



Council of the  
European Union

123668/EU XXVII. GP  
Eingelangt am 07/12/22

Brussels, 7 December 2022  
(OR. en)

15737/22

JAI 1642  
FREMP 260

## COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	6 December 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2022) 716 final
Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS A thriving civic space for upholding fundamental rights in the EU 2022 Annual Report on the Application of the EU Charter of Fundamental Rights

Delegations will find attached document COM(2022) 716 final.

Encl.: COM(2022) 716 final



EUROPEAN  
COMMISSION

Brussels, 6.12.2022  
COM(2022) 716 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE  
COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE  
COMMITTEE OF THE REGIONS**

**A thriving civic space for upholding fundamental rights in the EU  
2022 Annual Report on the Application of the EU Charter of Fundamental Rights**

# **A thriving civic space for upholding fundamental rights in the EU**

## **2022 Annual Report on the Application of the EU Charter of Fundamental Rights**

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## 1. Introduction

The Charter of Fundamental Rights of the European Union ('the Charter') brings together a broad range of fundamental rights and reaffirms that the EU is built on the values of fundamental rights, democracy and the rule of law. Its binding nature has enabled the EU legal order to develop into a beacon of fundamental rights protection.

### *When does the Charter apply?*

Since 2009, the Charter has the same legal status as the Treaties, the primary EU law on which EU legislation is based<sup>1</sup>. European institutions must comply with it in all their activities, and Member States must comply with it when they implement EU law<sup>2</sup>.

Member States implement EU law including when they:

- give effect to EU legislation by adopting national implementing measures;
- adopt laws on a matter where EU law imposes concrete obligations<sup>3</sup> or allows for its derogation;
- implement EU provisions when spending money from EU funding programmes; Member States must ensure that EU funds are spent in line with the rules in the legislation on which the funding is based.

To improve the application of the Charter and increase the public's knowledge about it, the European Commission presented in 2020 the **strategy to strengthen the application of the Charter of Fundamental Rights** ('Charter strategy')<sup>4</sup>. As set out in the Charter strategy, the Commission is now taking a thematic approach to its annual Charter reports to highlight some of the most pressing issues on fundamental rights and the application of the Charter in the chosen areas.

### *Progress in implementing the Charter strategy*

- The Commission adopted the 2021 annual report on the application of the Charter dedicated to *the protection of fundamental rights in the digital age*<sup>5</sup>.
- So far 22 Member States nominated a *Charter focal point* to foster cooperation and

<sup>1</sup> Article 6 of the Treaty on European Union (TEU).

<sup>2</sup> Article 51(1) of the Charter.

<sup>3</sup> When Member States adopt laws in an area where the EU has no competence and when no EU law exists, they are not implementing EU law and the Charter is not applicable to them. However, many fundamental rights enshrined in the Charter are also set out in national constitutions and case law, as well as in the European Convention on Human Rights to which all Member States are signatories.

<sup>4</sup> COM(2020) 711 final. The Charter strategy focuses on action under four strands: 1) ensuring Member States effectively apply the Charter; 2) empowering civil society organisations, rights defenders and justice practitioners; 3) fostering the use of the Charter to guide EU institutions; and 4) strengthening people's awareness of their rights under the Charter.

<sup>5</sup> For the first thematic report, see [Protecting Fundamental Rights in the Digital Age](#) – 2021 Annual Report on the Application of the EU Charter of Fundamental Rights; COM(2021) 819 final.

promote effective application of the Charter; the focal points met in June 2022 for the first time.

- Over 400 Member States' financial programmes were assessed to guarantee that effective arrangements are put in place to ensure the Charter is respected when implementing the EU funds concerned ('horizontal enabling condition' on the effective application and implementation of the Charter).
- The Citizens, Equality, Rights and Values (CERV) programme<sup>6</sup>, during its first 2 years, has supported almost 600 projects with around EUR 260 million, promoting EU values and combating hatred, discrimination and intolerance in the EU, and the Justice programme<sup>7</sup> is also funding projects to train justice professionals on fundamental rights<sup>8</sup>.
- As underlined in its Communication on Enforcing EU law for a Europe that delivers<sup>9</sup>, the Commission has stepped up its work to promote and uphold people's rights, fundamental freedoms and the rule of law through *infringement proceedings*.
- The Commission boosted its *collaborative approach* with Member States on specific areas covered by the Charter, such as the fight against racism and discrimination, hate speech and hate crime.
- Charter training and materials are available on the new European Training Platform of the European e-Justice Portal<sup>10</sup>, and the Commission is also developing training to help staff of EU institutions apply the Charter effectively in their daily work.
- 15 Member States so far have made their *best practices on use and awareness of the Charter* available on the European e-Justice Portal<sup>11</sup> and are also updating the information on the Fundamental Rights Information Tool<sup>12</sup>.
- The European Union Agency for Fundamental Rights (FRA) has further updated its Charterpedia database<sup>13</sup> and developed new online courses focused on the field of application of the Charter.
- To strengthen people's awareness of their rights under the Charter, the Commission

<sup>6</sup> [https://ec.europa.eu/info/departments/justice-and-consumers/justice-and-consumers-funding-tenders/funding-programmes/citizens-equality-rights-and-values-programme\\_en](https://ec.europa.eu/info/departments/justice-and-consumers/justice-and-consumers-funding-tenders/funding-programmes/citizens-equality-rights-and-values-programme_en)

<sup>7</sup> [https://ec.europa.eu/info/funding-tenders/find-funding/eu-funding-programmes/justice-programme\\_en](https://ec.europa.eu/info/funding-tenders/find-funding/eu-funding-programmes/justice-programme_en)

<sup>8</sup> Under the [call for proposals for action grants to support transnational projects on judicial training covering civil law, criminal law or fundamental rights](#), the Commission made available around EUR 5 million to support projects on training on civil law, criminal law, and fundamental rights, as enshrined in the Charter, including data protection.

<sup>9</sup> COM(2022) 518 final.

<sup>10</sup> [https://e-justice.europa.eu/european-training-platform/home\\_en](https://e-justice.europa.eu/european-training-platform/home_en)

<sup>11</sup> [https://e-justice.europa.eu/37134/EN/member\\_states\\_best\\_practices\\_on\\_the\\_charter](https://e-justice.europa.eu/37134/EN/member_states_best_practices_on_the_charter)

<sup>12</sup> [https://e-justice.europa.eu/459/EN/fundamental\\_rights\\_interactive\\_tool](https://e-justice.europa.eu/459/EN/fundamental_rights_interactive_tool)

<sup>13</sup> This covers a large spectrum of information on the Charter, including case law by national courts that refers to the Charter. The agency made this tool also available in a revamped Charter-app. The agency's tools are available here: <https://fra.europa.eu/en/eu-charter/fra-charter-resources>

launched the *#RightHereRightNow* campaign in 2021<sup>14</sup>. Information on the Charter is also provided through ‘Your rights in the EU’ on the European e-Justice Portal<sup>15</sup> and on Europa<sup>16</sup>.

In the Charter strategy, the Commission committed to supporting an enabling environment for civil society actors and taking action against measures that breach EU law including the Charter when these affect civil society organisations. The Charter strategy also highlighted the importance of setting up and maintaining strong and independent national human rights institutions (NHRIs).

This is why the focus of the 2022 report is the *civic space and its role in protecting and promoting the fundamental rights under the Charter*.

Civil society organisations (CSOs)<sup>17</sup> and rights defenders<sup>18</sup> are essential in our constitutional democratic societies to bring life to and protect the values and rights enshrined in Article 2 of the Treaty on European Union (TEU) and in the Charter<sup>19</sup>. They provide their expertise to the policymaking and legislative work of national authorities and EU institutions and help ensure that these bodies are held accountable for respecting fundamental rights and the rule of law. As this report will show, Member States and the EU have, to varying degrees, taken measures to protect, support and empower civil society actors, providing them with a range of opportunities to co-operate. However, in recent years, CSOs and rights defenders have also increasingly faced challenges linked to the narrowing of civic space. Various legal, administrative and political

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<sup>14</sup> [#RightHereRightNow \(europa.eu\)](https://e-justice.europa.eu/512/EN/your_rights). The campaign ran from December 2021 to December 2022 on social media and through media events. Key partners included CSOs, NHRIs and equality bodies, the FRA and other EU bodies and agencies.

<sup>15</sup> [https://e-justice.europa.eu/512/EN/your\\_rights](https://e-justice.europa.eu/512/EN/your_rights)

<sup>16</sup> [https://ec.europa.eu/info/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights\\_en](https://ec.europa.eu/info/aid-development-cooperation-fundamental-rights/your-rights-eu/eu-charter-fundamental-rights_en)

<sup>17</sup> For the purpose of this report, civil society organisations are defined as non-governmental organisations and institutions of civil society, active in the field of fundamental rights, which are voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members. See Article 10 of Council Regulation (EC) No [168/2007](#) establishing a European Union Agency for Fundamental Rights and the Council of Europe [Recommendation CM/Rec\(2007\)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe](#). See also [UN Declaration on Human Rights Defenders](#), under which the concept of ‘human rights defenders’ is not limited to human rights CSOs, but may also include individuals and other groups. Under EU law ‘human rights defenders’ are defined as “individuals, groups and organs of society that promote and protect universally recognised human rights and fundamental freedoms” [European Union guidelines on human rights defenders](#) (2008), p. 2.

