



**Bringing human rights and Article 2 values to life:  
the roles, challenges and solutions for civil society**

*Liberties' response to the European Commission targeted consultation on "The civic space and its role in protecting and promoting the fundamental rights under the Charter"*

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## About this paper

This policy paper is meant to inform the Commission's upcoming report "*The civic space and its role in protecting and promoting the fundamental rights under the Charter*". The paper covers three issues. First, it sets out how civil society organisations are key to promoting democracy, human rights and the rule of law in the EU, including through illustrative examples from Liberties' member and partner organisations.<sup>1</sup> Second, it outlines the obstacles that make it harder for civil society groups to perform their functions. Third, it presents a series of recommendations, addressed in particular to the European Commission, on how it could overcome these obstacles and better support civil society.

Liberties promotes the right of citizens to come together through associations to participate in democratic life. We use a number of tools including:

- Monitoring and reporting on threats that make it harder for civil society organisations to mobilise citizens on matters of public interest;
- Advocating towards the EU institutions and national governments to implement existing and develop new measures to uphold civic freedoms and the rights of individuals to work through civil society organisations, including enforcement of relevant EU law through the courts, addressing gaps in protection through new legislation, and better channelling funding to support the work of associations promoting causes consistent with the EU's founding values;
- Strengthening Liberties' network of national members and partners to support their work on the ground, by facilitating cooperation and mutual learning;
- Training and coaching our members and other civil society organisations to communicate more effectively about the causes they promote.

## Civil society as key pillar of strong democracies based on human rights

Civil society organisations are a key pillar of strong democracies based on human rights under the rule of law. In particular, they play an essential role in allowing citizens to shape the kinds of societies they want to live in.

Citizens expect their leaders to listen to their concerns and adopt policies and legislation they agree with. For elected representatives to act according to citizens' wishes, it is not enough to rely only on general elections every four or five years. Rather, citizens need a way of communicating with their representatives between elections, while they are in office taking decisions.

When politicians make decisions, they tend to hear from a range of interests including experts, corporate lobbyists, trade unions and religious institutions. Civil society organisations allow politicians to also take into consideration the matters of public interest on which they work. Civil society organisations build bridges between the public and politicians. While individuals are free to communicate with their representatives, lone voices find it much harder to make themselves heard. Civil society organisations allow concerned citizens to get organised, work together and unify their voices so they can be heard. Civil society organisations protect public interest issues and represent citizens'

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<sup>1</sup> <https://www.liberties.eu/en/about/our-network>

concerns by advocating towards decision-makers, enforcing citizens' rights through the courts and offering citizens ways to organise and express their views in public debate.

In recent years, civil society organisations played a key role in tackling the problems and challenges our societies faced during the COVID-19 pandemic.<sup>2</sup> Civil society organisations provided assistance to vulnerable communities, stood up for citizens where restrictions on their rights were disproportionate and put pressure on public authorities to keep the public informed about the measures they were taking. Since Russia invaded Ukraine in early 2022, civil society organisations have been at the forefront of organising help for people seeking safety in the EU.

The vital role civil society allows citizens to play in building the societies they want to live in has been recognised by a number of important international and regional actors, including the United Nations (UN)<sup>3</sup> and the Council of Europe,<sup>4</sup> which has brought with it increased engagement by these institutions with civil society organisations. The UN actively supports projects that strengthen the voice of civil society, regularly consults civil society organisations, and helps them to carry out their activities in support of the UN Charter efficiently.<sup>5</sup> The Council of Europe meaningfully involves civil society organisations in the planning, organisation and implementation of co-operation activities.<sup>6</sup>

At EU level, all institutions have repeatedly acknowledged<sup>7</sup> the vital contribution of civil society organisations and other civil society actors to the implementation of the founding values of the EU, which include democracy, the rule of law and human rights.<sup>8</sup> The EU Treaties mandate EU institutions to ensure effective civil dialogue and civil society participation as tools for good governance.<sup>9</sup> EU countries' leaders recently stressed the importance of safeguarding and creating civic spaces, especially to enable young people's participation,<sup>10</sup> and recognised the importance of ensuring an enabling environment for civil society organisations and rights defenders as part of efforts to ensure a human rights-based post-COVID-19 recovery.<sup>11</sup>

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<sup>2</sup> See an overview of resources compiling and illustrating relevant initiatives here: <https://civilsocietyeurope.eu/covid-19-civil-society-at-the-forefront/>. See also Civic Space Watch, [Solidarity amid the COVID-19 crisis, European Civic Forum Civic Space Watch report 2020](#)

<sup>3</sup> See for example UN, Human Rights Committee (HRC) (2016), [Resolution on Civil Society Space](#). Public participation and civic space is one of the key focus areas of the UN [Secretary General's Call to Action on Human Rights](#) (2020). See also UN, HRC(2021), [Civil society space: COVID-19: the road to recovery and the essential role of civil society](#), A/HRC/47/L.1.

<sup>4</sup> See lately Council of Europe (CoE), Committee of Ministers (2018), [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](#), 18 November 2018.

<sup>5</sup> <https://www.un.org/en/get-involved/un-and-civil-society>

<sup>6</sup> <https://rm.coe.int/1680656cef>

<sup>7</sup> See in particular the European Commission Rule of Law Reports, available at [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism_en); the [Strategy to strengthen the application of the Charter of Fundamental Rights in the EU](#) (December 2020); the [Communication on the European democracy action plan](#), (December 2020); the European Parliament [Resolution of 8 March 2022 on the shrinking space for civil society in Europe](#) and the [Council conclusions on strengthening the application of the Charter of Fundamental Rights in the European Union](#) (March 2021).

<sup>8</sup> [Article 2 of the Treaty on European Union](#).

<sup>9</sup> [Article 11\(2\) of the Treaty on European Union](#) and [Article 15\(1\) on the Treaty on the Functioning of the European Union](#).

<sup>10</sup> Council of the European Union, [Conclusions of the Council on safeguarding and creating civic spaces for young people that facilitate meaningful youth participation](#) (November 2021).

<sup>11</sup> Council of the European Union, [Council conclusions on a human-rights-based post-COVID-19 recovery](#) (February 2021).

## How civil society contributes to the promotion and protection of human rights and Article 2 values in the EU

Civil society organisations contribute in a wide range of ways to the protection and promotion of human rights and Article 2 values, including the rights and principles enshrined in the EU Charter of Fundamental Rights.<sup>12</sup> This section provides a brief overview of such contributions, using the work of Liberties' member and partner organisations as concrete examples.

### *Monitoring and reporting*

Monitoring and reporting on violations and abuses is a core mission of civil society organisations and activists working on human rights.

This is well reflected in the work of all Liberties' member and partner organisations, which routinely make public **reports, briefs, articles, and other research material** to document and alert the public about human rights challenges in the thematic areas they work on – with **equality and non-discrimination**, including gender equality, racism, the rights of LGBTIQ+ persons and the rights of persons with disabilities, **privacy and data protection**, the **rights of persons deprived of liberty**, the **rights of the child** and the **rights of migrants and asylum seekers** being areas of common concern of most of Liberties' members and partners. **Freedom of expression and information, media freedom and safety of journalists** is another issue of common concern on which the Liberties network intensified its monitoring and awareness raising work recently, as reflected in the newly released report by Liberties<sup>13</sup> and in the work of many member and partner organisations at country level.

