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## INPUTS TO 2024 EUROPEAN COMMISSION RULE OF LAW REPORT

[Front Line Defenders](#) (FLD) is an international NGO based in Dublin and Brussels. Founded in 2001, FLD has particular expertise on the security and protection of human rights defenders and works to promote the implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (UN Declaration on Human Rights Defenders) adopted by General Assembly resolution 53/144 of 9 December 1998.

FLD has contributed over the years to the evolution of the EU's response to the degradation of the rule of law across member states including through a [joint response](#) to the EU's rule of law reports. FLD reiterates the ongoing call by civil society for the reports to contain a dedicated chapter on civic space but provides the below inputs for inclusion in the checks and balances chapter.

### Civil Space and Human Rights Defenders in the EU

The last years have seen a concerning trend across Europe evidenced by increased rights violations and diminished respect for the rule of law. According to the [CIVICUS monitor](#), 12 EU member states are fully open, 13 narrowed and two obstructed. The two obstructed countries, Hungary and Poland, have been identified by the EU as countries where there is a systematic breakdown in the rule of law, resulting for the first time, in the EU instigating the article 7 process.

[Front Line Defenders Global Analysis](#) is an annual report that documents the situation of HRDs globally. In 2022, based on statistics from FLD's urgent actions and approved grant applications, HRDs reported 1,583 threats and violations globally.<sup>1</sup> Within Europe and Central Asia 16% of these attacks related to different forms of legal action against HRDs, 13% to surveillance, 12% arrest and detention, 11% physical attacks and 10% death threats. The most targeted areas related to freedom of expression 13%, freedom of association and the right to protest 7%, LGBTIQ+ rights 11% and 18% more broadly against the human rights movement and those documenting human rights violations.

Similar figures, specifically for the EU, are gathered on an annual basis by the EU Agency for Fundamental Rights (FRA) through an [annual survey](#) that documents the trends faced by HRDs.

In 2022, of over 400 organisations surveyed, 44% reported online threats or harassment, 25% offline threats or harassment, 21% suspected surveillance by law enforcement, 13% criminalisation and 9% vandalism of premises or property.

The same organisations cited the impact of these attacks on the sector. 73% of organisations noted psychological stress or trauma, 52% of organisations experienced financial problems as a result of attacks, and 35% reported discontinuing or reducing activities. 31% of organisations reported employees or

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<sup>1</sup> Global statistics for 2023 will only be available when the Front Line Defenders 2023 Global Analysis is published in Spring 2024. FLD will be happy to share this report with the Commission on publication.

volunteers leaving the organisation and 19% said they experienced a high number of days of sick leave. 6% of organisations relocated to another country and 4% reported physical injuries.

This difficult, and in cases even hostile environment for civil society, has a direct impact on the work of HRDs. Legal threats and intimidation tactics are often designed to create a chilling effect to silence individual HRDs and the organisations they work with. It is only thanks to the persistent and courageous actions of HRDs, that rights violations continue to be exposed and policies challenged.

## Individual cases of HRDs in the EU

FLD supports the work of individual HRDs through a tailored, holistic approach, including emergency grants, legal support, security advice and psycho-social support. The below provides details of a number of specific cases where FLD issued urgent appeals or statements during the course of 2023.

Many HRDs across the EU are targeted for their **support to migrants and asylum seekers**. Most recently on 5 January 2024 the offices of the human rights organisation [KISA](#) in Nicosia, Cyprus was bombed. The [attack](#) appears to have been carried out deliberately targeting KISA's work to support asylum seekers. This latest attack follows a stream of attacks, particularly against the organisation's former executive director Doros Polykarpou, including death threats and threats to his family by far-right, anti-migrant and ultra-nationalist groups. Although KISA has regularly reported threats to the police, to date no action has been taken.

