thematic consultative committees by UNIA Belgium, such as the Consultative Commission on Racism, the inclusion of CSOs and local Roma Youth leaders as members of the Ombudswoman Human Rights Council, the inclusion of ten NGOs working for the promotion of equal treatment and non-discrimination on grounds of racial or ethnic origin in the Council for the Elimination of Racial or Ethnic Discrimination in Spain, the participation of CSOs' members in the Council for the Rights of Persons with Disability, established by the Commission for the Rights of Persons with Disabilities in Malta, the inclusion of CSOs' representatives as permanent members of the Advisory Council of the Netherlands Institute for Human Rights, and the participation of CSOs' representatives in the Advisory Council of the Equality Ombudsman of Sweden.<sup>13</sup>

Furthermore, NHRIs and Equality Bodies **cooperate with CSOs in the context of joint projects and events, including on awareness raising and human rights education**. As concrete examples of this cooperation, the Cypriote Commissioner cited, among others, its participation in a working group which had drafted, and will promote, a National Action Plan on Strengthening LGBTIQI's Rights; the organisation, in cooperation with the Association of the Protection of the Rights of Prisoners & Ex-Prisoners, of a press conference during which the Guide of Prisoner's First Contact was presented; the organisation of an event on "Refugee woman, immigrant woman in Cyprus" in collaboration with the NGO "AWARE" campaign; and a meeting with the "Cyprus Stop Trafficking" during which the issue of trafficking in human beings, issues of discrimination and foreigners, as well as the problems of immigrants and especially long-term residents in terms of access to work and social problems were discussed.<sup>14</sup> Additionally, the Estonian Chancellor of Justice mentioned the collaboration with CSOs on various fundamental rights promotion activities, including the publication

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<sup>12</sup> Consultation Report by the Chancellor of Justice of Estonia, page 1

<sup>13</sup> Consultation Report by EQUINET, pages 3 -5

<sup>14</sup> Consultation Report by the Commissioner for Administration of the Republic of Cyprus, pages 5 - 7

of the first Estonian-language human rights book, with contributions also from authors engaged with CSOs.<sup>15</sup>

ENNHRI further mentioned that, among the NHRIs covered by the 2020 FRA report,<sup>16</sup> 31 NHRIs had indicated to cooperate closely with civil society on awareness raising and human rights education, whereas 23 cooperate on joint projects and three on other areas.<sup>17</sup>

In this regard, the IHREC highlighted its cooperation with CSOs on joint projects on an ad hoc basis, providing as an example its partnership with the Free Legal Advice Centres ('FLAC') on the Equality Action initiative, a joint project that aims to strengthen the engagement of civil society with the Government's review of Ireland's equality legislation.<sup>18</sup> Additionally, the Commission mentioned that it periodically convenes CSOs for forums on thematic areas, such as the Civil Society Forum on 'Covid-19 – Promoting and Protecting Human Rights and Equality – Challenges and Opportunities' concerning the impact of the Covid-19 legislation, its impact on people living in congregated settings and on particularly vulnerable groups, a virtual event attended by more than 70 CSOs' representatives.<sup>19</sup>

Finally, some of the NHRI respondents mentioned that **a further form of cooperation with CSOs consists of the latter's inclusion in consultations and public discussions in the context of the preparation of reviews and recommendations.** Accordingly, the Estonian Chancellor highlighted the engagement of relevant NGOs during the preparation of the Universal Periodic Review (UPR) and the United Nations Convention on the Rights of Persons with Disabilities (UN CRPD) review, a practice which is planned to continue regarding the upcoming Committee on the Rights of the Child (CRC) report.<sup>20</sup> Likewise, the Cypriote Commissioner stressed that CSOs are included in consultation proceedings prior to the submission of a proposal containing a recommendation following a finding of discrimination, while also referring to the procedure of complaints examination filed by NGOs/activists regarding individual or group cases as well as systemic weaknesses.<sup>21</sup>

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<sup>15</sup> Consultation Report by the Chancellor of Justice of Estonia

<sup>16</sup> FRA (European Union Agency for Fundamental Rights) (2020), [\*Strong and Effective National Human Rights Institutions: Challenges, Promising Practices and Opportunities\*](#), Luxembourg, Publications Office of the European Union (Publications Office), covering also NHRIs from the United Kingdom, Serbia and North Macedonia.