*In Slovenia, for example, as part of the joint project “Defending the watchdog role of civil society and journalists”, the Peace Institute recently published, in cooperation with the Association of Slovenian Journalists, a report documenting attacks, threats and restrictions affecting watchdogs, including journalists, between 2018 and 2020.<sup>14</sup> The Institute also joined a crowdfunding campaign organised by the Association of Journalists to save the Slovenian Press Agency after the government cut its funding.<sup>15</sup>*

Particularly worth noting is the recent engagement of Liberties and its member and partner organisations in **monitoring and alerting on the impact on rule of law and human rights of COVID-19 emergency measures and related restrictions**. Liberties carried out, together with Greenpeace's European Unit, research on the impact of COVID-19 measures on civic freedoms.<sup>16</sup> Liberties also coordinated a campaign on access to information across several EU member states. The campaign sought information on interoperable contact tracing apps used to control the spread of the disease, to ensure these are not used in ways that put in danger people's right to live without the fear of being constantly tracked.<sup>17</sup> Many country initiatives are also worth noting.

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<sup>12</sup> [https://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](https://www.europarl.europa.eu/charter/pdf/text_en.pdf)

<sup>13</sup> [Media Freedom Report 2022](#) (March 2022). Read about the report's key findings [here](#).

<sup>14</sup> [www.mirovni-institut.si/napadi-na-civilno-druzbo-v-sloveniji-pregled-znacilnosti-napadov-komunikacijski-nasveti-za-nevladnike-in-sistemska-priporocila-za-izboljsanje-zascite/](http://www.mirovni-institut.si/napadi-na-civilno-druzbo-v-sloveniji-pregled-znacilnosti-napadov-komunikacijski-nasveti-za-nevladnike-in-sistemska-priporocila-za-izboljsanje-zascite/)

<sup>15</sup> <https://zaobstane.si/en>

<sup>16</sup> <https://www.liberties.eu/en/stories/liberties-greenpeace-civic-space-report/18879>

<sup>17</sup> <https://www.liberties.eu/en/stories/liberties-campaign-foi-request-covid19-tracing-apps/18710>

*In France, for example, VoxPublic led the creation of the “Watch Network”, a project gathering several civil society organisations to monitor and critically assess restrictions on human rights and freedoms imposed by the government as part of its response to the COVID-19 pandemic. This led to, among other outputs, the publication of a comprehensive report in September 2021.<sup>18</sup> In Germany, the Society for Civil Rights developed an “Online Q&A” to monitor developments, answer frequently asked questions and provide legal assessments about restrictions on human rights imposed during the pandemic.<sup>19</sup> In Ireland, the Irish Council for Civil Liberties conducted a thorough analysis of the use and impact of emergency measures.<sup>20</sup>*

Civil society organisations are also increasingly **joining forces to monitor human rights violations**.

*Antigone, based in Italy, has led the European Prison Observatory since 2003, bringing together 16 organisations dealing with penitentiary issues from 13 European countries;<sup>21</sup> the Centre for Peace Studies, from Croatia, is an active member of the Border Violence Monitoring Network, an independent network of associations monitoring rights violations against people on the move at the external borders of the EU;<sup>22</sup> Civil Rights Defenders, Liberties’ member based in Sweden, has set up the Defenders’ Database – an online tool that helps human rights defenders and civil society organisations document rights violations globally.<sup>23</sup>*

As part of their monitoring and awareness-raising efforts, civil society organisations regularly bring forward **access to public interest information requests** and are active in promoting and defending the right to access information.

*The Hungarian Civil Liberties Union recently made several access to information requests of the secret services to gain information on possible processing of data of Hungarian journalists and activists allegedly targeted by illegal surveillance through the Pegasus spyware.<sup>24</sup> In Poland, Liberties’ member the Helsinki Foundation for Human Rights led civil society mobilisation to defend the right of access to information against an attempt to weaken existing rules.<sup>25</sup> In Romania, after submitting multiple requests for access to information to the Ministry of Health, the government’s General Secretariat and the National Committee for Coordination of Vaccination Activities, Liberties’ member APADOR-CH successfully sued the latter for failure to provide information pertaining to the national vaccination plan in March 2021.<sup>26</sup>*

The findings of monitoring activities are brought to the attention of policy-makers through **targeted advocacy** and to the wider public through a **strategic use of media channels**.

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<sup>18</sup> [Liberties Rule of Law Report 2022](#) (February 2022), Country report on France. See also VoxPublic, [15 Mois d’état d’urgence sanitaire: quel bilan pour l’état de droit en France?](#) (2021).

<sup>19</sup> <https://freiheitsrechte.org/corona-und-grundrechte/>

<sup>20</sup> Irish Council for Civil Liberties (2021), [Health \(Amendment\) Bill 2021, Briefing Note](#), 25 February 2021.

<sup>21</sup> [http://www.prisonobservatory.org/index.php?option=com\\_content&view=article&id=20&Itemid=129](http://www.prisonobservatory.org/index.php?option=com_content&view=article&id=20&Itemid=129)

<sup>22</sup> <https://www.borderviolence.eu/about/>

<sup>23</sup> <https://crd.org/database/>

<sup>24</sup> <https://hclu.hu/en/articles/pegasus-case-hclu-takes-coordinated-domestic-and-foreign-legal-action>

<sup>25</sup> <https://www.newsweek.pl/polska/organizacje-pozarzadowe-do-manowskiej-zlozony-przez-pania-wniosek-rodzi-zagrozenie/h09m71p>

<sup>26</sup> <https://apador.org/colonelul-gheorghita-obligat-de-tribunal-sa-vorbeasca-si-de-sefii-lui-sa-taca/>

*Liberties' partner in France, VoxPublic, provides civil society organisations with contacts and information to launch effective actions to challenge decision-makers, including by offering advice to carry out successful advocacy campaigns and effective media and digital strategies and by encouraging and supporting inter-associative and mixed coalitions to reinforce synergies and coordination.*<sup>27</sup>

Research and monitoring efforts also substantively **feed into monitoring and reporting processes of international, regional and EU bodies**. Liberties has coordinated an annual Rule of Law Report for the last three years based on contributions from its members and partners.<sup>28</sup> This report is sent to the European Commission as a joint submission to feed into the EU Rule of Law Review Cycle.<sup>29</sup> Many examples exist of country-based reporting initiatives to international and regional monitoring bodies.

*The Estonian Human Rights Centre recently led the joint contribution of the national NGO network Equal Treatment Network<sup>30</sup> to the UN Human Rights Council for Estonia's third Universal Periodic Review.*<sup>31</sup>

*Contributing to shape human rights-compliant laws and policies*

Building on their human rights expertise and knowledge of the situation on the ground, civil society organisations engage with policy-makers through **advocacy and contributions to consultations and legislative processes** to help them shape rights-compliant laws and policies. Important achievements of Liberties' members and partners reflect this well.

*The Centre for Peace Studies in Croatia substantively contributed to the work of the working group drafting the National Plan for Roma Inclusion 2021-2027, including by providing baseline data for the monitoring and evaluation of the previous Roma inclusion strategy, collected on the basis of a large multimethodological research.<sup>32</sup> In Ireland, years of intense civil society mobilisation led by Liberties' member the Irish Council for Civil Liberties prompted the government in April 2022 to publish a draft bill that recognises the "advancement of human rights" as a valid charitable purpose for the first time. The bill represents a significant win for human rights organisations and defenders in Ireland, insofar as, if passed, it will allow human rights organisations to register as charities and should remove any reservations funders may have had about supporting these organisations.<sup>33</sup> In Italy, propositions and recommendations made by Antigone have been picked up by the government commission working on an important reform of the penitentiary system.<sup>34</sup> In Romania, two years of advocacy towards the parliament by Liberties' member APADOR-CH led to the filling of an important unconstitutional gap in the police law, setting a limit to the*

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<sup>27</sup> <https://www.voxpublic.org/?lang=en>

<sup>28</sup> Check the main findings from the latest report here: <https://www.liberties.eu/en/stories/liberties-rule-of-law-report-2022/43972>

<sup>29</sup> See civil society contributions to the [2020](#) and [2021](#) Rule of Law Report.