Other organisations have been targeted with legal action or SLAPPs (strategic litigation against public participation). Earlier in 2023 the International Centre for Migration Policy Development (ICMPD), an inter-governmental organisation, [bought a case](#) against the NGO [SOS Balkanroute and its founder Petar Rosandić](#), accusing them of damaging the Centre's reputation. ICMPD argued that statements and social media posts of both the refugee rights organisation and its chair accused them of building a 'Guantanamo-like prison' in Bosnia and Herzegovina. They asked the court for an injunction and retraction, however in July 2023 the Vienna Commercial Court dismissed the case.

On 13 January 2023, after years of legal action the Mytilene Appeals Court in Lesvos Greece [annulled the espionage charges](#) against 24 human rights defenders, including [Seán Binder, Nassos Karakitsos and Sara Mardini](#). The charges stem from their human rights work in Greece where they assisted asylum seekers arriving on the island of Lesvos. The charges included people smuggling, money laundering and membership in a criminal organisation.

While in the above two cases, charges were dismissed or annulled, this was only after HRDs were exposed to extensive and costly legal action and in the case of the HRDs in Lesvos periods of detention. They are also revealing of the continued attempts to criminalise all forms of solidarity with refugees and migrants. Following her visit to Greece in 2022 the UN Special Rapporteur on HRDs concluded that defenders working to support refugees are regularly '*subjected to smear campaigns, a changing regulatory environment, threats and attacks and the misuse of criminal law against them to a shocking degree*'.

Other HRDs have been specifically targeted for their work against **racism and xenophobia**. Despite work at EU level on a new EU Anti-Racism Action Plan, limited progress had been made and many HRDs face stigmatisation and legal action. In Portugal, a complaint for defamation and insult was filed against the anti-racist defender Mamadou Ba, by a well-known far-right activist and neo-nazi leader Mário Machado. [Mamadou Ba](#) who was born in Senegal has lived in Portugal for 25 years, during which time he dedicated himself to anti-racism activism. He is a founding member of several organisations defending the human rights of migrants and ethnic minorities and was a member of the Permanent Council of the National Commission for Equality and Against Racial Discrimination from 2015 to 2019. In October of 2023, a Lisbon court found Mamadou Ba guilty of defaming Mario Machado and [ordered](#) him to pay a 2,400 euro fine.

HRDs working on **womens rights and LGBTQI+ rights** are also particularly targeted. In another [legal case](#), [Justyna Wydrzyńska](#), one of the leaders of the Polish NGO 'Abortion Dream Team' was sentenced, in March 2023, to eight months of community service at 30 hours per month. She became the first activist in Europe to be convicted for helping a woman access abortion pills. LGBTQI+ organisations in Hungary and Poland have come under continuous threats with cases pending before the Court of Justice of the European Union.

In addition, in the latest attack on the **rule of law** in Hungary in December 2023 the Hungarian parliament passed a law on 'protecting national sovereignty', ostensibly to protect political parties from undue political interference by foreign persons or groups. The concern is that despite a ruling against Hungary from the Court of Justice of the European Union, this is another attempt to silence critical voices, in particular civil society organisations who might receive funding from outside Hungary.

These attacks against HRDs primarily exemplify a small number of cases that have reached the courts, often based on spurious grounds or SLAPPs. As shown by the annual FRA surveys many HRDs within the EU don't immediately identify themselves as HRDs or the threats and smear campaigns they are exposed to have sadly become normalised and are not reported. HRDs are generally over-stretched and often work in a volunteer capacity – thus responding to threats and unfounded legal attacks takes away time from their primary activities. There are also no formal protection mechanisms in EU member states or at an EU-wide level. Thus, when HRDs experience attacks there is no immediate, secure forum where they can register those attacks and expect some form of follow up and support. The creation of such a mechanism has been a recommendation from civil society over the last years. The idea has been taken up and referenced in a number of recent documents from the European Commission and should be included in the recommendations of the 2024 rule of law report. Without a more targeted approach to support and protect HRDs across the EU those monitoring and scrutinising fundamental rights will face an increasingly challenging environment with a consequent impact on our democracies and the rule of law across the Union.