

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 INTERNATIONAL ORGANISATIONS¹

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 the Council of Europe (CoE) and the Office of the United Nations High Commissioner for Human Rights (OHCHR). Their contributions are available here: https://ec.europa.eu/info/publications/2022-charter-report-targeted-stakeholder-consultation_en

¹ This report was compiled 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:

- Office of the United Nations High Commissioner for Human Rights (OHCHR)
- Council of Europe's (CoE) Steering Committee on Human Rights (CDDH)

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, as well as regarding the contribution and the working environment of CSOs. In addition, it illustrates their views on the EU and Member States' actions to protect, support, and empower CSOs and human rights defenders (HRDs).

The replies by OHCHR and by the CDDH to the questionnaire are summarised in the following under parts B and C before concluding the report in part D:

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

Both the Council of Europe and the UN are key actors in the field of civic space protection and promotion, leveraging on a number of mechanisms and instruments aimed at monitoring, protecting and promoting an enabling and safe environment for civil society.

1. How is your organisation contributing to protecting civic space in the EU?

The response to the consultation by the **Council of Europe** put an emphasis on the work conducted, between 2016 and 2020, by its **intergovernmental Steering Committee on Human Rights (CDDH)** in examining the impact of national legislation, policies and practices on the activities of civil society organisations, human rights defenders and national human rights institutions (NHRIs) as well as in identifying best national practices to protect and promote civic space.²

The **UN Human Rights Office** contributes to the protection of civil society actors at risk in a number of ways. First, the Office draws attention to the topic by speaking out publicly, through the voice of the High Commissioner for Human Rights and their representatives in the field, about situations of concern affecting civil society and HRDs to condemn all instances of violence, discrimination, **intimidation or reprisals** against them. Extensive protection of civic space is ensured through the UN Human Rights field presences, sometimes in cooperation with the European Commission and its delegations, the European External Action Service and the EU Agency for Fundamental Rights. According to the Office, protection is achieved through activities of **monitoring, reporting and advocacy** and by facilitating communication with the international human rights mechanisms. The Office's field presences empower resilience by civil society actors against attacks, including by supporting **litigation and access to justice**. The UN Human Rights Office also provides support to the work of independent UN

² Consultation Report by Council of Europe CCDH, page 1

human rights mechanisms, in relation to HRDs' protection, such as the Special Rapporteur on Human Rights Defenders³, and further mechanisms which also routinely address the question of civic space within their thematic mandates, including the Special Rapporteur on violence against women⁴, the Special Rapporteur on Human Rights and the environment⁵, and the Special Rapporteur on the human rights of migrants⁶.

2. Do you have in place a system to monitor civic space, including covering the EU? If yes:

a. which trends have you identified?

UN monitoring mechanisms (Treaty Bodies, Special Procedures and the Universal Periodic Review of the Human Rights Council, the UN Human Rights Office) and regional organisations have identified a **negative global trend** with regards to civic space. The trend also concerns the EU, where over the past years civil society actors have been subject to attacks, harassment, criminalisation and smear campaigns, by private and State actors alike.⁷ OHCHR says that it shares the observations expressed by the EU Agency for Fundamental Rights in its latest report on civic space in the EU.⁸ State-led initiatives to foster discussions at regional and international level on challenges facing civil society and how to address them were underlined as positive contributions in the response by OHCHR. These include Belgium's 2019 study and seminar on "Claiming back civic space"⁹, or the "UNmute civil society" campaign¹⁰ led by Denmark and Costa Rica.

b. which actions would you recommend to the EU and/or the Member States as regards support for CSOs?

OHCHR stressed that governments and the EU should **support and protect** civil society and invest in an open civic space, which is an essential component of human rights, democracy and the rule of law. OHCHR stressed that any strategy to protect civic space should be based both on a comprehensive understanding and definition of civic space, and on an inclusive approach, to involve people and groups who are commonly underrepresented or excluded.¹¹ OHCHR believes that states should play the role of **duty-bearers under international human rights law**, in adopting a favourable regulatory framework that enables civil society actors to carry out their work freely and safely. This includes ensuring that organisations and defenders are not criminalised, penalised or subject to arbitrary action by State or non-State actors as a consequence of their work. Additionally,

³ [Special Rapporteur on Human Rights Defenders](#)

⁴ [Special Rapporteur on violence against women](#)