<sup>30</sup> Estonian Human Rights Centre (*Eesti Inimõiguste Keskus*), [Eesti vabaühendused esitasid ÜRO-le inimõiguste olukorra variraporti](#), 6 December 2020.

<sup>31</sup> <https://www.upr-info.org/en/how-to/role-ngos>

<sup>32</sup> [https://www.cms.hr/system/publication/pdf/109/Roma\\_Inclusion\\_in\\_the\\_Croatian\\_Society.pdf](https://www.cms.hr/system/publication/pdf/109/Roma_Inclusion_in_the_Croatian_Society.pdf)

<sup>33</sup> <https://www.iccl.ie/activism-protest/iccl-welcomes-inclusion-of-human-rights-in-draft-charities-bill/>

<sup>34</sup> See Antigone's proposals: <https://www.antigone.it/rivista-news/3380-un-nuovo-regolamento-penitenziario-il-documento-con-le-nostre-proposte>; and the results of the work of the Government's Commission here: <https://www.antigone.it/news/antigone-news/3400-tante-le-proposte-importanti-dal-lavoro-della-commissione-per-l-innovazione-penitenziaria>



time an arrested person can be kept in a police station.<sup>35</sup> In Slovenia, as the parliament passed controversial amendments to the Water Act in a shortened procedure, the Peace Institute supported a coalition of civil society organisations leading the “Movement for drinking water” – including Eko Krog, Umanotera, Focus, Youth for Climate Justice, Greenpeace Slovenia and the Institute 8 March.<sup>36</sup> The initiative was successful in asking the parliament to call a legislative referendum on the controversial amendments and led to their rejection with an overwhelming majority and a very large turnout.<sup>37</sup>

Civil society organisations also help making sure that **public spending**, including of EU funds, ensures compliance and alignment with human rights standards.

*Among Liberties members, VIA IURIS is actively engaged with the Slovakian government within the monitoring committee on the implementation of EU funding programmes.<sup>38</sup>*

The mobilisation of civil society organisations often proves **instrumental to secure better consideration of the rights and needs of minorities and other vulnerable groups** in law and policy making.

*The Coalition Against Hate Crime, led by the Irish Council for Civil Liberties, has intensively mobilised to ensure that targeted communities’ voices are heard as the government drafts this legislation on hate crime.<sup>39</sup> In Sweden, Civil Rights Defenders has been working for several years to ensure the full realisation of the rights of the indigenous Sami people<sup>40</sup> – efforts which recently led to the entry into force of a new law aimed at increasing the say of the Sami people over issues that particularly affect them.<sup>41</sup>*

*Enabling rightsholders to get justice and redress*

Civil society organisations play a key role in **enabling victims of human rights violations and abuses to obtain justice and redress.**

**Civic education and awareness raising** of rightsholders about their rights and the way they can be enforced is one core component of civil society organisations’ efforts in this area.

*The Irish Council for Civil Liberties<sup>42</sup> and the Italian Coalition for Civil Liberties<sup>43</sup> have been publishing and updating for several years thematic user-friendly booklets on a wide range of human rights. The Peace Institute, Liberties’ member in Slovenia, also recently published an online human rights guide aimed at helping individuals understand their rights and obligations and develop the ability to apply human rights in concrete situations.<sup>44</sup>*

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<sup>35</sup> <https://apador.org/cat-dureaza-sa-indrepti-o-lacuna-legislativa/>

<sup>36</sup> See more information and the list of core organisations who led the campaign on the campaign web site: <https://zapitnovodo.si/>

<sup>37</sup> [Report on the final result of the referendum on the Act Amending the Water Act \(ZV-1G\)](#), 7 September 2021.

<sup>38</sup> Office of Governmental Plenipotentiary for civil society development (2021), [Systém riadenia spolupráce a partnerstva so zástupcami občianskej spoločnosti pri príprave, implementácii a monitoring fondov EÚ v programovom období 2021 – 2027](#)

<sup>39</sup> <https://www.iccl.ie/news/rights-group-calls-on-politicians-consult-communities-targeted-hate-crime/>

<sup>40</sup> <https://crd.org/2021/10/11/sweden-must-strengthen-the-protection-of-the-rights-of-the-sami-people-our-recommendations-to-politicians/>

<sup>41</sup> <https://crd.org/2022/04/01/new-law-to-give-the-sami-people-greater-influence/>

<sup>42</sup> <https://www.iccl.ie/your-rights/>

<sup>43</sup> <https://cild.eu/en/?s=know+your+rights>

<sup>44</sup> <https://www.mirovni-institut.si/en/projects/human-rights-guide/>



Several organisations also engage in **strategic litigation initiatives** and provide **free legal aid and assistance** for those who believe they have been a victim of a violation of their rights and freedoms.

*Among the many examples from Liberties' member and partner organisations, the Public Interest Litigation Project (PILP) is a prominent long-term litigation project run by the Dutch Section of the International Commission of Jurists in the Netherlands, through which the organisation routinely takes strategic cases in the field of human rights before national, regional and international courts.<sup>45</sup> The Bulgarian Helsinki Committee,<sup>46</sup> the Centre for Peace Studies in Croatia,<sup>47</sup> the Italian Coalition for Civil Liberties and Rights,<sup>48</sup> the Human Rights House Foundation in Poland<sup>49</sup> and Civil Rights Defenders in Sweden<sup>50</sup> provide free legal aid and assistance to victims in individual cases.*

Other organisations pursue **strategic litigation with a thematic focus**.

*Within their strategic litigation programmes, Liberties' members in Bulgaria, Croatia, Italy (the Italian Coalition for Civil Liberties and Rights) and Poland devote a specific focus to cases related to the violation of rights of refugees and migrants. Liberties' other member in Italy, Antigone, is also involved through its litigation office in several criminal proceedings regarding violence, torture, abuses, ill-treatment or deaths that took place in penitentiary institutes of the country.<sup>51</sup> The Society for Civil Rights (Gesellschaft für Freiheitsrechte/GFF) is at the forefront of strategic litigation in Germany regarding the protection of civil rights, protection of privacy and freedom of information in the digital age, non-discrimination and social equality.<sup>52</sup> In Slovenia, as part of the already-mentioned project "Defending the watchdog role of civil society and journalists", the Peace Institute organised workshops on the use of legal means to counter repressive measures against civil society and journalists, engaged lawyers to advise and produce guidelines for other non-governmental organisations, and supported litigation. This contributed to empowering a coalition of non-governmental organisations (namely the PIC - Legal center for the protection of human rights and environment, Amnesty International Slovenia, the Institute "Danes je nov dan/Today is a new day" and the Institute "Open") to set up the Legal Network for the Protection of Democracy,<sup>53</sup> a network of public interest lawyers providing legal representation and counselling to individuals and associations involved in legal proceedings due to non-violent public action such as the exercise of the rights to freedom of assembly and expression.*

Civil society organisations are also at the forefront in providing **victim support services**.

*In the Czech Republic, the League of Human Rights recently created, in cooperation with other civil society organisations, two dedicated support centres for victims of illegal sterilisations.*

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<sup>45</sup> <https://pilpnjcm.nl/en/>

<sup>46</sup> <https://www.bghelsinki.org/en/what-we-do/cases>

<sup>47</sup> <https://www.cms.hr/en/pravna-pomoc-azil-i-statusna-pitanja/pravna-pomoc-centra-za-mirovne-studije>

<sup>48</sup> <https://cild.eu/centro-di-azione-legale/>

<sup>49</sup> <https://www.hfhr.pl/en/actions/law-programs/strategic-litigation-programme/>

<sup>50</sup> <https://crd.org/sv/individuellt-juridisk-radgivning/>

<sup>51</sup> <https://www.antigone.it/cosa-facciamo/i-processi>

<sup>52</sup> <https://freiheitsrechte.org/english/>

<sup>53</sup> <https://pravna-mreza.si/o-mrezi/>

Many civil society organisations also provide **training to the judiciary and public authorities** on how to ensure effective responses to human rights violations.