<sup>17</sup> Consultation Report by ENNHRI, page 3

<sup>18</sup> Consultation Report by IHREC, page 2

<sup>19</sup> Ibid

<sup>20</sup> Consultation Report by the Chancellor of Justice of Estonia, page 1

<sup>21</sup> Consultation Report by the Commissioner for Administration of the Republic of Cyprus, pages 3, 4

3. In your view, in which areas do you as NHRI and/or Equality body contribute the most to the protection of fundamental rights?

NHRI respondents stressed that NHRIs are mandated to address the **full range of human rights issues**, including emerging and future issues. Nevertheless, ENNHRI stressed that NHRIs prioritise their work in line with the respective national context and most pressing needs and find some areas more relevant to address, such as the access to justice /rule of law and the right to good administration.<sup>22</sup> The Estonian Chancellor of Justice referred to its contributions to different socioeconomic rights, such as the right to health and education, as well as to the right to privacy and non-discrimination/equal treatment.<sup>23</sup>

Furthermore, EQUINET highlighted that Equality Bodies focus on implementing the **equality and non-discrimination acquis**.<sup>24</sup> In addition, IHREC mentioned that its Strategy Statement 2022-2024 foresees the Commission's priorities for that period to include work in the areas of economic equality, justice, respect and recognition, futureproofing, and the public sector equality and human rights duty.<sup>25</sup>

4. Which are the main obstacles that you as NHRIs and/or Equality body face in carrying out your activities aimed at protecting fundamental rights? Please give concrete examples.

With regard to the main challenges which NHRIs and Equality Bodies face in carrying out their activities, the NHRI respondents stressed that NHRIs' independence and effectiveness is affected in several EU Member States. In particular, the main challenges identified included **general difficulties in cooperation with national authorities in legislative and policy-making processes** (i.e. lack of responsiveness to NHRIs' recommendations and lack of consultation by state authorities, despite NHRIs' mandate to advise on the human rights implications of draft legislation and policy strategies), the limited involvement of NHRIs and Equality Bodies in participatory processes concerning the adoption of important reforms impacting on fundamental rights and the principle of equal treatment, failure to liaise effectively or in a timely manner with NHRIs on legislative proposals, reports and requests, as well as an unsatisfactory level of implementation of NHRIs' recommendations.

Moreover, **inadequacies in staff capacity caused by the economic crisis, insufficient financial resources not corresponding to expanded mandates** allocated to some NHRIs, changes in their regulatory framework, incidents of pressure, smears and actions by authorities threatening the continuity of heads of institutions' service, coupled with the **lack of adequate measures and rules on immunity to ensure institutions' independence and protection against attacks and intimidation**, as well as a lack of initiative and awareness concerning the Charter by national policy- and lawmakers were also cited as

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<sup>22</sup> Consultation Report by ENNHRI, page 3

<sup>23</sup> Consultation Report by the Chancellor of Justice of Estonia, page 1

<sup>24</sup> Consultation Report by EQUINET, page 5

<sup>25</sup> Consultation Report by IHREC, page 3

additional impediments to the NHRIs' capability to efficiently perform their functions. Further obstacles were posed by the increase of the workload and the **restrictions caused by the COVID-19 pandemic**, which also exacerbated the practice of the accelerated legislative procedures, thus threatening the system of checks and balances in place.

Finally, EQUINET reported that Equality Bodies were faced with an increasingly challenging environment due to the **retreat of the social consensus on equality values and the normalisation of illegal discriminatory statements, policies and actions**.<sup>26</sup> Additionally, EQUINET mentioned that Equality Bodies' capability to function to their maximum potential and impact is limited by the **shortcoming of the EU Directives to equip Equality Bodies with a minimum standard on the independence, effectiveness, functions and powers**, as recommended by both the European Commission and the Council of Europe.<sup>27</sup> The COVID-19 pandemic resulted in the disturbance of the normal work performance, however, among the Equality bodies covered by the 2020 FRA report, the majority were able to sustain their operation and adapt to the new setting.<sup>28</sup>

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

With regard to the actions of the EU Institutions and Member States to protect CSOs and right defenders, the respondents provided the following information to the corresponding questions:

#### 5. Are there effective initiatives/actions at the EU- and/or national level that promote a safe and enabling environment for CSOs? Please give examples.