⁵ [Special Rapporteur on Human Rights and the environment](#)

⁶ [Special Rapporteur on the human rights of migrants](#)

⁷ Consultation Report by United Nations High Commissioner for Human Rights, page 3

⁸ FRA, [Protecting civic space in the EU](#) (2021)

⁹ [Belgian study and seminar on "Claiming back civic space"](#)

¹⁰ ["UNmute civil society" campaign](#)

¹¹ Consultation Report by United Nations High Commissioner for Human Rights, page 2

the response focused on the **potential of the EU** to drive further progress in line with international human rights standards, by

- promoting positive narratives on civil society,
- ensuring better monitoring and timely and appropriate action to address challenges,
- promoting inclusive, effective, well-coordinated and sustainable civil society participation in regional processes and forums, and
- building public authorities' capacity and commitment to implement their international obligations regarding the above-mentioned practices.¹²

3. Do you have in place a system for monitoring attacks (including physical attacks) on CSOs activists and rights defenders, which covers also the EU? If yes, how does it work?

OHCHR focused on its support to the implementation of **stronger monitoring and protection measures** to be put in place at national level to prevent and ensure accountability for attacks, for the fundamental purpose of safety and security of civil society actors, particularly in regards to increasing online threats which require innovative and more effective responses. It explained how it supports and participates in global and country-specific monitoring of the enabling environment for civic space, facilitating the collection and exchange of relevant data through online platforms, also as a means to monitor the implementation of the Sustainable Development Goal indicator 16.10.1 (number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates). OHCHR informed about how it provides, through its work, support to the Secretary-General and Assistant Secretary-General for Human Rights, since it leads UN efforts to monitor, prevent and address intimidation and reprisals against those who cooperate with the UN.¹³

4. If this is part of your mandate – what are the legal standards/guidelines that your organisation has adopted regarding civic space? (which of these are binding in the EU, how do you execute them?)

The **Council of Europe** emphasized how, through the work of the intergovernmental Steering Committee on Human Rights, the Committee of Ministers of the Council of Europe has adopted **three non-binding instruments**:

- The **Recommendation CM/Rec(2021)1 of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions**¹⁴ acknowledges the role of NHRIs as pillars of the rule of law, human rights and democracy in Europe and recommends each CoE Member State to establish, maintain and strengthen an independent NHRI in compliance with the Paris

¹² Ibid, page 3.

¹³ Ibid, page 7.

¹⁴ [Recommendation CM/Rec\(2021\)1](#)

Principles and to ensure an enabling environment for, and cooperate with NHRIs.

- The **Recommendation CM/Rec(2019)6 of the Committee of Ministers to member States on the development of the Ombudsman institution**¹⁵ sets out principles regarding the establishment of an Ombudsman institution, its fundamental characteristics and main tasks, and provides guidance on how to ensure cooperation and dialogue between the Ombudsman and the State as well as all other relevant stakeholders.
- The **Recommendation CM/Rec(2018)11 of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe**¹⁶ calls on Member States not only to refrain from unnecessary, unlawful or arbitrary interferences with the rights of HRDs, but to also actively protect and promote a safe and enabling environment for them.

OHCHR informed that in September 2020, building on a global consultation among global civil society actors, the UN launched¹⁷:

- **Guidance Note on Protecting and Promoting Civic Space**¹⁸ which recognizes civil society and civic space as tools for change, whose protection and empowerment benefits society as a whole and commits the UN system to step up its efforts towards joint strategies to protect and expand civic space at the global and country levels.
- Additionally, OHCHR highlights its work in the drafting of a number of guidelines and guidance instruments on the issue. These include the **Guidelines for States on the effective implementation on the right to participate in public affairs**¹⁹, which can assist the EU and its Member States in operationalising meaningful participation.