*In Croatia, the Centre for Peace Studies developed a dedicated manual for law enforcement officials on identifying and monitoring hate crime cases, creating effective reporting channels and effectively prosecuting hate crime cases.<sup>54</sup>*

Civil society organisations across the EU have also stepped up their efforts to **drive progress towards the strengthening of the independence, effectiveness and fairness of the justice system.**

*In Poland, the Helsinki Foundation for Human Rights has been engaging in a regular monitoring of justice reforms<sup>55</sup> and has recently presented, as part of a broader coalition of civil society organisations, an “Accord for the rule of law”. The latter presents the government with recommendations for concrete measures to address long-standing deficiencies affecting the independence and functioning of the judiciary in the country. The initiative was supported by all national opposition parties.<sup>56</sup> In Romania, APADOR-CH is substantially contributing to the debate on the reform of the justice system and is active in seeking accountability for failures to deliver justice and respect rule of law principles: in this context, the organisation brought for example a legal action against the Ministry of Finance for failure to provide information on actions taken to determine the responsibility and liability of magistrates rendering judgments later determined by the European Court of Human Rights to be in violation of the European Convention on Human Rights.<sup>57</sup>*

Particular attention is also being devoted to **the treatment of minorities and vulnerable groups within the justice system.**

*Rights International Spain has recently concluded an EU-wide research project aimed at drawing attention to and prompting measures to fight against the existing unconscious bias against Roma people in the criminal justice systems of EU member states.<sup>58</sup> In Sweden, Civil Rights Defenders has set up a digital platform to provide information to lawyers on the rights of persons with disabilities within the legal process and what support is available to ensure that procedural rights of persons with disabilities are upheld in practice.<sup>59</sup>*

### *Promoting a human rights culture*

Civil society organisations, including many of Liberties’ members and partners, are increasingly investing in **educational, training and awareness raising activities** to promote a human rights culture among policy-makers and the general public.

*In Belgium, the League of Human Rights is very active in disseminating a regular human rights magazine, performing activities on human rights topics in educational institutions, offering human rights training courses and organising citizens’ debates also in partnership with local and national cultural institutions.<sup>60</sup> The League also recently launched a new*

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<sup>54</sup> Centre for Peace studies, [Against Hate - Guidebook of good practices in combating hate crimes and hate speech](#).

<sup>55</sup> <https://www.hfhr.pl/en/actions/law-programs/monitoring-of-the-legislative-process-in-the-scope-of-justice-system/>

<sup>56</sup> More information at <https://oko.press/wazne-cala-opozycja-i-organizacje-spoleczne-beda-razem-walczyc-o-wolne-sady-i-niezalezna-krs/>

<sup>57</sup> <https://apador.org/am-dat-in-judecata-ministerul-finantelor-ca-sa-aflam-de-ce-platim-toti-erorile-justitiei/>

<sup>58</sup> <http://www.rightsinternationalspain.org/uploads/publicacion/22b365268738a73ae7869e978a81f6ee86e85138.pdf>

<sup>59</sup> <https://processtod.se>

<sup>60</sup> <https://www.liguedh.be/formations/>

podcast to educate the public about human rights issues through individual stories of activists and victims.<sup>61</sup> Civic and peace education is one of the core missions of the Centre of Peace Studies in Croatia.<sup>62</sup> In Italy, Antigone has been authoring and hosting for several years "Jailhouse Rock", a weekly radio broadcast on music and prisons involving people detained in several prisons around the country.<sup>63</sup>

Civil society organisations in most countries also **regularly cooperate with national human rights bodies**, contributing to the effective fulfilment of their mandate.

*In Croatia, the Centre for Peace Studies regularly contributes to the work of the Office of the Ombudswoman in several areas including equality and non-discrimination and the rights of migrants and asylum seekers. In Slovenia, the Peace institute regularly cooperates with the national Ombudsman in the implementation of its tasks and powers as National Preventive Mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.*<sup>64</sup>

In member states where the government has not established such independent human rights bodies, or where governments undermine their independence or effectiveness, civil society organisations **actively advocate to protect and strengthen NHRIs**.

*In Poland, a coalition of more than 1,200 civil society organisations, led by the Helsinki Foundation for Human Rights, mobilised in 2020 to support the nomination of an independent and professional Commissioner for Human Rights in accordance with the Constitution, after the five-year term of office of the previous Commissioner, Adam Bodnar, ended.*<sup>65</sup> *Civil Rights Defenders has advocated for many years, together with other civil society organisations, for an NHRI to be established in Sweden: the Swedish institute for human rights was eventually set up and started its operations in January 2022.*<sup>66</sup>

With a view to fight against impunity and promote accountability for human rights violations, civil society also **supports and protects whistleblowers who disclose abuses and wrongdoings**.

*In Romania, APADOR-CH is co-leading a project aimed at raising public awareness of the role of whistleblowers and contributing to the creation of an effective protection system, in collaboration with state institutions and the private sector, including by promoting the effective transposition of EU rules in this area, developing a resource centre to provide whistleblowers with legal and psychological support and increasing the knowledge and understanding of the role of the whistleblowers among the general public.*<sup>67</sup>

Civil society organisations are also increasingly investing effort to help **counter divisive narratives and hate speech in the public sphere**.

*In Estonia, the Estonian Human Rights Centre helps social media platforms fight illegal hate speech by regularly monitoring the speed and the quality of hate speech removal from the platforms.*<sup>68</sup> *The Italian Coalition for Civil Liberties and Rights created the Narrative Lab, a*

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<sup>61</sup> <https://www.liguedh.be/de-quels-droits-on-se-chauffe-le-nouveau-podcast-de-la-ligue-des-droits-humains/>

<sup>62</sup> <https://www.cms.hr/en/gradanski-odgoj-i-mirovno-obrazovanje>

<sup>63</sup> <http://www.jailhouserock.it>

<sup>64</sup> <https://www.ohchr.org/en/treaty-bodies/spt/national-preventive-mechanisms>

<sup>65</sup> Civil Liberties Union for Europe, [EU 2020: demanding on democracy](#) (March 2021), Country report on Poland.

<sup>66</sup> <https://mrinstitutet.se/other-languages/>

<sup>67</sup> <https://apador.org/en/solid-un-program-de-consolidare-a-protectiei-avertizorilor-de-integritate/>

<sup>68</sup> <https://humanrights.ee/en/topics-main/action-against-hate/>

*space designed with and for those who work within civil society to build new narratives that help our society to emerge from divisive and excluding rhetoric.<sup>69</sup> In Lithuania, the Human Rights Monitoring Institute, in cooperation with partners across Europe, has recently organised “Active Youth against Hate Speech” – an interactive international event to raise awareness among young people about hate speech and its consequences on society and train and encourage them to develop skills and attitudes to counter this phenomenon.<sup>70</sup>*

### *Fostering citizens’ engagement and participation*

Civil society organisations **promote citizens’ engagement and democratic participation** on human rights-related matters in many ways.

Civil society mobilisation efforts have led to **important protest movements** on several public interest issues in many countries across the EU. Civil society organisations have also driven **civic solidarity initiatives** to support people affected by the Russian invasion of Ukraine.

Civil society organisations have also undertaken initiatives to **promote citizens’ participation at national and local level**, including by organising petitions, referenda, citizens panels or facilitating citizens’ submissions to legislative processes.

*Liberties’ member in Slovenia, the Peace Institute, was at the centre of an initiative gathering more than 100 civil society organisations aimed at informing and mobilising citizens to vote in the parliamentary elections held in April 2022, which succeeded in securing a record voting turnout of over 70%.<sup>71</sup> In Slovakia, VIA IURIS recently launched a website to enable civic initiatives and encourage and facilitate civic organisations or groups of interest to submit their comments on laws and policies to public authorities.<sup>72</sup>*

### Many challenges stand in the way of civil society efforts

As recognition increases of the crucial contribution of civil society in the promotion and protection of human rights, concern grows over the severe challenges negatively impacting on civil society organisations and activists’ work across the EU.