<sup>18</sup> For the purpose of this report, ‘rights defenders’ are understood as covering, beyond CSOs, NHRIs, equality bodies and ombuds institutions. They do not include other independent bodies, such as Data Protection Authorities, nor political parties or trade unions.

<sup>19</sup> As also acknowledged in [Council conclusions on strengthening the application of the Charter of Fundamental Rights in the European Union](#) of 5 March 2021, pp. 3, 11.

measures have gradually limited their fundamental freedoms, affecting their ability to carry out activities supporting fundamental rights as strategic partners for the EU and Member States<sup>20</sup>.

Despite these challenges, CSOs and rights defenders show considerable resilience in continuing their work. In some Member States, they have played an essential role during the *COVID-19 pandemic*<sup>21</sup> and in *Russia's war of aggression against Ukraine*<sup>22</sup> and have been at the frontline of ensuring that individuals' needs are understood, communicated, met and their rights defended<sup>23</sup>.

*The importance of CSOs and rights defenders in times of crisis*

During the COVID-19 pandemic, CSOs and rights defenders advocated *transparent and proportionate measures to address the health emergency* and in certain Member States provided essential assistance to those affected<sup>24</sup>.

CSOs have been playing a key role *fighting disinformation in emergencies*, in cooperation with the EU, European fact-checking organisations and public institutions in Member States<sup>25</sup>.

Since the outbreak of Russia's war of aggression against Ukraine, CSOs and rights defenders have mobilised reception of and support for internally displaced people in Ukraine and those that have fled to the Member States<sup>26</sup>. They established a dedicated service to *connect missing children fleeing the conflict with their families and guardians*<sup>27</sup>. They have also been working on sharing best practices regarding guardianship for unaccompanied and separated children arriving

<sup>20</sup> See European Partnership for Democracy, *Repression and Resilience: Diagnosing closing space mid-pandemic* (2021), p. 9. See also FRA, *Europe's civil society: still under pressure – 2022 update* (2022) and UN Guidance Note, *Protection and Promotion of Civic Space* (2020). While certain measures directly target CSOs with a view to jeopardise their activities, this is not necessarily always the case and can be an unwelcome negative consequence of measures with a legitimate purpose, notably when implementation is not proportionate.

<sup>21</sup> See European Economic and Social Committee, *The response of civil society organisations to face the Covid-19 pandemic and the consequent restrictive measures adopted in Europe* (2021).

<sup>22</sup> <https://www.eesc.europa.eu/en/news-media/news/civil-society-organisations-helm-volunteer-assistance-ukrainian-civilians>

<sup>23</sup> FRA targeted consultation EU umbrella CSOs summary report, p. 12.

<sup>24</sup> See European Civic Forum, *Towards vibrant European civic and democratic space* (2022), p. 11. Nearly half of the new measures taken in Member States to support and protect victims of intimate partner violence and their children during the lockdowns were implemented by CSOs, see European Institute for Gender Equality *The Covid-19 pandemic and intimate partner violence against women in the EU* (2021), p. 18. In **Poland**, 15.8% of CSOs carried out additional activities to better assist their beneficiaries during the pandemic, and in **Portugal**, CSOs and rights defenders disseminated information on vaccinations to difficult-to-reach communities. This resulted in 600 000 foreign citizens being vaccinated, regardless of their migration status. See FRA targeted consultation Member States summary report, p. 4.

<sup>25</sup> See the Joint Communication, *Tackling COVID-19 disinformation - Getting the facts right*, JOIN(2020) 8 final.

<sup>26</sup> For an overview of the different types of civil society support provided during Russia's war against Ukraine, see FRA, *Europe's civil society: still under pressure – 2022 update* (2022), pp. 45-50.

<sup>27</sup> <https://missingchildreneurope.eu/ukraine/>

in the EU from Ukraine.

To facilitate information sharing and the coordination of initiatives among civil society actors, the Commission set up a dedicated health stakeholders' network named "Supporting Ukraine, EU neighbouring Member States and Moldova" on the EU Health Policy Platform<sup>28</sup>.

CSOs have also played a significant role in *documenting atrocities*, examining indications of international crimes and forced deportations of Ukrainian citizens to Russia. They have also been conducting *capacity building for the Ukrainian law enforcement and justice systems* to enable the investigation and prosecution of alleged war crimes and crimes against humanity in view of the large numbers of reported cases<sup>29</sup>.

In the context of both crises, CSOs have been instrumental in relaying from the ground the extra hardships experienced by specific groups, like women, children, persons with disabilities, LGBTIQ people, Roma, and older persons, and have therefore contributed to informed decisions on how to best tackle their specific needs<sup>30</sup>.

This report comes at a critical time for the EU's civic space. It is part of the Commission's efforts to acknowledge the contribution played by CSOs and rights defenders in upholding the EU's fundamental values and its commitment to support their work, both in its internal and external action<sup>31</sup>. In a Union built on fundamental rights, the rule of law and democracy, civil society actors play a crucial role in promoting and protecting the fundamental rights under the Charter and help ensuring that the Charter is properly applied. In this way, it complements the annual rule of law reports<sup>32</sup>, the European democracy action plan<sup>33</sup>, the EU Justice Scoreboard<sup>34</sup>,

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<sup>28</sup> The [EU Health Policy Platform](#) brings together more than 5 000 active participants from over 80 networks, such as patient groups and health professionals' organisations, Member States authorities and the Commission. The Commission supported the network in identifying and securing funding for CSOs initiatives focussing on the support to Ukrainian refugees and patients on matters such as mental health and psychological needs. In addition, the EU Health Award has raised awareness of the role of CSOs, cities and schools in strengthening participative democracy and active citizenship in the realm of public health.

<sup>29</sup> See [Political Declaration of the Ministerial Ukraine Accountability Conference](#), points 13,14, Eurojust, [Guidelines for Civil Society Organisations on Documenting International Crimes and Human Rights Violations for Criminal Accountability Purposes](#) (2022). Several Ukrainian CSOs that focus on documentation of and communication on war crimes (part of the [5 am Coalition](#)) are receiving grants from the EU / EU-funded projects.

<sup>30</sup> FRA, [Europe's civil society: still under pressure - 2022 update](#) (2022).

<sup>31</sup> Although the Charter is not strictly applicable in the EU's external relations under Article 51(1), its provisions are binding on EU institutions and bodies, including departments responsible for the EU's external relations, in all their activities. Moreover, regardless of the different legal and policy context in internal and external action, these departments have long-standing experience in working with, protecting, monitoring and maintaining a dialogue with CSOs and rights defenders.

<sup>32</sup> 2022 Rule of Law Report – The rule of law situation in the European Union; COM(2022) 500 final.

<sup>33</sup> COM(2020) 790 final.

<sup>34</sup> [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/eu-justice-scoreboard\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/eu-justice-scoreboard_en)



and the work of the European Union Agency for Fundamental Rights (FRA) on civic space<sup>35</sup>. The report reaffirms that CSOs and rights defenders should be able to work in an environment where their own fundamental rights are respected and presents examples of how this is achieved or challenged at EU and national level. The report responds to calls for further action by the EU, including those made as part of the Conference on the Future of Europe<sup>36</sup>.

*What information is this report based on?*

The report relies on a qualitative assessment of the results of consultations carried out by the Commission and analysed by the Fundamental Rights Agency, and of other sources, including:

- four targeted consultations with: (i) Member States<sup>37</sup>; (ii) six umbrella organisations of European CSOs working in the area of fundamental rights; (iii) two international organisations; and (iv) the European Network of National Human Rights Institutions (ENNHRI) and the European Network of Equality Bodies (Equinet);
- an online consultation with 150 CSOs through the Fundamental Rights Agency's civil society network, the Fundamental Rights Platform<sup>38</sup>;
- contributions received when preparing other Commission reports, such as the annual rule of law report;
- reports from other EU institutions and agencies, in particular those from the Fundamental Rights Agency focusing on civic space, and from international organisations<sup>39</sup>.

The examples in this report are chosen to show significant developments in recent years and present both challenges and positive aspects identified by stakeholders in Member States. The examples and descriptions of national measures and initiatives are non-exhaustive and included for illustrative purposes only. The summary reports of the consultations and individual contributions present additional measures and initiatives<sup>40</sup>. The topics in each chapter (dedicated

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<sup>35</sup> See FRA, [Challenges facing civil society organisations working on human rights in the EU](#) (2018), FRA, [Protecting civic space in the EU](#) (2021), and FRA, [Europe's civil society: still under pressure - 2022 update](#) (2022). See also <https://fra.europa.eu/fr/cooperation/civil-society/civil-society-space>.

<sup>36</sup> [Report on the final outcome of the Conference on the Future of Europe](#), see in particular: 'Include civil society ... in the citizens' participation process' (Proposal 36, p. 79, point 5); 'Provide enhanced structural support, financial and otherwise, for civil society, especially for youth civil society .... This could be achieved through ... and a dedicated civil society strategy' (point 8); 'Strengthening cooperation between EU legislators and civil society organisations to utilise the link between decision-makers and citizens which civil society organisations constitute' (point 10); 'Reform the way the European Union works by better involving social partners and organised civil society' (Proposal 39.6, p. 83); 'Social partners and organised civil society should be better included in the decision-making process, given the importance in the European democratic life' (Proposal 40.5, p. 84).