Several respondents shared good practices with regards to promoting a safe and enabling environment for CSOs at the national level. In particular, NHRIs from Bulgaria, Croatia, Finland, France, Germany, Estonia, Ireland, Slovenia and Spain mentioned that they undertook **efforts to monitor and alert about problematic issues and support CSOs and HRDs at the national and international level**.<sup>29</sup> Moreover, NHRIs from France, Greece and Romania undertook **capacity building/training activities for CSOs**, while the NHRI from Latvia made efforts to **safeguard CSOs' involvement** and participation in law and policy making and the Danish NHRI undertook human rights awareness raising initiatives.<sup>30</sup>

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<sup>26</sup> Consultation Report by EQUINET, page 5

<sup>27</sup> Ibid

<sup>28</sup> FRA (European Union Agency for Fundamental Rights) (2020), *Strong and Effective National Human Rights Institutions: Challenges, Promising Practices and Opportunities*, Luxembourg, Publications Office of the European Union (Publications Office), covering also NHRIs from the United Kingdom, Serbia and North Macedonia.; Consultation Report by IHREC, page 3

<sup>29</sup> Consultation Report by ENNHRI, page 5

<sup>30</sup> Ibid

In Germany, a bill aiming to foster and strengthen the democratic engagement of CSOs is currently under discussion, whereas in Greece, the Greek National Commission for Human Rights has advocated for the adoption of a bill which seeks to protect HRDs from attacks, reprisals and unreasonable restrictions.<sup>31</sup> Furthermore, according to SNCHR, CSOs are enabled at the national level by receiving structural support through the enactment of favourable legislation regarding their establishment and functioning, as well as by benefiting from simplified access to funding and from COVID-19 related governmental subsidies.<sup>32</sup>

At the EU level, two recent Commission initiatives are underlined which aim at establishing a safe and enabling environment for CSOs, namely the European Commission's initiative to protect journalists and human rights defenders in strategic lawsuits against public participation (SLAPP)<sup>33</sup> and the European Commission's initiative to adopt the EU Media Freedom Act,<sup>34</sup> which shall introduce binding standards on transparency, pluralism and media freedom in all EU Member States.<sup>35</sup> In addition, the European Commission's Rule of Law reporting initiative was held to promote a safe and enabling environment for CSOs in the national context.<sup>36</sup> Moreover, the work of FRA with civil society was highlighted, including through its civil society platform and annual report on civic space, as well as in terms of its engagement with ENNHRI and NHRIs, in light of the latter's role in promoting and protecting civil society space in Europe.<sup>37</sup> Despite these positive developments, the ENNHRI stressed the lack of an EU internal protection mechanism for HRDs, albeit the EU provides support to HRDs in its external policy and actions.<sup>38</sup>

#### 6. Are there initiative/actions at the EU- and/or national level that can result in restricting the space for CSOs? Please give examples.

Several NHRIs reported that CSOs and HRDs continue to be the object of **attacks, hate speech, smears and threats, including legal harassment and SLAPPs**. Particularly affected are those working on sexual and reproductive rights, LGBTI+ rights, migrants' and asylum seekers' rights and environmental protection. CSOs and HRDs active on sensitive issues also receive negative attitudes and narratives, including by public officials. The NHRI from Poland also reported that activists are being targeted by police during demonstrations, while prosecutors opposing controversial judicial reforms are susceptible to retaliations.<sup>39</sup>

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<sup>31</sup> Ibid, pages 5, 6

<sup>32</sup> Consultation Report by SNCHR, page 3

<sup>33</sup> ENNHRI (2022), 'The EU has a key role in safeguarding human rights defenders from strategic litigation against public participation', 13 January 2022. See [the European Commission's initiative to protect journalists and human rights defenders in strategic lawsuits against public participation \(SLAPP\)](#)