As an EU umbrella organisation, Liberties receives first-hand, reliable information on challenges interfering with national-level civil society organisations’ ability to carry out their activities. Liberties’ member and partner organisations routinely share important developments with the Liberties office ad hoc, as these occur. Further, Liberties receives updates from members and partners on civic space as part of our annual reporting on the rule of law<sup>73</sup> and occasional thematic reports focusing on civic space.<sup>74</sup> Further, Liberties has been in a research partnership with global alliance CIVICUS since 2017 under which we issue

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<sup>69</sup> <https://cild.eu/narrative-lab/>

<sup>70</sup> <http://hrmi.lt/en/international-interactive-event-active-youth-against-hate-speech/>

<sup>71</sup> <https://volitve.dvk-rs.si/#/rezultati>

<sup>72</sup> VIA IURIS (2021), ‘[MojaPeticia.sk – nový priestor, vďaka ktorému bude počuť váš hlas](#)’, 8 April 2021.

<sup>73</sup> The latest is [Liberties Rule of Law Report 2022](#) (February 2022), to which more than 30 civil society organisations from across the EU contributed to. An overview of the report’s selected findings on civic space is available here: <https://www.liberties.eu/en/stories/liberties-rule-of-law-report-2022-civic-space/43973>

<sup>74</sup> See among the most recent publications Liberties and Greenpeace European Unit, [Locking down critical voices](#) (September 2020).

bimonthly reports on civic space developments in Belgium, the Czech Republic, Greece, Hungary, Lithuania, Poland, Romania and Spain.<sup>75</sup>

Based on the information gathered in recent years, Liberties has witnessed a **steady regression in terms of the promotion and protection of civic space and the work of civil society organisations across the EU**. In their submissions to Liberties' 2022 Rule of Law Report, not one single organisation among Liberties' contributing member and partners viewed their government as having made progress on creating an enabling environment for civil society.<sup>76</sup>

We have identified the following types restrictions used by governments across the EU to interfere with the ability of civil society organisations to effectively carry out their activities:

- smear campaigns;
- hostile regulatory framework;
- criminalisation, harassment and intimidation of activists;
- limited and politically biased funding;
- restricted access to information;
- exclusion from public consultation.

The following paragraphs provide a brief illustration of what these challenges consist of and imply for civil society organisations across the EU.

### *Smear campaigns*

In the past five years, governments in multiple EU member states have targeted civil society organisations with **smear campaigns**. As explained in Liberties' messaging guide for progressive civil society facing smear campaigns,<sup>77</sup> such attacks are often part of a **deliberate strategy to distract and divide the public and neutralise civil society organisations** to stop them from informing and mobilising the public and otherwise holding the government accountable. Governments typically use smear campaigns for one or a combination of two reasons. First, because they want to silence criticism from civil society organisations over corruption or other shortcomings. Second, because they are pursuing a strategy of scapegoating and division according to which they invent a threat (such as civil society organisations themselves or the marginalised groups they protect) which they claim they will address as a way of attracting voters. Smear campaigns particularly affect civil society organisations and activists promoting equality for ethnic minorities, LGBTQI+ persons, environmental protection and anti-police violence. The governments of Bulgaria, Croatia, Hungary, Romania and Slovenia have been particularly active in trying to discredit and delegitimise civil society organisations who take a critical stance towards them.<sup>78</sup>

*Since coming to power, the Slovenian prime minister, Janez Janša, has led smear campaigns against civil society organisations that have criticised his failings. These smear campaigns are aimed at discrediting CSOs as well as scapegoating them for financial hardships suffered*

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<sup>75</sup> <https://monitor.civicus.org>

<sup>76</sup> <https://www.liberties.eu/en/stories/liberties-rule-of-law-report-2022-civic-space/43973>

<sup>77</sup> <https://www.liberties.eu/en/stories/civic-space-guide/43904>

<sup>78</sup> See [Liberties Rule of Law Report 2022](#) (February 2022).



*during the pandemic. Smears have included portraying them as a threat to national culture, left-wing political activists and a drain on public funds. The reader should bear in mind related government attacks against independent media, the public broadcaster and attempts to restrict the right to protest. Two illustrative examples of attacks on civil society organisations follow. In January 2021, after unknown perpetrator(s) damaged a Ljubljana Cathedral fresco, the Prime Minister Janša wrote a tweet claiming that “[i]ntolerance towards Christians and towards dissidents in general in Slovenia began to increase drastically in parallel with the emergence of @strankalevica [i.e. the Left, a political party] and substantial state funding of so-called # NGOs from Metelkova 6, Ljubljana [i.e. mainly civil society organisations active in the promotion of human rights and Article 2 values, as well as in the field of arts and culture]”. The year 2021 also saw the senior coalition partner in government launching the so-called 2021 consultations with voters. As part of this consultation, a questionnaire was sent to Slovenian households which included highly suggestive questions, one of which was related to civil society organisations, formulated as follows: “From 2009 to 2019 inclusive, 31,841,020 € were allocated from the Republic of Slovenia budget for the renovation of homes for the elderly, and we did not build any new ones. At that time, only 35,672,609 € were earmarked for the maintenance and construction of student dormitories. At the same time, the 20 best-funded so-called ‘non-governmental organisations’, mostly from Metelkova 6 in Ljubljana, received as much as 70,481,020 € from the budget. This order of funding seems to me to be: a) fully appropriate, ‘non-governmentalists’ are the most important; b) inappropriate, the essential needs of students and pensioners must be given priority; c) scandalous, because they are pointlessly spending our money”.*

### *Hostile regulatory framework*

Civil society organisations across Europe report **very limited efforts by state authorities to ease bureaucratic requirements and create an enabling regulatory environment** for their establishment and operation. Based on our members’ submissions to Liberties’ 2022 Rule of Law Report, Estonia was alone in reducing the bureaucratic burdens of civil society organisations during the pandemic by easing certain administrative rules.<sup>79</sup>

Governments intent on harassing civil society organisations purposely make the administrative framework regulating the establishment and operation of the latter **increasingly hostile**.

One common way by which governments do so is **unjustifiably increasing their reporting obligations, typically under the pretext of ‘transparency’**. Such initiatives are challenging for civil society organisations for two reasons. First, CSOs are obliged to dedicate scarce resources to unnecessary and redundant administration, diverting them away from their activities. Second, governments use the occasion to create a toxic public debate by arguing that CSOs should be more transparent because they are untrustworthy. Undermining trust in CSOs damages their ability to raise funds from donations, and makes the public less likely to turn to CSOs for information and take part in opportunities CSOs create for public mobilisation. We have seen such initiatives in recent years in a number of countries, like Bulgaria, Hungary, and Romania. Similar legislation is planned in Estonia.<sup>80</sup>

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<sup>79</sup> <https://www.liberties.eu/en/stories/liberties-rule-of-law-report-2022-civic-space/43973>

<sup>80</sup> See [Liberties Rule of Law Report 2022](#) (February 2022).