<sup>37</sup> 22 of the 27 Member States responded to the targeted consultation.

<sup>38</sup> <https://fra.europa.eu/en/cooperation/civil-society>

<sup>39</sup> The report builds on recent reports on civic space and civil society from the [European Parliament](#), the [European Economic and Social Committee](#), FRA (see footnote 35), the [United Nations](#), and the [Council of Europe](#).

<sup>40</sup> The results of the four targeted consultations were assessed and summarised by FRA. See the [summary reports of the consultations](#) and the individual replies to the consultations by the [Member States](#) and [stakeholders](#).

to protecting, supporting and empowering civil society) were chosen as key interdependent indicators of an enabling environment for civil society.

## 2. The crucial role of civil society organisations and rights defenders

CSOs and rights defenders carry out many activities in Member States and at EU level. Being a diverse group, CSOs range from having broad fundamental rights-related mandates to providing specialised expertise or support regarding certain rights. They may conduct nationwide activities or have a regional or local remit. They may also carry out a wide range of activities or only focus on certain work such as advocacy or service provision tailored to the needs of their members or beneficiaries<sup>41</sup>. Equally important, NHRIs, equality bodies and ombuds institutions also contribute to activities implementing EU law and policy in many ways.

### *Raising awareness*

CSOs and rights defenders raise awareness, inform, educate and train the public, specific groups and Member State authorities on fundamental rights and their enforcement, democratic decision-making, and the rule of law. By doing this, CSOs and rights defenders promote a culture of rights and democratic accountability in the EU. For example, in **Croatia**, the Ombudsperson trains civil servants and judges on the Charter. This includes the obligations arising from the Charter, as well as its potential use in campaigns, advocacy activities and supporting victims of human rights violations<sup>42</sup>. In **Lithuania**, CSOs have recently organised 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 to counter it<sup>43</sup>.

In addition, CSOs and rights defenders provide information on matters potentially affecting the public and the methods through which people can participate in democratic decision-making processes. Civil society actors mobilise people to publicly express their views through demonstrations, petitions, referenda and citizens' panels. They can build up awareness and

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<sup>41</sup> FRA targeted consultation Member States summary report, p. 2. NHRIs also prioritise their work in line with the national situation and the most pressing needs, whereas equality bodies focus on implementing equality and non-discrimination legislation (FRA targeted consultation ENNHRI and EQUINET summary report, p. 6).

<sup>42</sup> FRA targeted consultation Member States summary report, p. 8. In **Sweden**, a CSO carried out a state-funded project informing massage parlours of the risk of violence against women linked to prostitution and trafficking in human beings. The project created a label for massage parlours, educated those involved and produced information material for risk analyses and policy action within large companies (FRA targeted consultation Member States summary report, p. 2).

<sup>43</sup> FRA targeted consultation EU umbrella CSOs summary report, pp. 5-6.

jointly advocate policies and legislation beyond the borders of single Member States, conveying valuable knowledge from national level to EU or international decision-makers and vice versa<sup>44</sup>.

### *Monitoring*

CSOs and rights defenders monitor how fundamental rights are respected on the ground and have an important watchdog function. They are often the first to receive information about the effects of legislative and policy measures, and so they are well placed to make suggestions on how existing measures could be further developed. They gain first-hand information on potential rights' violations. For example, in **Ireland**, CSOs have a recognised official role in overseeing the implementation of national equality strategies on migration, gender equality, Traveller and Roma rights, LGBTIQ inclusion and rights of persons with disabilities<sup>45</sup>. In **Romania**, during the pandemic, the Ombudsperson assessed the impact of national measures on fundamental rights and issued a recommendation on the observance of human rights and the exceptional measures ordered during the period of the state of emergency and state of alert<sup>46</sup>. In several Member States, CSOs and rights defenders contribute significantly to international human rights bodies' regular country-monitoring procedures<sup>47</sup>.

### *Supporting rights holders*

CSOs and rights defenders support rights holders and victims of fundamental rights violations in explaining, defending and enforcing their rights<sup>48</sup>. They do this by gathering and providing information, investigating alleged violations and reporting to national, regional and international monitoring bodies. They may assist victims of violations in seeking judicial or non-judicial remedies, offer legal assistance or engage in strategic litigation<sup>49</sup>. CSOs and rights defenders may carry out similar activities internationally and assist individual complainants in informing human rights monitoring bodies about causes of concern. For example, the **Belgian** equality

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<sup>44</sup> FRA targeted consultation EU umbrella CSOs summary report, p. 4. For example, Fridays for Future is a youth-led and organised global climate strike movement that began in **Sweden**. They provide information on climate issues and offer resources and support to people who want to influence policymaking through similar demonstrations and strikes, <https://fridaysforfuture.org>.

<sup>45</sup> FRA targeted consultation Member States summary report, p. 6.

<sup>46</sup> FRA targeted consultation Member States summary report, p. 8.

<sup>47</sup> For instance, membership of the United Nations Human Rights Council involves dialogue with CSOs, whereby governments actively work with CSOs on human rights issues and enable them to engage in the work of the Council (FRA targeted consultation Member States summary report, p. 6). The Council of Europe encourages reporting and participation of CSOs, see for example the handbook [Working with the Council of Europe: a practical guide for civil society](#), and also: <https://www.coe.int/en/web/anti-human-trafficking/role-of-ngos>, <https://www.coe.int/en/web/minorities/role-of-ngos>, <https://www.coe.int/en/web/istanbul-convention/ngo> and <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/civil-society>.

<sup>48</sup> For instance, over the last few years, CSOs have drawn attention to the tragedy of missing migrants while pointing out the need to identify them and restore their dignity. The Council of Europe called for [immediate action](#) on this, and the forthcoming interoperability framework of Union's large-scale IT systems will significantly contribute to finding a solution.

<sup>49</sup> FRA targeted consultation EU umbrella CSOs summary report, p. 6.

body litigates on behalf of employees alleged to have been discriminated against on the basis of sex<sup>50</sup> and in **Slovenia**, the Ombudsperson can file constitutional complaints on violations of fundamental rights in individual cases<sup>51</sup>. In the **Netherlands**, court proceedings were initiated by a coalition of CSOs and private individuals alleging a violation of Articles 7 and 8 of the Charter on respect for private and family life and protection of personal data and challenging the lawfulness of a legal instrument to detect fraud<sup>52</sup>.

CSOs and rights defenders furthermore support rights holders by providing services to individuals<sup>53</sup>. They may supplement services provided by national, regional or local authorities or be mandated to provide services on behalf of the state. For example, in **Sweden**, non-profit women's shelters offer accommodation and rehabilitation for victims of gender-based violence and trafficking in human beings, while other CSOs support asylum seekers and individuals with discrimination claims<sup>54</sup>. In **Czechia**, CSOs worked together to establish two dedicated support centres for victims of illegal sterilisation<sup>55</sup>.

### *Advocating*

CSOs and rights defenders also contribute to democratic decision-making by advocating fundamental rights in legislation or policymaking. Consultation activities may take place through structured arrangements or on CSOs and rights defenders' own initiative and offer people the opportunity to directly participate in decision-making in matters affecting them. Certain CSOs and rights defenders also support the democratic participation of vulnerable groups. For example, in **Belgium**, civil society representatives participate in the *Brussels Advisory Council for the Disabled* and the *Brussels Council for Equality between Men and Women* (both set up by the government), which can give opinions on legislative proposals<sup>56</sup>. In **France**, CSOs are represented in the *Commission Nationale consultative des Droits de l'Homme*, which submits annual reports to the government on different matters, including combatting racism, xenophobia and antisemitism, trafficking in human beings and LGBTIQ discrimination<sup>57</sup>. Various Member States involve CSOs and rights defenders in implementing open government action plans to

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<sup>50</sup> FRA targeted consultation Member States summary report, p. 10.

<sup>51</sup> FRA targeted consultation Member States summary report, p. 8.

<sup>52</sup> FRA targeted consultation Member States summary report, p. 4; referring to District Court of The Hague, 5 February 2020 (ECLI:NL:RBDHA:2020:865, paragraph 5.1). Legal action was also taken by a CSO claiming that the state needed to take further measures to reduce greenhouse gas emissions to protect the right to life and to private and family life (Dutch Supreme Court, 20 December 2019, ECLI:NL:HR:2019:2007).

<sup>53</sup> FRA targeted consultation EU umbrella CSOs summary report, p. 7. The **Lithuanian** NHRI has carried out investigations related to assisting victims of domestic violence and providing psychological services to people in social care institutions; FRA targeted consultation Member States summary report, p. 9.

<sup>54</sup> FRA targeted consultation Member States summary report, p. 3.

<sup>55</sup> FRA targeted consultation EU umbrella CSOs summary report, p. 7.

<sup>56</sup> FRA targeted consultation Member States summary report, p. 5.

<sup>57</sup> FRA targeted consultation Member States summary report, p. 5. In **Croatia**, CSOs contribute to the Civil Society Development Council and the Council for Human Rights, as well as expert working groups charged with drafting national policy documents (FRA targeted consultation Member States summary report, p. 5).

promote transparency, accountability, participation, public integrity and collaboration in society<sup>58</sup>.