<sup>34</sup> ENNHRI (2022), 'NHRIs evidence the need to adopt common EU standards on media transparency, pluralism and freedom', 28 March 2022. See [the European Commission's initiative to adopt the EU Media Freedom Act](#)

<sup>35</sup> Consultation Report by ENNHRI, page 6

<sup>36</sup> Consultation Report by IHREC, page 3

<sup>37</sup> Consultation Report by ENNHRI, page 6

<sup>38</sup> Ibid

<sup>39</sup> Ibid



Some respondents further commented on the **limited actions by some state authorities to safeguard participatory processes for CSOs** in law and policy making, especially when adopting important reforms. Additionally, a new emerging trend was identified concerning the adoption of **legal provisions which stipulate the dissolution of associations** based on vague formulations and which result in the disproportionate and arbitrary interferences with the right to freedom of association. SNCHR further alerted of a legal reform which **restricts the allocation of subsidies** only to those CSOs which promote marriage and values of family, thus excluding CSOs active in the field of gender equality, including LGBTIQ+ rights.<sup>40</sup>

Moreover, some NHRIs expressed concern regarding **laws restricting civic space** and CSOs' activities and criminalising CSOs and HRDs' activities, especially in the area of migration. In the context of CSOs and HRDs working on migrants' and asylum seekers' rights, the respondents referred to a series of restrictive measures and practices, including burdensome registration requirements, limited access to information and physical access to migrants' settlements, as well as the obstruction of monitoring and provision of humanitarian assistance due to the establishment of emergency regimes and related rules applicable to border zones.

#### 7. Do you as NHRI/Equality Body have in place a system to monitor the civic space?

The SNCHR mentioned that it monitors civic space through its **regular monitoring activities**, encompassing also any legislative changes impacting on civic space, as well as through the publication of an annual report on the rule of law in the Slovak Republic and through the development of a rule of law tracker which monitors and evaluates the state of rule of law in the country.<sup>41</sup> Further monitoring practices shared by other respondents include the establishment of **direct relationships and strong connections with CSOs**, the monitoring of media reports and the receiving of **individual petitions**,<sup>42</sup> as well as the engagement with state bodies, the Parliament and international monitoring mechanisms.<sup>43</sup>

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<sup>40</sup> Consultation Report by SNCHR, page 5

<sup>41</sup> Consultation Report by SNCHR, pages 6, 7

<sup>42</sup> Consultation Report by the Chancellor of Justice of Estonia, page 2

<sup>43</sup> Consultation Report by IHREC, page 4

8. Do you as NHRI/Equality Body have in place a system for monitoring threats or attacks (including physical attacks) on CSOs activists and rights defenders? If yes, how does it work? Do you provide for support or finance an alert mechanism and/or supporting services in case of physical and on-line attacks to CSOs activists and rights defenders?

The respondents emphasised that NHRIs themselves are increasingly faced with challenges regarding their independent and unrestricted operation. In this context, NHRIs monitor and support other HRDs (including CSOs) when the latter are under threat, albeit NHRIs also are the object of attacks and harassment themselves.<sup>44</sup> In this regard, **several NHRIs shared good practices for monitoring threats or attacks** against CSOs and HRDs. In particular, the SNCHR has mapped such incidents against CSOs and HRDs in the field of environmental protection, with the aim to understand whether incidents of harassment occur and if so, what is their nature and whether they are reported to public authorities.<sup>45</sup> Moreover, the Centre has conducted interviews with HRDs and activists in order to determine the obstacles with which the respondents are faced in connection to their work on sexual and reproductive rights and women's health.<sup>46</sup>

The Consultative Human Rights Commission of Luxembourg has contributed to the development of a project which aims to set up a procedure for the **reception of individual HRDs from abroad** in Luxembourg for a predetermined rest period.<sup>47</sup> A similar project has been launched in the Netherlands.<sup>48</sup> Additionally, the German Foreign Office has implemented a protection program for HRDs subjected to threats due to their work, which includes on-site assistance, grants for temporary relocation within home countries or regions and grants for temporary relocation to Germany.<sup>49</sup>

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<sup>44</sup> Consultation Report by ENNHRI, page 9

<sup>45</sup> Consultation Report by SNCHR, page 7

<sup>46</sup> Ibid, page 8

<sup>47</sup> Consultation Report by ENNHRI, page 9

<sup>48</sup> Ibid

<sup>49</sup> Ibid

9. Are you building capacity, or financing capacity building, for CSOs on how to protect civic space? Are you supporting them in any other way?