*On 11 July 2019, the Law for Preventing and Combating Money Laundering and Terrorist Financing was promulgated by the Romanian president, and a few days later, the legislation was published in the Official Gazette. Civil society organisations firmly criticised the earlier version of the bill.<sup>81</sup> During the legislative process, civil society organisations aimed to convince legislators not to increase their administrative burdens without a real and justified need. However, their efforts were not successful, as the newly introduced law mandated that they annually provide information on the “real beneficiaries” (essentially those who have the ultimate control over a given organisation) to the Ministry of Justice. Due to the pandemic, firms and other commercial entities were exempted from declaring their beneficiaries. Civil society organisations, however, were not. This has placed a significant burden on them, especially for smaller organisations with a tight budget, as they needed to collect sensitive personal information from their members (for example, the original ID copies of the beneficiaries) and obtain the attestation of a lawyer during the pandemic when in-person meetings and travelling are difficult.<sup>82</sup>*

Another form of regulatory harassment against civil society organisations is when unscrupulous legislators introduce **new and unnecessary registration requirements for civil society groups**. The authorities then apply or threaten to apply this legislation discriminatorily against CSOs they dislike. Such legislation can have very far-reaching consequences as civil society organisations may lose their legal status, their ability to pay their employees, or their access to spaces where they carry out their activities. In addition, they may lose credibility with citizens as the government casts them as acting illegally by not complying with the new legislation.

*In the spring of 2020, concerns were raised over the adoption of new regulations that would transform the legal framework concerning the registration of non-governmental organisations working in the field of migration, asylum and social inclusion in Greece.<sup>83</sup> In this context, the Expert Council on NGO Law of the Council of Europe called on Greece to revise these rules and bring them “into line with the European standards”. However, in September 2020, the Greek government introduced a new Joint Ministerial Decision (Ministerial Decision 10616/2020) that places further restrictions on civil society organisations. According to the current legislative and regulatory framework, Greek and foreign NGOs working in the field of migration, asylum and social inclusion must fulfil an exhaustive list of formal and substantive requirements in order to be able to register both themselves and their staff members and volunteers with the Ministry of Migration and Asylum. It is important to emphasise that registration is a pre-requisite for these NGOs to be legally allowed to operate in Greece.<sup>84</sup> As expected, this registration requirement was later misused. On 26 November 2021, the well-established organisation Refugee Support Aegean (RSA) announced that their application for registration was rejected, and the authorities’ grounds for that rejection was that “supporting people under deportation is unlawful” and contrary to international, EU and national law.<sup>85</sup>*

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<sup>81</sup> <https://www.liberties.eu/en/stories/romania-press-media-freedom/18826>

<sup>82</sup> <https://www.liberties.eu/en/stories/civics-romania-freedom-of-information/19036>

<sup>83</sup> <https://www.liberties.eu/en/stories/threat-to-ngos-working-on-asylum/18828>

<sup>84</sup> <https://www.liberties.eu/en/stories/government-greece-silences-free-speech-universities-restricts-media-freedom-surveillance/43433>

<sup>85</sup> <https://monitor.civicus.org/updates/2021/12/23/csos-working-refugee-rights-face-attacks-restrictions-fake-news-law-concern/>



Hostile and unfavourable regulations **particularly target civil society organisations performing a watchdog role, or expressing critical stances on sensitive political issues**. The watchdog role of civil society is only effective if organisations are at liberty to criticize government activity without risking their own existence. In a number of EU countries, including Estonia, France, Germany and Ireland,<sup>86</sup> Liberties members have reported about **measures to dissolve associations or unfavourable charitable status rules** targeting organisations advocating on public interest issues that conflict with the political goals of certain parties or are otherwise considered politically sensitive.

*In France, a new anti-separatism law curbed freedom of association and freedom of expression by requiring organisations to adhere to the nebulous concept of “national values”, or else risk facing dissolution or loss of public funding.<sup>87</sup> The recent dissolution of CCIF (Collective against Islamophobia in France) and CRI (Coordination against Racism and Islamophobia) demonstrate the government's willingness to carry through on the threat. In Germany, the legal uncertainty still surrounding the rules on the tax-exempt status of civil society organisations (Gemeinnützigkeitsrecht) has led to a situation in which many organisations refrain from speaking out or working against anti-democratic and far-right causes as they might lose their tax-exempt status when their work is considered to be “too political”.<sup>88</sup>*

#### *Criminalisation, harassment and intimidation of activists*

Instead of supporting and promoting humanitarian assistance, a number of EU governments have been **criminalising aid given to people seeking a refuge**, as part of their retrogressive migration policies. Croatia, Greece and Hungary, for example, have been known for years for trying to outlaw the aid activities civil society organisations engage in, while practising illegal pushbacks. Recently, when tens of thousands of people, mostly from the Middle East, were attempting to cross from the direction of Belarus, Poland joined their ranks.<sup>89</sup> Such legislation can intimidate activists, can prevent them from providing food and medical help to people whose life is in danger, and drain CSOs' resources if they are subject to criminal proceedings.

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

This hostile legal framework contributes to an existing climate of intimidation. Civil society organisations across the EU report **increased attacks – online and offline, physical and**

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<sup>86</sup> See [Liberties Rule of Law Report 2022](#) (February 2022). In Ireland, as mentioned above, civil society mobilisation on this issue prompted the government to publish in April 2022 a [bill](#) which includes provisions that would grant human rights organisations charitable status for the first time.

<sup>87</sup> <https://www.voxpublic.org/International-Tribune-Separatism-law.html?lang=fr>

<sup>88</sup> <https://www.liberties.eu/en/stories/civic-space-report-germany/18932>

<sup>89</sup> See [Liberties Rule of Law Report 2022](#) (February 2022).

**verbal – against rights activists**, with groups advocating for rights of minorities and marginalised groups, including LGBTQI+ people, Roma, migrants and asylum seekers being particularly heavily targeted.

*In Sweden, the intensity of hate speech and threats directed at activists from vulnerable groups such as women, LGBTQI+ and ethnic minorities became so severe that some individuals from these groups chose to withdraw from public activity.<sup>90</sup> In Bulgaria on Pride day, anti-Pride protesters were aided by the police, who allowed them to deviate from their originally stated route in order to surround LGBTQI+ Pride attendees.<sup>91</sup>*

State authorities reportedly make very little effort to monitor and respond to such attacks, and **investigations and prosecutions are often inadequate**, while **no state-led alert mechanism or support services** for victims has been established in any EU country, to Liberties' knowledge. These issues are compounded by **weak legislative protection against hate crime and hate speech**, which leaves civil society organisations defending themselves alone in an increasingly hostile environment.

*In Slovenia, against the background of increasing attacks targeting public watchdogs, including civil society organisations and activists, the Peace Institute, together with the Association of Slovenian Journalists and the non-profit media portal Bottom Line, are since 2019 carrying out the project “Defending the watchdog role of civil society and journalists in Slovenia”, which has led to the publication of reports on attacks, threats and restrictions, awareness raising and capacity building initiatives.<sup>92</sup> In Sweden, Civil Rights Defenders runs an Emergency Fund and a Security Help Desk which provide rapid assistance to human rights defenders who are in danger. The fund and the Help Desk can, for example, provide legal aid or temporarily relocate people, as well as offer security trainings and help with physical and digital security solutions.<sup>93</sup>*

Civil society organisations are also hampered by the **threat of SLAPPs - strategic lawsuits against public participation**. These are abusive prosecutions and lawsuits without a sincere legal basis used by businesses or politicians to silence watchdogs including civil society organisations and activists.<sup>94</sup> As also illustrated in recent studies commissioned by the European Parliament<sup>95</sup> and the European Commission,<sup>96</sup> **current legislation and judicial procedures in EU member states fail to provide sufficient protection** against these abusive lawsuits.

*In Ireland, a notable increase in SLAPPs is reportedly used to hamper the efforts of environmental organisations in pursuing judicial review, while SLAPPs have been used in Poland against numerous activists campaigning against “anti-LGBT zones”.<sup>97</sup>*

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<sup>90</sup> Civil Rights Defenders, “When society is silenced”, available at [https://crd.org/wp-content/uploads/2019/10/N%C3%A4r-samh%C3%A4llet-tystnar\\_webb\\_uppdaterad.pdf](https://crd.org/wp-content/uploads/2019/10/N%C3%A4r-samh%C3%A4llet-tystnar_webb_uppdaterad.pdf)

<sup>91</sup> See [Liberties Rule of Law Report 2022](#) (February 2022).