### *Supporting how EU legislation is applied*

EU law often explicitly entrusts CSOs with tasks that are crucial for effective implementation of legislation on the ground. For example, the **Consumer Protection Cooperation Regulation**<sup>59</sup> grants consumer organisations the right to notify authorities about abuses of EU consumer protection law<sup>60</sup>. The **Employment Equality Directive**<sup>61</sup> requires Member States to provide that CSOs may, under certain conditions<sup>62</sup>, engage in relevant judicial and administrative procedures either on behalf or in support of the complainant.

The amended **Aarhus Regulation**<sup>63</sup> boosts the right of environmental organisations to request EU institutions and bodies to review their decisions to ensure compliance with EU environmental law<sup>64</sup>. The amendment significantly broadened the number and types of decisions that can be challenged. Similarly, the **proposal for a directive on corporate sustainability due**

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<sup>58</sup> FRA targeted consultation Member States summary report, p. 5, the action plans are required as part of their membership of the Open Government Partnership, whose members include Bulgaria, Croatia, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovakia, Spain, Sweden; <https://www.opengovpartnership.org/policy-area/civic-space-and-enabling-environment/>.

<sup>59</sup> Regulation (EU) 2017/2394 of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004.

<sup>60</sup> The European Consumer Organisation (BEUC) has issued several alerts leading to action by EU consumer protection authorities against WhatsApp and TikTok (<https://www.beuc.eu/publications/consumer-groups-file-complaint-against-whatsapp-unfairly-pressuring-users-accept-its/html>, <https://www.beuc.eu/tiktok>). Its first alert against unfair airline practices resulted in commitments by 16 major airlines to provide better information and reimburse passengers promptly when flights are cancelled (<https://www.beuc.eu/publications/beuc-reports-major-airlines-breaching-passenger-rights-and-calls-industry-investigation/html>, [https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/air-travel\\_en](https://ec.europa.eu/info/live-work-travel-eu/consumer-rights-and-complaints/enforcement-consumer-protection/coordinated-actions/air-travel_en)).

<sup>61</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303, 2.12.2000, p. 16–22.

<sup>62</sup> The qualification of which associations, organisations and other legal entities have a legitimate interest (i.e. in ensuring that the provisions of this Directive are complied with) is defined in accordance with the criteria laid down by the relevant national law. Furthermore, these entities may engage in judicial and/or administrative procedures only with the approval of the complainant.

<sup>63</sup> Regulation (EU) 2021/1767 of 6 October 2021 amending Regulation (EC) No 1367/2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies.

<sup>64</sup> Proposal for a directive on the protection of the environment through criminal law and replacing Directive 2008/99/EC, COM(2021) 851 final. The Commission also adopted a communication to facilitate access to justice in environmental matters for individuals and NGOs, COM(2020) 643. A recent judgement from the CJEU confirms that the Aarhus Convention, read in conjunction with the Charter, imposes an obligation on Member States to ensure effective judicial protection and allow environmental associations to verify before national courts that certain rules of EU environmental law are being complied with (8 November 2022, *Deutsche Umwelthilfe eV v Bundesrepublik Deutschland*, C-873/19, EU:C:2022:857).



**diligence** provides for the right of organisations to submit complaints directly to a company when that company's operations or value chains may harm human rights or the environment<sup>65</sup>.

The **Victims' Rights Directive**<sup>66</sup> provides for support services to be set up as a public service or by CSOs<sup>67</sup>. Similarly, when providing support services to victims of terrorism under the **Counterterrorism Directive**<sup>68</sup>, many Member States combine services provided directly by the state with those provided by CSOs<sup>69</sup>. The **proposal for a directive on combating violence against women and domestic violence**<sup>70</sup> also confirms that specialist support to victims of such violence may be provided by CSOs. It also proposes obliging Member States to consult CSOs on support services, policymaking, providing information and raising awareness, research and education programmes, training, and monitoring.

Article 4(3) of the **United Nations Convention on the Rights of Persons with Disabilities**<sup>71</sup>, to which the EU is party, requires that persons with disabilities are closely consulted on policies that concern them through their representative organisations<sup>72</sup>. For passenger rights, EU law requires that these organisations are also consulted when airports, ship and port terminal operators adopt standards on passengers with disabilities<sup>73</sup> and when rail, ship, bus and coach operators adopt rules on non-discriminatory access to services<sup>74</sup>.

The **General Data Protection Regulation (GDPR)**<sup>75</sup> and the **Law Enforcement Directive (LED)**<sup>76</sup> establish that, in case of unlawful processing of personal data, a non-profit body, organisation, or association can be mandated the right to lodge a complaint before the competent supervisory authority and national court.

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<sup>65</sup> Proposal for a directive on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, COM(2022) 71, which also provides for the consultation of stakeholders and CSOs.

<sup>66</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, recital 62 of which calls for Member States to work closely with CSOs helping victims of crime.

<sup>67</sup> Article 8(4) of Directive 2012/29/EU.

<sup>68</sup> Article 24 of Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA.

<sup>69</sup> SWD/2021/324 final, p. 10, referring to **Belgium, France, Germany, Greece and Spain** who combined services provided directly by the state with those provided by CSOs.

<sup>70</sup> Articles 27(3), 40 and 41 of the proposal for a directive on combating violence against women and domestic violence, COM(2022) 105 final.

<sup>71</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_11\\_4](https://ec.europa.eu/commission/presscorner/detail/en/IP_11_4)

<sup>72</sup> For example, C(2018) 6550, Article 2.2.4 of Annex 1 requires Member States to consult national stakeholders, in particular organisations representing persons with disabilities, and give due consideration to the stakeholders' opinion regarding specific websites to be monitored.

<sup>73</sup> Article 9(1) of Regulation (EC) No 1107/2006 and Article 13(1) of Regulation (EU) No 1177/2010.

<sup>74</sup> Article 19(1) of Regulation (EC) No 1371/2007, Article 9(1) of Regulation (EU) No 1177/2010, Article 11(1) of Regulation (EU) No 181/2011, and Annex III to Regulation (EU) 2021/782. From June 2023, rail operators will be obliged to regularly consult these representative organisations of persons with disabilities and persons with reduced mobility on quality standards for assistance to persons with disabilities.

<sup>75</sup> Regulation (EU) 2016/679, Article 80.

<sup>76</sup> Directive (EU) 2016/680, Article 55.

The **Digital Services Act Regulation (DSA)**<sup>77</sup> recognises the importance of civil society in effectively dealing with illegal online content while ensuring respect for fundamental rights and in scrutinising the robust transparency measures digital services will have to take once the regulation enters into force. The DSA also recognises the need to take into account the in-depth knowledge that civil society brings on societal risks and encourages very large online platforms and search engines to consult civil society when complying with their risk management obligations.

**Equality bodies** play a crucial role in implementing EU equal treatment legislation. To aid them in this role, the Commission will adopt proposals for legislation to extend the mandate, strengthen the powers, resources and independence of equality bodies for the promotion of equal treatment<sup>78</sup>.

In addition to tasks attributed to CSOs and rights defenders in EU legislation, CSOs contribute to the effectiveness of EU policies. Under the **2016 EU Code of conduct on countering illegal hate speech online**, a network of CSOs monitors the implementation of commitments made by online platforms, contributing to protecting groups at risk from hate speech across the EU. Similarly, the **EU Internet Forum** brings representatives from governments, law enforcement, technology industry and civil society together to curb the dissemination of violent extremist, terrorist and child sexual abuse content<sup>79</sup>. Since 2022, the Forum also addresses the online dimension of trafficking in human beings. The Commission also coordinates the **Radicalisation Awareness Network**, a European network of frontline practitioners who work daily with those vulnerable to radicalisation and those who have already been radicalised<sup>80</sup>.

The **EU Anti-Racism Action Plan 2020-2025** encourages Member States to involve CSOs in the design, implementation and evaluation of the national action plans against racism.

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<sup>77</sup> Proposal for a Regulation on a Single Market for Digital Services (Digital Services Act) and amending Directive 2000/31/EC, COM(2020) 825 final. When assessing systemic risks and mitigation measures, the DSA encourages providers of very large online platforms to engage with: (i) civil society partners, including by establishing codes of conduct, to support applying the rules properly; and (ii) CSOs conducting scientific research given their role in contributing to detecting, identifying and understanding systemic risks in the EU.

<sup>78</sup> Proposal for a Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU, COM(2022) 688; Proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC, COM(2022) 689.

<sup>79</sup> [https://home-affairs.ec.europa.eu/networks/european-union-internet-forum-euif\\_en](https://home-affairs.ec.europa.eu/networks/european-union-internet-forum-euif_en)

<sup>80</sup> [https://ec.europa.eu/home-affairs/networks/radicalisation-awareness-network-ran/about-ran\\_en#who-are-we](https://ec.europa.eu/home-affairs/networks/radicalisation-awareness-network-ran/about-ran_en#who-are-we). The network includes civil society representatives, social workers, youth workers, teachers, healthcare professionals, local authority representatives, police officers and prison officers engaged in preventing and countering violent extremism and rehabilitating and reintegrating violent extremists.