The respondents mentioned that **CSOs were included in NHRIs' and Equality Bodies' trainings and events**.<sup>50</sup> One such example cited by EQUINET concerned the [Disability Equality Training](#) organised by the Maltese Commission for the Rights of Persons with Disabilities. Additionally, ENNHRI provided to two of its members, namely the NHRIs from Slovenia and Moldova, dedicated follow-up trainings which aim to develop their institutional capacity on promoting and protecting HRDs.<sup>51</sup> **ENNHRI has also launched an online resource** which contains information on HRDs, relevant national and international guidelines and frameworks, a repository of NHRI good practices, as well as guidance to European NHRIs seeking to work with and protect the rights of HRDs in a more effective manner.<sup>52</sup>

Further, EQUINET shared that Equality Bodies **maintain stable relationships with CSOs, including by incorporating them into internal governing structures**, such as Advisory Boards.<sup>53</sup> In parallel, Equality Bodies cooperate with CSOs and communities on various issues, such as their engagement with Roma and Traveller Communities. The latter are supported through, *inter alia*, visits to Roma settlements, networking, meetings with and provision of training to Roma and Traveller groups and associations, inclusion of their representatives in Equality Bodies' institutional structures, as well as the planned establishment of an advisory body to assist in strengthening the work of the Slovak National Human Rights Centre on Roma rights.<sup>54</sup>

Finally, IHREC shared that the capacity of CSOs is supported through research programs, training or resource activities, conferences or events and cultural initiatives, contained in the Commission's [Human Rights and Equality Grant Scheme](#).<sup>55</sup> Similarly, the Institute of Women in Spain has implemented an [ongoing scheme](#) which provides CSOs with core funding and other kind of grants, technical assessments support and premises.<sup>56</sup>

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<sup>50</sup> Consultation Report by ENNHRI, page 10 ; Consultation Report by EQUINET, page 10

<sup>51</sup> Consultation Report by ENNHRI, page 10

<sup>52</sup> Ibid

<sup>53</sup> Consultation Report by EQUINET, page 10

<sup>54</sup> Ibid, pages 10, 11

<sup>55</sup> Consultation Report by IHREC, page 4

<sup>56</sup> Consultation Report by EQUINET, page 11

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

10. Are there dialogues between NHRIs/Equality bodies and public authorities at national, EU or international level that work well regarding activities aimed at making the fundamental rights enshrined in the Charter a reality on the ground? Do these dialogues, if existing, also cover rule of law and democracy related issues? Please give examples.

At EU level, the respondents made reference to **the annual NHRIs' rule of law reporting**<sup>57</sup> as an example of a dialogue among NHRIs, EU and national authorities on rule of law, which contributes in making the fundamental rights stipulated in the Charter a reality on the ground.<sup>58</sup> At the international level, IHREC highlighted its **engagement with international and regional treaty monitoring bodies**, in order to provide information on the compliance of Ireland with its obligations under international human rights treaties, including with regard to rule of law and democracy related issues.<sup>59</sup>

ENNHRI mentioned that at the national level, the state-appointed **Charter focal points could potentially help to strengthen the dialogues** between state authorities, NHRIs and CSOs on the Charter rights.<sup>60</sup> Additionally, respondents indicated that an enabling space and the role of CSOs could be empowered indirectly by strengthening dialogue between public authorities and NHRIs and Equality Bodies. In this regard, ENNHRI stressed that dialogue between NHRIs and public authorities could be fostered through consultation procedures and bilateral meetings, as well as the general annual reporting undertaken by NHRIs, since such annual, special and thematic reports have the potential to reveal important human rights concerns and provide recommendations and suggestions to public authorities.<sup>61</sup>

Further good practices were mentioned by the Cypriote Commissioner that referred to the **organisation of trainings/awareness raising seminars** addressed to police officers and other members of the public authorities' personnel,<sup>62</sup> as well as by EQUINET, which referred to the was involvement of Equality Bodies in the development, implementation and monitoring of national equality strategies on issues such as Roma equality.<sup>63</sup>

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<sup>57</sup> ENNHRI (2022), '[NHRIs shine a light on the rule of law in the EU](#)', 14 April 2022.