<sup>92</sup> For more information, see the project web page on [www.mirovni-institut.si/projekti/zascita-nadzorne-vloge-civilne-druzbe-in-novinarjev-v-sloveniji/](http://www.mirovni-institut.si/projekti/zascita-nadzorne-vloge-civilne-druzbe-in-novinarjev-v-sloveniji/)

<sup>93</sup> <https://crd.org/emergency-fund/>

<sup>94</sup> <https://www.liberties.eu/en/stories/slapp-case-submission/43948>

<sup>95</sup> Justin Borg-Barthet, Benedetta Lobina and Magdalena Zabrocka, [The Use of SLAPPs to Silence Journalists, NGOs and Civil Society](#) (June 2021).

<sup>96</sup> Judit Bayer, Petra Bárd, Lina Vosyliute, Ngo Chun Luk, [Strategic Lawsuits Against Public Participation \(SLAPP\) in the European Union. A comparative study](#) (June 2021).

<sup>97</sup> See [Liberties Rule of Law Report 2022](#) (February 2022).

### *Limited and politically biased funding*

The **financial landscape for civil society organisations has been deteriorating for years.**

In 2022, Liberties received reports of **further restrictions as regards access to public funds** from Croatia, Estonia, France, Germany, Hungary, Ireland and Slovenia – with restrictive requirements in Croatia and Slovenia also limiting access to EU funds.<sup>98</sup> Indeed, most of the initiatives carried out by civil society to promote and protect human rights mentioned in this brief are funded without any public financial support.

Even when public funds exist, civil society organisations **regret that these mainly consist of project grants.** This type of short-term, project-based funding – which is also prevalent among certain non-state donors, including the EU itself as well as several private donors and foundations – is not fit to give organisations the security to run and operate the organisation properly in the long term. The need to adapt to donors’ evolving project funding priorities also hinders continuity and impact of organisations’ activities, standing in the way of securing longer-term, positive change.

Besides a general difficulty to access and get funding, there is also a trend of **politicisation of the shrinking resources.** This means that civil society organisations that are critical of the government or do not share the same values have very diminished access to the financial support the political community assigns to civil society activities.

*In 2021, Hungary lost its eligibility for the European Economic Area (EEA) and Norway Grants, as the government was unwilling to accept the donor’s decision on who should distribute funds to civil society and instead wanted a state-owned organisation to do this job so that government-critical voices would not get funding.<sup>99</sup> Shortly before the country lost its eligibility, the Urban Civic Fund (Városi Civil Alap) was set up by the Hungarian government to replace the Norway Grants.<sup>100</sup> According to the analysis of investigative news portal Atlatszo, the first results of the state-financed funding program for NGOs are extremely politically biased. More than half of the top winners are ‘NGOs’ directly controlled by politicians of Fidesz, the governing party. Among the winners of the largest grants, it is difficult to find an organisation that is not linked in some way to the Fidesz elite.*

### *Restricted access to information*

When civil society organisations are investigating issues of public interest, either for advocacy or for strategic litigation purposes, they need to know facts pertaining to the issues at hand. In a number of member states, the authorities generally show much **resistance to publishing data** that could enable the public to understand what they do and do not receive. Other countries **limit access to information** – an attitude which a number of governments, including those of Austria, the Czech Republic, Italy, Hungary and Romania, exacerbated under the pretext of the pandemic.<sup>101</sup> This could have been justified at the beginning of the pandemic when public authorities were struggling to find a way of keeping

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<sup>98</sup> See [Liberties Rule of Law Report 2022](#) (February 2022).

<sup>99</sup> <https://monitor.civicus.org/updates/2021/08/18/orban-government-alleged-have-used-pegasus-spyware-investigative-journalists/>

<sup>100</sup> <https://monitor.civicus.org/updates/2021/12/06/government-cements-further-power-over-media-effects-anti-lgbtqi-law-seen/>

<sup>101</sup> See Liberties and Greenpeace European Unit, [Locking down critical voices](#) (September 2020).

their workforce healthy while still providing services on questions unrelated to the pandemic. However, it is unjustified and prevents civil society organisations from serving in their watchdog role, when authorities deny information related to the government's response to the pandemic.

*During the state of emergency in Romania (March-May 2020), a presidential decree established that institutions have a maximum of two months to answer requests for information. That is, under the pretext of an ongoing crisis, institutions were given double the time they previously had to answer freedom of information requests.<sup>102</sup>*

### *Exclusion from public consultation*

Democratic decisions are made based on public consultations, involving stakeholders in the legislative process, as well as regularly reaching out to experts and to the representatives of those working with the people affected by the proposed initiatives.

Yet, **very few good practices exist on civil dialogue and civil society participation** across the EU member states.<sup>103</sup> Instead, Liberties' members and partners in several countries, including Croatia, the Netherlands and Slovakia, report that civil society representatives have been locked out of discussions in a wide range of areas, or their role minimized to the point of being superficial.<sup>104</sup>

In countries with a declining quality of democracy, civil society organisations face great challenges in building bridges between politicians and the public as they are **in essence being purportedly excluded from public consultation in the law-making process.**

*According to Hungarian law, when a draft law or constitutional amendment is prepared by ministers, public consultation is mandatory and requires publishing the draft online for the public to comment upon.<sup>105</sup> However, in the past decade, the government arranged for important bills to be submitted by members of parliament rather than by the government, thus avoiding the requirement for public consultation and undermining transparency in the legislative process. When submitted by the government, the deadlines for giving feedback to the proposals were often so short that they could not be met. In 2021, the situation further deteriorated. A special legal order was in force for the whole year. The special legal order allowed the government to issue decrees on legislative matters, suspend the application of certain laws, derogate from statutory provisions and take other extraordinary measures. There is no obligation for transparency of the negotiating and legislative process in the case of decrees of the government, which are not preceded by a public debate, only the result (the promulgated decree) is public.*

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<sup>102</sup> <https://monitor.civicus.org/updates/2020/10/30/concerns-over-limiting-freedom-information/>

<sup>103</sup> See European Civic Forum and Civil Society Europe, [Towards an open, transparent, and structured EU civil dialogue](#) (April 2021).

<sup>104</sup> See [Liberties Rule of Law Report 2022](#) (February 2022).

<sup>105</sup> [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)029-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)029-e)

## How to further support civil society in promoting and protecting human rights and Article 2 values in the EU: 5 priorities for an EU Strategy on Civil Society

Against the background of the challenges they face, and the absence of measures by state authorities to promote and support their work, civil society organisations are increasingly investing their energy and resources to **strengthen and safeguard their enabling environment and civic space more broadly**. Notable initiatives include civil society coalitions, strategic litigation initiatives to protect the unhindered exercise of freedom of association, freedom of expression and information and freedom of assembly, research and monitoring and awareness raising initiatives on the role and contribution of civil society organisations. Liberties has engaged in similar initiatives at European level, including by:

- **actively contributing to civil society coalitions**, such as the Coalition Against SLAPPs in Europe (CASE), which has been mapping and raising awareness about the use of SLAPPs against, among others, civil society activists and rights defenders, and advocating for adequate responses at EU and national level;<sup>106</sup>
- **building capacity and resilience of civil society organisations and rights defenders at national level**, through the capacity- and alliance-building programme Recharging Advocacy for Rights in Europe (RARE). This programme connects 26 leading European human rights defenders committed to preserving and promoting civic space in their societies,<sup>107</sup> and Liberties is also implementing capacity-building programmes for its members and partners with the support of the European Commission;<sup>108</sup>
- **raising awareness on the role and contribution of civil society organisations and human rights defenders**, including through guidance on how to communicate more effectively with the public, including by responding to smear campaigns.<sup>109</sup>

But these self-help measures will not be enough to make civil society organisations strong enough to nurture European democracies against attacks from political movements with authoritarian agendas.