### 3. Protecting CSOs and rights defenders

CSOs and rights defenders promote and protect the rights under the Charter on the ground and must be able to work in a *supportive environment*, where their own fundamental rights are respected in the first place<sup>81</sup>. They must be able to pursue their activities without unjustified interference by the state<sup>82</sup>, and states must actively take steps to protect and promote civic space and those active within it<sup>83</sup>. While most Member States already ensure this, CSOs and rights defenders still report *a range of challenges, obstacles and restrictions* in certain Member States that have limited their ability to carry out their activities<sup>84</sup>. The scope of their activities is often affected by budgetary, human resource, or legal constraints.

#### *Feedback from consultation*

In the consultation conducted to prepare this report, 61% of CSOs responding to it reported that they have faced obstacles that limit their ‘safe space’<sup>85</sup>. More specifically, 44% of them have been subjected to verbal attacks and harassment, intimidation, negative narratives, or smear or disinformation campaigns<sup>86</sup>. Other obstacles encountered included digital attacks (19%), criminalisation of humanitarian or fundamental rights work (18%)<sup>87</sup>, administrative harassment (15%), physical attacks on people and property (15%), breaches of data protection (14%), surveillance (12%), obstacles related to the ethical use of technology or artificial intelligence (9%) and strategic lawsuits against public participation (SLAPPs) (7%)<sup>88</sup>. Those particularly

<sup>81</sup> CSOs and rights defenders are more and more developing tools to protect their rights under the Charter, especially the rights to freedom of expression, including access to information, and to freedom of peaceful assembly and association, see European Center for Not-for-Profit Law Stichting (ECNL), the European Foundation Centre (EFC) and the Donors and Foundations Network in Europe (DAFNE), [How to Use EU Law to Protect Civic Space](#) (2020).

<sup>82</sup> As recognised by the Commission in the Charter strategy, by the European Parliament (resolution 2021/2103(INI) and legislative initiative resolution 2020/2026(INL)), and the Court of Justice of the European Union in its judgment of 18 June 2020, *Commission v Hungary*, C-78/18, EU:C:2020:476, paragraph 113.

<sup>83</sup> See Council of Europe, [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 and UN General Assembly resolution 53/144 [Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#) (Article 2).

<sup>84</sup> See FRA Reports - footnote 35. Also UN Guidance Note, [Protection and Promotion of Civic Space](#) (2020), p. 8.

<sup>85</sup> [2022 FRA Charter consultation](#): Question (G) Obstacles under ‘safe space and protection’. See also FRA survey on Civic space – experiences of organisations in [2018](#) and [2019](#).

<sup>86</sup> For example, stakeholders have reported that CSOs have been the target of negative narratives by public officials in **Slovenia** (2022 Rule of Law Report, Country Chapter Slovenia, pp. 23-24), smear and disinformation campaigns in **Croatia** (2022 Rule of Law Report, Country Chapter Croatia, p. 26), and verbal attacks by public figures in **Slovakia** (2022 Rule of Law Report, Country Chapter Slovakia, p. 23). In **Hungary**, the LGBTIQ community and certain CSOs complain of being targeted by government smear campaigns (2022 Rule of Law Report, Country Chapter Hungary, p. 30).

<sup>87</sup> For example, as regards **Greece**, NGOs referred to a law of 4 September 2021 criminalising certain work of CSOs, in particular those engaged in search and rescue missions at sea (2022 Rule of Law Report, Country Chapter Greece, p. 22).

<sup>88</sup> SLAPPs are clearly unfounded or abusive court proceedings usually initiated by powerful individuals, lobby groups, corporations and state bodies against those involved in protecting the public interest. The aim is to censor,



affected work on women's and sexual and reproductive rights, LGBTIQ rights, migrants and asylum seekers' rights and environmental protection<sup>89</sup>.

Rights defenders, such as NHRIs, are affected by similar challenges<sup>90</sup>. As reported by FRA, a 'significant number of employees and volunteers had been subjected to threats or harassment (verbal or written, including online) in relation to their work for their NHRI'<sup>91</sup>. In some Member States, NHRIs faced obstacles to their independence and to secure adequate resources and fulfilling their broad mandate<sup>92</sup>. This is also the case for Ombudspersons<sup>93</sup>. Equality bodies also reported an increasingly challenging environment due to less social consensus on equality issues and illegal discriminatory statements being considered acceptable<sup>94</sup>. External pressure and inadequate staffing have led to some reported cases of equality bodies lacking independence and effectiveness<sup>95</sup>.

### 3.1. Examples of how Member States protect the civic space

An *enabling environment* is essential for CSOs and rights defenders to carry out their work and safeguard their right to association. In many Member States, they are supported and encouraged

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intimidate and silence critics by burdening them with the cost of legal defence. See the proposal for a directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings, COM(2022) 177 final, and the 2022 Rule of Law Report (pp. 21, 26), in which it is reported that this phenomenon has been gaining ground in the EU and represents one of the challenges faced by CSOs.

<sup>89</sup> FRA, [Europe's civil society: still under pressure – 2022 update](#) (2022), p. 21, lists migration, environmental protection, women's rights, LGBTIQ rights, anti-racism, and children's rights as sensitive. See also FRA targeted consultation ENNHRI and EQUINET summary report, p. 8, FRA targeted consultation EU umbrella CSOs summary report, pp. 15-16. For example, in **Poland**, LGBTIQ people and NGOs continue to be targeted by draft legislation initiatives (2022 Rule of Law Report, Country Chapter Poland, p. 29). In **Italy**, civil society groups working on migrant rights are particularly targeted by a narrowing of civic space (2022 Rule of Law Report, Country Chapter Italy, p. 25).

<sup>90</sup> See 2022 Rule of Law Report, Communication, p. 24; FRA targeted consultation ENNHRI and EQUINET summary report, p. 10; also ENNHRI, [State of the rule of law in the European Union](#) (2022).

<sup>91</sup> NHRIs also reported being the target of negative media reports or campaigns, being targeted by lawsuits linked to their work, and having to report incidents to the police. One NRHI reported that its premises were attacked (FRA, [Strong and effective national human rights institutions – challenges, promising practices and opportunities](#) (2019), p. 45). See also ENNHRI, [2020 Guidelines on support for NHRIs under threat](#) (2020).

<sup>92</sup> FRA targeted consultation ENNHRI and EQUINET summary report, p. 6. For example, in **Hungary**, concerns persist about the independence of the Commissioner for Fundamental Rights (2022 Rule of Law Report, Communication, p. 24).

<sup>93</sup> For example, in **Lithuania**, concerns have been raised that a lack of resources and new draft legislation could harm the ability of the Office of the Parliamentary Ombudspersons to fulfil its mandate (2022 Rule of Law Report, Communication, p. 24). See also 2022 Rule of Law Report, recommendations to **Croatia** and **Poland**.

<sup>94</sup> FRA targeted consultation ENNHRI and EQUINET summary report, p. 7. See also Equinet, [Legislating for stronger, more effective equality bodies](#) (2021).

<sup>95</sup> Commission Recommendation (EU) 2018/951 of 22 June 2018 on [standards for equality bodies](#) (recital 21). See also footnote 78.

in their work and legally protected<sup>96</sup>. In recent years, several positive developments have taken place across the EU to foster this enabling environment for CSOs and rights defenders<sup>97</sup>, and certain Member States are implementing legislative and institutional changes. For example, **Croatia**<sup>98</sup> and **Germany**<sup>99</sup> are preparing national action plans to improve the situation for CSOs. In **Slovenia**<sup>100</sup>, a law on non-governmental organisations aims to provide an enabling environment for CSOs. In other Member States, such as **Bulgaria**<sup>101</sup> and **Lithuania**<sup>102</sup>, special government bodies are tasked with developing policies to support civil society. In **Finland**, the government's Advisory Board on Civil Society Policy has developed a civil society strategy<sup>103</sup>.

In some Member States, however, CSOs and rights defenders raised concerns about their freedom of association being affected by legislation notably on public order or security, concerns which in some cases have been raised before the courts<sup>104</sup>. Additional hurdles reported by stakeholders relate to transparency<sup>105</sup>, counterterrorism<sup>106</sup> and anti-money laundering laws<sup>107</sup>.

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<sup>96</sup> According to CIVICUS Monitor, <https://monitor.civicus.org/>, civic space is considered: (i) open in Austria, Cyprus, Denmark, Estonia, Finland, Germany, Ireland, Lithuania, Luxembourg, the Netherlands, Portugal, Sweden; (ii) to have narrowed in Belgium, Bulgaria, Croatia, Czechia, France, Greece, Italy, Latvia, Malta, Romania, Slovakia, Slovenia, Spain; and (iii) obstructed in Hungary, Poland.

<sup>97</sup> 2022 Rule of Law Report, Communication, p. 25.

<sup>98</sup> FRA targeted consultation Member States summary report, p. 12; 2022 Rule of Law Report, Communication, p. 25.

<sup>99</sup> FRA targeted consultation Member States summary report, p. 12; 2022 Rule of Law Report, Country Chapter Germany, p. 25.

<sup>100</sup> FRA targeted consultation EU umbrella CSOs summary report, pp. 18-19.