<sup>58</sup> Consultation Report by ENNHRI, pages 10, 11

<sup>59</sup> Consultation Report by IHREC, pages 4, 5

<sup>60</sup> Consultation Report by ENNHRI, page 11

<sup>61</sup> Consultation Report by ENNHRI, page 11

<sup>62</sup> Consultation Report by the Commissioner for Administration of the Republic of Cyprus, page 10

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

11. Are there any EU or national processes where NHRIs/Equality bodies are systematically consulted regarding legislative proposals related to their areas of work? Please give examples.

Several NHRIs mentioned an overall good cooperation with national authorities, with some respondents stating that they are enabled to express their views on draft laws touching upon fundamental rights issues. In this regard, some good practices regarding consultations on draft laws were also highlighted. Hence, the Croatian NHR I mentioned its active participation in the drafting of relevant regulations on its mandates.<sup>64</sup> Additionally, the Cypriot Commissioner mentioned its ongoing advisory function in the context of discussions held by Parliamentary Committees concerning the drafting of bills on matters encompassed by its sphere of competences, while it is regularly requested by national authorities to express its views on matters related to the framework of its functions.<sup>65</sup>

In general, **most Equality Bodies are consulted on legislative proposals in the areas of equality and non-discrimination**, especially those falling within the scope of their mandate, albeit their recommendations and statements are not of a binding nature. In this regard, the Cypriote Commissioner, under its capacity as the national Equality Body, stated that it submits its comments and suggestions to the Parliament after the examination of an issue, in parallel to the persons involved. Similarly, it refers to the Attorney General issues concerning legislative provisions not complying with anti-discrimination laws, thus promoting their amendment in a binding manner.<sup>66</sup> The IHREC equally stressed its advisory function regarding human rights or equality implications entailed by legislative proposals, while also mentioning that it is regularly requested to engage with Parliamentary Committees performing scrutiny of proposed legislation.<sup>67</sup>

These good practices notwithstanding, **a number of challenges and difficulties were reported by certain NHRIs and Equality Bodies in their cooperation with national authorities on legislative and policy-making processes**. In particular, in certain cases, state authorities did not at all consult them on important draft bills or failed to consult NHRIs and Equality Bodies in a timely, transparent and effective manner or to provide them with requested data and information. Similarly, NHRIs were sometimes not systematically involved in relevant legislative and policy processes or were consulted only at request from the Parliament or contacted policy-makers on their own initiative. Moreover, systematic equality impact assessments were rarely performed by Equality Bodies and when performed, they were usually non-binding.

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<sup>64</sup> Consultation Report by ENNHRI, page 12

<sup>65</sup> Consultation Report by the Commissioner for Administration of the Republic of Cyprus, page 11

<sup>66</sup> Ibid

<sup>67</sup> Consultation Report by IHREC, page 5

12. 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?

With regard to the NHRIs' involvement in monitoring and contributing to the compliance with fundamental rights of EU funded programs under the CPR, ENNHRI remarked as **notable advantages the access of NHRIs to information** on structural reforms taking place in a country, which are not often approached or understood by national authorities involved from a fundamental rights perspective, the access to, engagement with and awareness-raising of policy makers and civil servants of ministries involved in structural reforms, as well as the potential integration of fundamental rights in national structural reforms at the development, monitoring and implementation stages.<sup>68</sup>

EQUINET further mentioned that several Equality Bodies also reported to having been requested to **participate or perform the duties linked to the horizontal enabling condition in order to ensure compliance with the Charter**.<sup>69</sup> In this regard, the IHREC mentioned its work on ensuring adherence to the enabling conditions relating to equality and human rights and the horizontal principle on equality and non-discrimination in the forthcoming funds, while also contributing to the development of guidance in order to promote the consideration of equality and human rights in the design, monitoring and reporting of the programs.<sup>70</sup>