While the EU has long acknowledged how important civil society organisations are in building stronger democracies outside of the Union and has supported their work,<sup>110</sup> it has only recently started supporting CSOs inside the EU.

**Positive steps taken in recent years by the EU are to be acknowledged.** These include strengthened monitoring of existing challenges and action to address certain problematic national laws and practices; the promotion of protection measures in particular against SLAPPs;<sup>111</sup> and support for civil society work through increased funding opportunities made available under the new Citizens, Equality, Rights and Values programme.<sup>112</sup>

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<sup>106</sup> See CASE recent Europe wide report [Shutting Down Criticism: How SLAPPs threaten European Democracy – A report by CASE](#) (March 2022).

<sup>107</sup> See <https://www.hertie-school.org/en/customised/rare>

<sup>108</sup> [STRIVE Strengthening Rights and Values - Empowering Civil Liberties Union for Europe's Network capacity](#).

<sup>109</sup> Liberties, [How to talk about civic space: a guide for progressive civil society facing smear campaigns](#) (December 2021).

<sup>110</sup> [https://www.eeas.europa.eu/eeas/civil-society-no-one-left-behind\\_en](https://www.eeas.europa.eu/eeas/civil-society-no-one-left-behind_en)

<sup>111</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_22\\_2652](https://ec.europa.eu/commission/presscorner/detail/en/ip_22_2652)

<sup>112</sup> [https://ec.europa.eu/info/funding-tenders/find-funding/eu-funding-programmes/citizens-equality-rights-and-values-programme\\_en](https://ec.europa.eu/info/funding-tenders/find-funding/eu-funding-programmes/citizens-equality-rights-and-values-programme_en)

However, as also stressed by the European Parliament,<sup>113</sup> the EU Agency for Fundamental Rights<sup>114</sup> and by many civil society partners at EU and national level, **the EU cannot and must not regard the protection and promotion of the civic space at national and EU level as a task completed**. Left without adequate support and protection against threats and attacks, the efforts of civil society cannot be sustained in the long term.

Liberties welcomes as a further step in the right direction that the European Commission is seeking consultation with civil society organisations to inform a forthcoming report on civic space and the role of civil society organisations in protecting and promoting human rights. But a report will not be enough to stop civic space from deteriorating. And the European Commission, as the EU's law and policy-making force and guardian of the Treaties, is in a position to do much more than that.

Echoing previous recommendations<sup>115</sup> and joint statements and position papers Liberties contributed to,<sup>116</sup> we urge the European Commission to **develop, in close consultation with civil society organisations, a full-fledged EU Strategy for Civil Society**. Such a strategy should recognise civil society organisations as essential pillars of democracy, ensure they get all the support and protection they need and create an enabling framework so CSOs can serve their crucial role in upholding human rights and Article 2 values. Such a strategy could prompt member states to develop **national action plans on the development and protection of civic space** and put forward **concrete initiatives to be taken at EU level**, pursuing the following **5 key priorities**:

- 1) **Pioneering a fresh and positive narrative**: the EU Strategy should set out measures to increase the public's understanding of the role and contribution of civil society in the promotion and protection of human rights and Article 2 values. It should achieve this by supporting the rollout of **strategic communication campaigns** at EU and national level that inoculate the public against smear campaigns and build greater support for the work civil society organisations do.
- 2) **Promoting a supportive regulatory framework at EU and national level**: the EU Strategy should prompt governments in all member states to **perform an assessment and review of existing burdensome regulatory provisions and practices** hindering the work of civil society organisations. They shall also serve to introduce **effective impact assessment methodologies** for vetting legislative proposals against their implications for the exercise of freedom of association, freedom of expression and information and freedom of assembly. The strategy should also put forward steps at EU level to ensure a conducive regulatory environment for civil society organisations. These may include **creating an EU statute for associations and developing EU standards to address common challenges** faced by civil society organisations across the EU, as also suggested by the European Parliament;<sup>117</sup> **in-depth monitoring and reporting about restrictive and**

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<sup>113</sup> European Parliament, [Report on the Commission's 2020 Rule of Law Report](#) (June 2021); [Resolution of 8 March 2022 on the shrinking space for civil society in Europe](#) (March 2022).

<sup>114</sup> See in particular the Opinions included in FRA report [Protecting Civic Space in the EU](#) (September 2021).

<sup>115</sup> See most recently the recommendations on civic space formulated in [Liberties Rule of Law Report 2022](#) (February 2022).

<sup>116</sup> See, among others, the recent advocacy brief compiled by the RARE network Liberties is also part of: [An EU strategy for civil society – Recognition, inclusion and protection](#) (March 2022), and the joint position papers coordinated by

<sup>117</sup> European Parliament, [Resolution of 17 February 2022 with recommendations to the Commission on a statute for European cross-border associations and non-profit organisations](#) (March 2022).



**repressive national laws and practices** within the EU Rule of Law Review Cycle;<sup>118</sup> **prioritising timely infringement proceedings** against restrictive and repressive laws and practices violating EU law; **systematically evaluating the impact on civil society organisations and civic space of EU legislation and national law implementing it** in areas such as anti-money laundering, counter-terrorism and security, facilitation of irregular migration, digital rights and online regulations, and addressing challenges through a revision of relevant provisions or targeted guidance to national authorities.

- 3) **Prompting effective protection against threats and attacks:** the EU strategy should propose concrete steps to ensure that attacks and harassment targeting civil society organisations, activists and human rights defenders are exposed and properly acted upon, and that victims get the necessary support. These may include the development by the European Commission of **targeted guidance to member states**, for example in the framework of its work on hate speech and hate crime, or as part of its efforts to ensure the implementation of its recent initiative to tackle SLAPPs. The Strategy should also promote and support the **creation of EU and national-level mechanisms to detect and act on threats and attacks** against civil society organisations and rights defenders, which could consist of monitoring and reporting platforms, helplines and legal assistance and temporary relocation systems, similar to the EU Human Rights Defenders Protection Mechanism supported by the EU in the context of its external action.<sup>119</sup>
- 4) **Securing inclusive access to and participation in law and policy-making:** the EU strategy should prompt member states to **strengthen the involvement of civil society organisations in national law and policy-making** through relevant cooperation frameworks, such as working groups and multi-stakeholder committees, and by establishing permanent advisory and dialogue structures. The strategy could also put forward a **proposal for a policy framework on EU civil dialogue**, which may also include concrete recommendations on member states on how to ensure meaningful participation of civil society organisations in law and policy-making in all areas covered by EU competence.
- 5) **Ensuring access to sustainable funding:** the EU strategy should urge governments to **improve the financing landscape for civil society organisations at national and local level**, including by: developing sustainable public funding policies to provide long-term support for the work of civil society organisations, including for watchdog, advocacy and litigation activities; securing a conducive taxation framework to promote private donations; ensuring an enabling legal framework for civil society organisations to seek, access and use funding from any source, including from foreign donors. The EU strategy should also commit the Commission to take **further steps to facilitate access to and use of EU funding** for key activities such as strategic litigation initiatives and for granting core support to small and local grassroots organisations. The strategy should also propose procedural steps to ensure a **more genuine involvement of civil society organisations in the implementation of relevant EU funds**, both at EU level (in

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<sup>118</sup> Liberties contributed to the formulation of detailed recommendations on this point, as illustrated in joint statements coordinated by [Civil Society Europe](#), the [Human Rights and Democracy Network](#) and the [European Partnership for Democracy](#).

<sup>119</sup> <https://protectdefenders.eu/>



particular as regards the definition by the Commission of annual work programmes) and at national level (in particular as regards the definition of annual work programmes for the use of structural and investments funds under shared management, as well as civil society involvement in implementation monitoring and evaluation processes).