<sup>101</sup> 2022 Rule of Law Report, Country Chapter Bulgaria, p. 25.

<sup>102</sup> FRA targeted consultation Member States summary report, p. 12.

<sup>103</sup> <https://oikeusministerio.fi/en/-/an-autonomous-and-dynamic-civil-society-for-all>

<sup>104</sup> For example, **Austria**'s civil society has raised concerns over the impact of anti-terrorism legislation on the operating space for CSOs, specifically for Muslim organisations (see 2022 and 2021 Rule of Law Reports, Country Chapter Austria, pp. 23 and 18 respectively). In **France** a number of stakeholders raised concerns on the draft law to 'reinforce respect for the republican principles' as regards its potential impact on the civic space (Law No 2021-1109 of 24 August 2021; 2022 and 2021 Rule of Law Report, Country Chapter France, pp. 23 and 17 respectively). In **Greece**, some CSOs raised concerns about the registration process for NGOs active in asylum, migration and social inclusion (Law 4662/2020, further amended by Law 4686/2020; see 2020, 2021 and 2022 Rule of Law Reports, Country Chapter Greece, pp. 22, 12 and 12 respectively). Three appeals are pending before the Council of State challenging some aspects of the legality of the law on the registration of NGOs. (2022 Rule of Law Report, Country Chapter Greece, p. 21).

<sup>105</sup> For example, in **Poland**, a draft law proposal aiming to ensure 'transparency of non-governmental organisations' has raised stakeholders' concerns (2022 Rule of Law Report, Country Chapter Poland, p. 29).

<sup>106</sup> In **Sweden**, a proposal was presented to amend the Constitution to extend the possibilities to restrict the freedom of association by law for associations engaging in or supporting terrorism and CSOs expressed concern that the amendment could enable undue interference with the freedom of association (2022 Rule of Law Report, Country Chapter Sweden, p. 19). See Financial Action Task Force, *Combating the abuse of non-profit organisations (Recommendation 8)* (2015).

<sup>107</sup> In **Cyprus**, CSOs have reported that legislation introduced to ensure compliance with rules on combating terrorist financing and money laundering has led to the de-registration of several CSOs (2022 and 2021 Rule of Law Report, Country Chapter Cyprus, pp. 16 and 12 respectively).

Other obstructions reported by civil society include dissuasive measures, such as audits and funding investigations<sup>108</sup>, and obstacles to access funding<sup>109</sup>.

In most Member States, there are no special procedures in place to report and monitor threats and attacks<sup>110</sup>. As a result, CSOs and rights defenders themselves play an essential role in *monitoring and reporting* on civic space<sup>111</sup>. For example, the **Slovak** National Centre for Human Rights has documented threats, intimidation, harassment and restrictions of rights experienced by civil society working in environmental protection, LGBTIQ rights and women's rights, including sexual and reproductive health and rights<sup>112</sup>. In **Finland**, a CSO developed the tool 'Together Against Hate' to collect data on threats or attacks against CSOs and rights defenders<sup>113</sup>. In addition, the online research platform **CIVICUS monitor**<sup>114</sup> tracks civil society freedom in 197 countries and territories, and **Civic Space Watch**<sup>115</sup> collects findings from groups in Europe on civil society conditions and identifies national and trans-European trends.

To address physical and online attacks against CSOs and rights defenders in **France**, the Ministry for Interior monitors reports of unlawful acts against these groups and can put in place appropriate measures through its Protection Service<sup>116</sup>. **Luxembourg**<sup>117</sup> and the **Netherlands**<sup>118</sup> have implemented projects that allow foreign rights defenders, who are under threat or pressure in their own country, to stay in safety for up to 3 months. **Sweden** has adopted a national action plan to address threats and hatred against, among others, CSOs and rights defenders<sup>119</sup>.

NHRIs and equality bodies also work to promote a safe and enabling environment for CSOs at national level. NHRIs work closely with CSOs, for example, by training them<sup>120</sup> and helping

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<sup>108</sup> For example, auditing checks on CSOs in **Hungary** have raised concerns (2022 Rule of Law Report, Country Chapter Hungary, p. 29).

<sup>109</sup> See Chapter 4: Supporting CSOs and rights defenders.

<sup>110</sup> FRA targeted consultation Member States summary report, p. 13.

<sup>111</sup> FRA targeted consultation ENNHRI and EQUINET summary report, p. 9, FRA targeted consultation EU umbrella CSOs summary report, p. 19. See also ENNHRI, [State of the rule of law in the EU 2022](#) (2022).

<sup>112</sup> The Slovak National Centre for Human Rights collected 11 cases considered by respondents to be threats, harassment, or intimidation. Harassment of and slander against individuals or their families were the most common. Additionally, threats and the use of administrative procedures as a form of harassment (e.g. complaints, criminal reports) were prevalent (FRA targeted consultation ENNHRI and EQUINET summary report, p. 9).

<sup>113</sup> FRA targeted consultation Member States summary report, p. 13, referring to '[Yhdessä vihaa vastaan](#)', a project funded under the rights, equality and citizenship programme.

<sup>114</sup> <https://monitor.civicus.org/>

<sup>115</sup> <https://civicspacewatch.eu/>

<sup>116</sup> FRA targeted consultation Member States summary report, p. 14, noting that protection has been provided for several years to individuals or journalists under threat.

<sup>117</sup> Contribution by ENNHRI, p. 10, noting that in **Germany**, a protection programme has been set up for human rights defenders subjected to threats due to their work. This includes on-site assistance and grants for temporary relocation.

<sup>118</sup> FRA targeted consultation Member States summary report, p. 14.

<sup>119</sup> FRA targeted consultation Member States summary report, p. 13.

<sup>120</sup> ENNHRI's 2021 NHRI Academy, co-organised with OSCE-ODIHR, was dedicated to the topic. [Protecting human rights defenders and co-creating inclusive civil society space in Europe: The role of NHRIs – 2021 NHRI Academy Follow-up Training | OSCE.](#)

with their capacity building<sup>121</sup>. In **Greece**, the National Commission for Human Rights advocated adopting a legislative proposal to protect rights defenders from attacks, reprisals and restrictions to their rights<sup>122</sup>.

### 3.2. EU initiatives to protect civic space

The EU has taken a number of steps *to protect* CSOs and rights defenders<sup>123</sup>. Tools developed to foster and protect democracy, the rule of law, and fundamental rights aim to create, sustain and protect an enabling environment for CSOs and rights defenders.

In particular, the Commission's annual **Rule of Law Report** as part of its fourth pillar, which covers institutional checks and balances, includes an assessment of the civic space situation in all Member States, acknowledges that 'civil society [also] plays a key role in the system of checks and balances'<sup>124</sup> and examines developments related to the framework enabling civil society. In 2022, the Rule of Law Report issued recommendations to Member States, including on the civic space situation in some cases<sup>125</sup>.

The Commission's 2022 **anti-SLAPP** initiative introduces concrete measures to protect actors engaging in public participation from manifestly unfounded or abusive court proceedings and will therefore contribute to a safe and enabling environment for CSOs and rights defenders<sup>126</sup>.

The proposal for a new **environmental crime directive**<sup>127</sup> confirms that people, including CSO members, who report environmental criminal offences should benefit from the necessary support and assistance in any criminal proceedings. Environmental defenders are also covered by the proposed anti-SLAPP directive and Recommendation, in line with the requirements of the Aarhus Convention<sup>128</sup>.

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<sup>121</sup> ENNHRI, [State of the rule of law in the European Union](#) (2022), p. 39.

<sup>122</sup> FRA targeted consultation ENNHRI and EQUINET summary report, p. 8.

<sup>123</sup> FRA targeted consultation EU umbrella CSOs summary report, p. 19.

<sup>124</sup> 2021 Rule of Law Report, Communication, p. 20.

<sup>125</sup> See the 2022 Rule of Law Report, Commission's [recommendations](#) to Member States on civic space and challenges faced by CSOs and rights defenders (such as consultation mechanisms and the role of NHRIs) in Croatia, Cyprus, Czechia, Denmark, Estonia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Romania, and Sweden.

<sup>126</sup> See Commission Recommendation (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation'); Proposal for a directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation'), COM(2022) 177 final; ENNHRI, [The EU has a key role in safeguarding human rights defenders from strategic litigation against public participation](#) (2022).

<sup>127</sup> COM(2021) 851 final, Article 13.

<sup>128</sup> COM(2022) 177 final. As parties to the **Aarhus Convention**, the EU and Member States must ensure that people exercising their rights in compliance with the rules of the Convention are protected from penalisation, persecution or harassment in any way.

The proposed **European media freedom act** will improve the functioning of the internal market for media by increasing transparency and addressing market distortions, thereby also enhancing media freedom and pluralism in all Member States and will guarantee that journalists and editors can work without interference<sup>129</sup>. Similarly, the Commission **recommendation on ensuring the protection, safety and empowerment of journalists and other media professionals** aims to ensure safer working conditions for media professionals, whether online or offline<sup>130</sup>.

Prompted by the European Parliament<sup>131</sup>, the Commission is also working on a **legislative initiative on the cross-border recognition of associations in the EU**<sup>132</sup>. This initiative will focus on associations' cross-border activities, enabling them to fully benefit from the single market and their fundamental rights under the Charter.