These positive steps notwithstanding, ENNHRI also referred to certain shortcomings and bad practices concerning the NHRIs' roles in this context. In particular, it was stressed that it is inappropriate for NHRIs, in light of their independent nature, to take up a decision making or voting position or to issue compliance certificates to state authorities, as was the case with one of the respondents.<sup>71</sup> Moreover, the limited allocation of funds for NHRIs to exercise both their core mandate as well as their additional role in the context of the CPR was also underlined.<sup>72</sup> Furthermore, EQUINET mentioned the limited information provided to Equality Bodies regarding their expected role, as well as the human and technical constraints which Equality Bodies face due to the extension of their mandate, namely that they have been requested to participate or perform the duties linked to the horizontal enabling condition in order to ensure compliance with the Charter, which warrants an increase on their capacity.<sup>73</sup>

Additional shortcomings were mentioned by ENNHRI with regard to the **limited expertise of NHRIs on the Charter and EU funds**, since the very specific expertise required for NHRIs to be involved in the conditionality compliance on both the EU Charter (with a very broad scope) and EU funds (of a very technical nature) is generally not in place yet.<sup>74</sup> Furthermore, NHRIs expressed their

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<sup>68</sup> Consultation Report by ENNHRI, page 14

<sup>69</sup> Consultation Report by EQUINET, page 13

<sup>70</sup> Consultation Report by IHREC, page 6

<sup>71</sup> Consultation Report by ENNHRI, page 14

<sup>72</sup> Ibid

<sup>73</sup> Consultation Report by EQUINET, page 13

<sup>74</sup> Consultation Report by ENNHRI, page 14

concern with regard to the potential negative consequences that a non-compliance finding may entail vis-à-vis the state authorities' cooperation with actors involved in compliance checks, including NHRIs, especially since an EU protection mechanism, which could prevent such instances and protect the actors involved, is lacking.<sup>75</sup>

## **E) Conclusion**

The answers of the respondents indicate that NHRIs and Equality Bodies play an important role in making the fundamental rights enshrined in the Charter a reality on the ground - in line with the findings of a 2020 FRA report<sup>76</sup>. This role is manifested in practice through the variety of activities that NHRIs and Equality Bodies undertake, in line with their mandate, to safeguard and promote the human rights in their respective national context. Moreover, NHRIs and Equality Bodies indicate that they exercise their advisory functions through a multifaceted engagement with EU bodies, international and regional treaty monitoring bodies and national authorities. In addition, NHRIs and Equality Bodies contribute to promoting a safe and enabling environment for CSOs and HRDs. In this regard, NHRIs and Equality Bodies take an active role in supporting and closely cooperating with CSOs and HRDs on a variety of areas, while also undertaking efforts to monitor civic space and provide support to CSO activists and HRDs who become the target of attacks and harassment.

At the same time, the answers of the respondents highlighted a number of actions and measures which result in the restriction of civic space and stem from private actors and national authorities alike. According to respondents, such actions pose barriers to the undisturbed operation of CSOs, as well as to the NHRIs and Equality Bodies themselves, which are also faced with challenges regarding their independent and unrestricted operation, since they at times become themselves targets of attacks or harassment. These actions and measures are reported to take the form of hate speech, smear campaigns and threats, including legal harassment and SLAPPs.

Finally, with regard to state practices and legislative initiatives impacting on civic space, the responding NHRIs and Equality Bodies and their networks found particularly problematic those which limit participatory processes for CSOs in law- and policy-making, as well as the adoption of laws which criminalise HRDs' activities or foresee the dissolution of associations based on vague formulations and therefore result in disproportionate and arbitrary interferences with the right to freedom of association.

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<sup>75</sup> Ibid, pages 14, 15

<sup>76</sup> FRA (European Union Agency for Fundamental Rights) (2020), [\*Strong and Effective National Human Rights Institutions: Challenges, Promising Practices and Opportunities\*](#), Luxembourg, Publications Office of the European Union (Publications Office), covering also NHRIs from the United Kingdom, Serbia and North Macedonia.