5. Are you building capacity, or financing capacity building, for human rights defenders on how to protect civic space?

OHCHR referred to a number of such initiatives:

- A practical guidance to help civil society better understand how the UN system works and how to identify opportunities to cooperate with relevant bodies and mechanisms;²⁰
- A dedicated Handbook on Working with the UN Human Rights Programme;²¹
A further guidance on protecting actors who provide rescue and other assistance in the context of migration, against the background of a worrying

¹⁵ [Recommendation CM/Rec\(2019\)6](#)

¹⁶ [Recommendation CM/Rec\(2018\)11](#)

¹⁷ Consultation Report by United Nations High Commissioner for Human Rights, page 4

¹⁸ [United Nations Guidance Note on Protecting and Promoting Civic Space](#) (2020)

¹⁹ [United Nations Guidelines for States on the effective implementation on the right to participate in public affairs](#) (2018)

²⁰ United Nations, [Civil Society - Resources for NGOs, human rights defenders, and other actors in civic space](#)

²¹ [United Nations, Working with the United Nations Human Rights Programme: A Handbook for Civil Society](#) (2008)

[Handbook on Working with the UN Human Rights Programme UN](#),

trend of violence, retaliation, criminalisation and other kinds of pressure and arbitrary action by State or non-State actors on CSOs, activists and HRDs engaging in such activities.²²

In addition, the Office added that civic space issues were also featured in the first EU-OHCHR Strategic Dialogue in October 2021. In this framework, the EU and OHCHR agreed, among others, to work together to better protect human rights defenders globally, including in the digital space.²³

6. Are you publishing reports, opinions or similar documents on civic space issues? Please provide the link to any publication you consider relevant.

The response by OHCHR focused on how the Office documents trends and cases through the annual reports submitted to the Human Rights Council, providing guidance how to better prevent and address intimidation and reprisals, as well as highlighting specific incidents and concerns.²⁴ In 2018, the Office also published a Report on procedures and practices in respect of civil society engagement with international and regional organizations²⁵ which contributed to providing guidance to UN entities in supporting States in making intergovernmental processes open to civil society participation and ensuring that diverse groups are included in them.²⁶

7. If you carried out an assessment of the civic space environment in the EU, could you give few examples of well-functioning public funding (any sources) that provide support to CSOs and explain why that is a good financing mechanism?

No answers given

8. If you carried out an assessment of the civic space environment in the EU, could you give few examples of shortcomings in public funding mechanisms (any sources) and explain why you consider them not efficient?

No answers given

²² United Nations, [Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations](#)

²³ Consultation Report by United Nations High Commissioner for Human Rights, pages 3-4

²⁴ Ibid, page 7

²⁵ [Report on procedures and practices in respect of civil society engagement with international and regional organizations](#)

²⁶ Consultation Report by United Nations High Commissioner for Human Rights, page 3

C – The work of your organisation to empower CSOs and rights defenders

9. How do you engage with CSOs and rights defenders? Do you have in place a platform or have you established any other forum to have a regular dialogue with them?

Regarding the engagement of the organisations with CSOs and HRDs, a few platforms for cooperation were highlighted in the responses. The Council of Europe reported how representatives of the Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe as well as the European Network of National Human Rights Institutions (ENNHRI) and the International Ombudsman Institute **participated together in different stages of the elaboration of guidelines** addressed to Council of Europe Member States on the protection and promotion of the civil society space. Moreover, both the Conference of INGOs and ENNHRI are permanent observers to the intergovernmental Steering Committee on Human Rights (CDDH).²⁷

As for OHCHR, the respondent stressed how it engages with civil society across all countries and themes, in many different ways, including public consultations, surveys and calls for inputs relating to different processes, including reports to intergovernmental bodies, partnerships as well as structured advisory roles.²⁸ Furthermore, at regional level, the UN Human Rights Regional Office for Europe, in 2019, leveraged its convening power to host a high-level dialogue between **EU and national policy makers, regional actors, social media companies, and civil society** on how to secure an enabling environment and address challenges facing CSOs and HRDs in the EU. This eventually led to the formulation of a number of concrete recommendations to stakeholders and duty bearers.

D – Conclusion

The responses provided by the United Nations and the Council of Europe CDDH describe their role as partners with regards to protecting and promoting civic space, including in the EU. In their feedback to the consultation, both the Council of Europe's CDDH and the Office of the United Nations High Commissioner for Human Rights highlighted the crucial importance of a safe and inclusive environment for CSOs and HRDs in democratic societies. They underlined their continued efforts to strengthening monitoring mechanisms regarding existing challenges. They will continue to provide guidance to the EU and Member States for policy-making and enhancing participation and cooperation with CSOs and HRDs. OHCHR underlined that they are ready to step up cooperation and synergies with the EU and other regional bodies to work together in addressing the regression of the space for civil society.

²⁷ Consultation Report by Council of Europe, page 2

²⁸ Consultation Report by United Nations High Commissioner for Human Rights, page 6