In addition to legal measures, the Commission protects CSOs and rights defenders by taking *enforcement action* against measures affecting them that are contrary to EU law, including the Charter<sup>133</sup>. The Commission initiated two infringement proceedings against **Hungary** over a law on foreign funding for civil society<sup>134</sup> and a bill criminalising aid to asylum seekers<sup>135</sup>. The judgments of the Court of Justice of the European Union (CJEU) in these two cases have set a precedent against similar legislation and highlight the key role of the Court in protecting civic space and fundamental rights in the EU.

The EU's commitment to contribute to protecting and enabling civic space is also reflected in its *external action*, including in the **EU action plan on human rights and democracy (2020-2024)**<sup>136</sup>. It is also outlined in the **EU guidelines on human rights defenders**<sup>137</sup>.

Since 2015, the Commission has supported mechanisms to protect human rights defenders most at risk. The **EU Emergency Fund for Human Rights Defenders**<sup>138</sup> through small grants provides support to human rights defenders. **ProtectDefenders.eu**<sup>139</sup> is a coalition of CSOs operating internationally to receive, process and respond to requests for support from human rights defenders. It provides a permanent flexible service to design support, ranging from capacity building and legal and security advice to relocation and shelter services. The **Human**

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<sup>129</sup> C(2022) 6536 final. See ENNHRI, [NHRIs evidence the need to adopt common EU standards on media transparency, pluralism and freedom](#) (2022), and FRA targeted consultation ENNHRI and EQUINET summary report, p. 8.

<sup>130</sup> C(2021) 6650 final.

<sup>131</sup> European Parliament's legislative initiative resolution with recommendations to the Commission on [a statute for European cross-border associations and non-profit organisations](#), 2020/2026(INL).

<sup>132</sup> [Single market – Proposal for a legislative initiative on cross-border activities of associations \(europa.eu\)](#)

<sup>133</sup> Charter strategy, pp. 6-7.

<sup>134</sup> CJEU judgment of 18 June 2020, *Commission v Hungary*, C-78/18, EU:C:2020:476.

<sup>135</sup> CJEU judgment of 16 November 2021, *Commission v Hungary*, C-821/19, EU:C:2021:930.

<sup>136</sup> [https://www.eeas.europa.eu/sites/default/files/eu\\_action\\_plan\\_on\\_human\\_rights\\_and\\_democracy\\_2020-2024.pdf](https://www.eeas.europa.eu/sites/default/files/eu_action_plan_on_human_rights_and_democracy_2020-2024.pdf)

<sup>137</sup> [https://www.eeas.europa.eu/sites/default/files/eu\\_guidelines\\_hrd\\_en.pdf](https://www.eeas.europa.eu/sites/default/files/eu_guidelines_hrd_en.pdf).

<sup>138</sup> C(2018) 6798 final, Annex 1.

<sup>139</sup> [ProtectDefenders.eu](#).



**Rights Crises Facility** provides grants to CSOs with the aim of ensuring the survival of human rights movements in the most repressive operating environments<sup>140</sup>.

The Commission also funded the development of the **CSO Meter**<sup>141</sup>. This assesses the openness of the civil society environment in the Eastern Partnership countries under its European Neighbourhood Instrument<sup>142</sup>.

To protect civic space, the EU has developed a close cooperation and dialogue with *international organisations*. In particular, the EU makes full use of the standards and knowledge developed by the **Council of Europe** and its monitoring bodies. The Committee of Ministers of the Council of Europe has adopted three non-binding instruments on civic space<sup>143</sup>. The intergovernmental Steering Committee on Human Rights examines the impact of national legislation, policies and practices on the activities of CSOs and rights defenders, and identifies best practices to promote and protect civic space. The **Expert Council on NGO Law** follows the implementation of a recommendation on NGOs' legal status<sup>144</sup> and advises on how to bring national law and practice in line with European standards<sup>145</sup>. In addition, the **Safety of Journalists Platform** tracks attacks against journalists, indicating whether they were initiated by state or non-state actors and the gravity of the attacks<sup>146</sup>.

The **United Nations** is also a key partner, in particular its monitoring mechanisms that focus on addressing attacks, harassment, criminalisation and smear campaigns that have affected civil society across the world over the past years, including in the EU<sup>147</sup>.

Cooperation with the **Organization for Security and Co-operation in Europe (OSCE)**'s **Office for Democratic Institutions and Human Rights (ODIHR)** is also crucial. ODIHR helps national authorities fulfil their commitments to protect human rights defenders by monitoring

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<sup>140</sup> C(2018) 6798 final, Annex 2.

<sup>141</sup> <https://csometer.info/>

<sup>142</sup> This project has a set of standards and indicators to evaluate the legal framework affecting CSOs and their situation in 10 areas, including freedom of association, assembly and expression, right to privacy and access to funding.

<sup>143</sup> [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; [Recommendation CM/Rec\(2019\)6](#) of the Committee of Ministers to member States on the development of the Ombudsman institution; [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.

<sup>144</sup> [Recommendation CM/Rec\(2007\)14](#) of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe.

<sup>145</sup> <https://www.coe.int/en/web/ingo/expert-council>

<sup>146</sup> <https://fom.coe.int/en/pays>

<sup>147</sup> FRA targeted consultation International Organisations summary report, pp. 2, 4. For example, the UN Human Rights Office helps protect civil society actors by monitoring the global and national enabling environment for civic space, leading UN efforts to monitor, prevent and address [intimidation and reprisals](#) against those who cooperate with the UN. The Office also advocates and provides guidance and assistance for: (i) adopting and implementing laws, policies and practices that identify threats and protect civil society from attacks, online and offline; and (ii) developing integrated protection networks at international, regional and national levels.

their ability to operate<sup>148</sup> and building capacity through education and training on human rights<sup>149</sup>.

#### 4. Supporting CSOs and rights defenders

Access to financial resources and the freedom to use them are integral parts of the right to freedom of association<sup>150</sup>. CSOs and rights defenders need *sufficient financial resources* to carry out their missions effectively<sup>151</sup>. Several Member States report that they have increased financial support to CSOs in general<sup>152</sup> and to compensate the impact of the COVID-19 pandemic<sup>153</sup>; international donors and the EU have significantly supplemented these efforts in recent years<sup>154</sup>. However, across the EU, CSOs and rights defenders struggle to fund their specific activities, which is a trend aggravated by the pandemic and the current cost of living crisis<sup>155</sup>, notably for advocacy and watchdog functions.

##### *Feedback from consultation*

In the consultation carried out to prepare this report, CSOs and rights defenders identified lack of funding as one of the main challenges to their work and reported that, in many Member States, there are few funding opportunities, in particular for work on the rule of law, democracy and fundamental rights<sup>156</sup>.

<sup>148</sup> See OSCE-ODIHR, *The situation of human rights defenders in selected OSCE participating states. The final report of the first assessment cycle (2017-2019)* (2021), noting that regular monitoring and reporting on the situation of rights defenders takes place across the OSCE region. OSCE-ODIHR also provides expert advice, raises states' awareness on obligations to protect rights defenders, and facilitates dialogue between states and civil society on rights defenders' work. OSCE-ODIHR additionally supports NHRIs and other defenders, building capacity to conduct monitoring and reporting in a safe and secure manner.

<sup>149</sup> <https://www.osce.org/odihr/human-rights-defenders>

<sup>150</sup> See OSCE-ODIHR, *Guidelines on freedom of association* (2015), principle 7.

<sup>151</sup> Three Member States referred to providing support by non-financial means (FRA targeted consultation Member States summary report, p. 18). Support can also be through other means, such as capacity building, engagement and dialogue, protection and speaking out on behalf of CSOs. This report covers those activities in Chapters 2 and 5.

<sup>152</sup> For example, **France** has increased funding to rights defenders, the Defender of Rights and the National Consultative Commission on Human Rights (CNCDH), between 2021 and 2022 (FRA targeted consultation Member States summary report, p. 19). In **Germany**, funding for CSOs through the 'Live Democracy' federal programme has increased significantly since 2015 (FRA targeted consultation Member States summary report, p. 19).

<sup>153</sup> In **Austria**, a fund was set up in consultation with the organisations concerned to financially support non-profit organisations to cope with the impact of the COVID-19 pandemic (2021 Rule of Law Report, Country Chapter Austria, p. 18).

<sup>154</sup> The EEA and Norway Grants have also focused on long-term sustainability and capacity of civil society through the [Active Citizens Fund](#).

<sup>155</sup> See 2021 Rule of Law Report, Communication, p. 24; See also, FRA, *Protecting civic space in the EU* (2021), p. 39, FRA, *Europe's Civil Society: Still Under Pressure* (2022), p. 32; and Equinet, *Legislating for stronger, more effective equality bodies* (2021), p. 4.

<sup>156</sup> FRA targeted consultation EU umbrella CSOs summary report, p. 22. See also European Civic Forum, *Towards vibrant European civic and democratic space* (2022), p. 37, on the challenges faced by some CSOs in accessing European structural funding.

The online consultation showed<sup>157</sup> that almost half the responding organisations (49%) reported obstacles under the financing framework. In particular, 40% reported barriers to funding. A smaller percentage of organisations (less than 15%) referred to obstacles concerning charitable statuses, foreign funding, tax regimes, accounting and auditing corruption, and restrictions on online fundraising.

#### 4.1. Examples of how Member States support civil society actors

A core source of funding and resources for CSOs and rights defenders comes from Member States. All Member States disburse public funding for CSOs at national, regional and local levels, and many *different funding programmes* are available. For example, CSO funds in **Estonia**<sup>158</sup>, **Latvia**<sup>159</sup>, **Lithuania**<sup>160</sup>, and **Malta**<sup>161</sup> provide institutional support to CSOs' capacity building. In **Finland**, CSOs receive state funding from various sources, including revenue from a state-owned company operating in the regulated gambling market<sup>162</sup>. In some Member States, such as **Denmark**, the **Netherlands**, and **Sweden**, public funding is available for fundamental rights advocacy<sup>163</sup>. Several Member States also offer funding to cover CSOs' administrative and infrastructure costs to some extent<sup>164</sup>.

Some Member States also provide *favourable taxation* systems for donations to CSOs<sup>165</sup>, which encourage private donations. Most Member States allow CSOs to receive subsidies, grants and donations tax-free<sup>166</sup>. For example, in **Italy**, donations to CSOs are tax-deductible, and in **Czechia**, CSOs are exempt from income tax, road tax and real estate tax when costs are for organisational purposes<sup>167</sup>.

Even when funding is available, CSOs and rights defenders report *obstacles in accessing such funding*, including complex, burdensome and not always transparent application or reporting procedures and eligibility criteria and the high demand for available funding<sup>168</sup>. An additional

<sup>157</sup> [2022 FRA Charter consultation](#): Question (L) Obstacles under 'Financing Framework'.

<sup>158</sup> Under the National Foundation for Civil Society (2022 Rule of Law Report, Country Chapter Estonia, p. 15).

<sup>159</sup> Under the NGO Fund, the state's budget programme (2022 Rule of Law Report, Country Chapter Latvia, p. 18).

<sup>160</sup> Under the national NGO Fund (2022 Rule of Law Report, Country Chapter Lithuania, p. 20).

<sup>161</sup> For example, the **Maltese** Civil Society Fund (FRA targeted consultation EU umbrella CSOs summary report, p. 20).

<sup>162</sup> 2022 Rule of Law Report, Country Chapter Finland, p. 19.

<sup>163</sup> FRA targeted consultation Member States summary report, p. 20.

<sup>164</sup> For example, in **Croatia** and **Denmark**, public funding is available for CSOs' core costs. In **Slovenia** and **Sweden**, covering administrative expenditure is allowed within the project budget (FRA targeted consultation Member States summary report, pp. 17-18).

<sup>165</sup> See FRA, [Protecting civic space in the EU](#) (2021), p. 8.

<sup>166</sup> FRA targeted consultation Member States summary report, p. 21. **Slovenia** and **Slovakia** have tax designation systems that allow individuals and corporations assign a percentage of paid income tax to publicly beneficial purposes, including CSOs (FRA targeted consultation Member States summary report, pp. 17-18).

<sup>167</sup> FRA targeted consultation Member States summary report, p. 21.

<sup>168</sup> FRA targeted consultation EU umbrella CSOs summary report, p. 22. See also FRA, [Europe's civil society: still under pressure](#) (2022), p.32.



challenge reported by CSOs is short-term project funding, which is gradually replacing longer-term funding or funding for administrative expenditure<sup>169</sup>.

Several Member States are working to tackle such challenges on the availability, access and sustainability of funding. They try to ensure a *fair distribution* through transparent criteria and by publishing calls for proposals so that they are widely accessible. For example, in **Spain**, a fair distribution of funds is ensured through legislation<sup>170</sup> that requires assessment criteria to be made public.

Most Member States also have plans to *simplify and speed up access to funding*, including through digitalisation<sup>171</sup>. For example, in **Slovakia** and **Croatia**, new online systems are being created to simplify public funding administrative processes<sup>172</sup>. Meanwhile, in **Slovenia**, flat rates and lump sums are used to simplify the funding system.

In some Member States, further barriers are caused by *the politicised distribution of public funding* that excludes CSOs critical of the government to the benefit of so called GONGOs (government-organised NGOs)<sup>173</sup>. Such barriers can be practices that block CSOs' access to public funds by considering their advocacy activities as political activities<sup>174</sup>, which affects their tax-exempt status<sup>175</sup>, and rules on foreign donations<sup>176</sup>. CSOs working in certain sensitive areas, such as LGBTIQ rights and gender equality, including advocacy and strategic litigation activities<sup>177</sup>, face further exclusion from public funding<sup>178</sup>.

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<sup>169</sup> See FRA, [Challenges facing civil society organisations working on human rights in the EU](#) (2018), p. 32.

<sup>170</sup> Law 38/2003 of 17 November 2003 on General Subsidies.

<sup>171</sup> FRA targeted consultation Member States summary report, p. 20.

<sup>172</sup> FRA targeted consultation Member States summary report, pp. 20-21.

<sup>173</sup> In **Hungary**, questions have been raised about the state's role in financing civil society. According to stakeholders, the government has centralised the distribution of funding through the National Cooperation Fund and favours financing so-called GONGOs. In 2021, Hungary lost its eligibility for the EEA and Norway grants as it failed to agree on an independent grant operator in charge of managing civil society funding. See on both points 2022 Rule of Law Report, Country Chapter Hungary, pp. 30-31. In **Poland**, concerns raised by CSOs about the functioning of the National Institute of Freedom – Centre for Civil Society Development, responsible for the distribution of government funding and nationally attributed EU funding to NGOs, have not been addressed (2021 and 2022 Rule of Law Report, Country Chapter Poland, pp. 27 and 29 respectively).

<sup>174</sup> In **Ireland**, CSOs have raised concerns about the impact of the Electoral Act prohibiting donations above a certain threshold for 'political purposes' or from foreign donors (2020, 2021 and 2022 Rule of Law Reports, Country Chapter Ireland, pp. 15 and 18 and 20 respectively).

<sup>175</sup> In **Germany**, the legal uncertainty regarding the political activity of CSOs with a tax-exempt status continues to be a challenge although a reform of the rules has been announced (2022, 2021, and 2020 Rule of Law Reports, Country Chapter Germany, pp. 24, 17 and 12 respectively).

<sup>176</sup> FRA targeted consultation EU umbrella CSOs summary report, pp. 14, 20; CJEU judgment of 18 June 2020, *Commission v Hungary*, C-78/18, EU:C:2020:476.

<sup>177</sup> As reported in the Commission, [Feasibility study for financial support for litigating cases relating to violations of democracy, rule of law and fundamental rights](#) (2020), p. 3, 85% of respondents indicated that a lack of adequate funding represents an obstacle to litigation, legal counselling and support on fundamental rights 'to a high extent'.

<sup>178</sup> In **Slovakia**, a legal reform has restricted subsidies to CSOs that promote marriage and family values, thus excluding CSOs active in gender equality and LGBTIQ rights (FRA targeted consultation ENNHRI and EQUINET summary report, p.8; 2022 and 2021 Rule of Law Reports, Country Chapter Slovakia, pp. 23 and 20 respectively).

## 4.2. EU support to civil society actors

### 4.2.1. Citizens, equality, rights and values (CERV) programme

CSOs and rights defenders have always been among the beneficiaries of the Commission's funding programmes, thereby supplementing Member States efforts. With a budget of EUR 1.55 billion for 2021-2027, the CERV programme is the biggest ever fundamental rights fund inside the EU. Its objective is to protect and promote the rights and values enshrined in the EU Treaties, the Charter and international conventions by *supporting CSOs and other stakeholders at local, regional, national and transnational levels*<sup>179</sup>.

#### *Feedback from consultation*

The CERV programme has been welcomed as a positive development by CSOs and rights defenders. Consultations show that most CSOs were aware of the programme, even if to varying degrees<sup>180</sup>. 28% of respondents to this report's consultations have applied for CERV funding, and 39% are planning to apply.

The CERV programme is made up of different funding strands. The new **Union values** strand supports CSOs, rights defenders and other stakeholders who promote a culture of values in the EU, based on fundamental rights, democracy and the rule of law. Funding is available for capacity building and raising awareness about the Charter, as well as activities that strengthen the knowledge of practitioners, legal professionals, CSOs and independent human rights bodies to effectively engage in litigation at national and European levels, as well as for improving access to justice and enforcement of rights through training, knowledge sharing, and exchanges of good practices<sup>181</sup>. Funding for capacity building and litigation will be substantially increased under the 2023-2024 work programme.

As a new opportunity under the Union values strand, the Commission has selected *CSO intermediaries* through an open call for proposals. These bodies will provide financial support to CSOs through a *re-granting scheme* (passing on grants from the EU) to build the capacity of

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In **Czechia**, obstacles to access public funding have been reported by stakeholders, in particular for CSOs engaged in environmental-, rule of law-, LGBTIQ- and asylum-related issues and advocacy (2022 Rule of Law Report, Country Chapter Czechia, p. 20).

<sup>179</sup> [https://ec.europa.eu/info/departments/justice-and-consumers/justice-and-consumers-funding-tenders/funding-programmes/citizens-equality-rights-and-values-programme\\_en](https://ec.europa.eu/info/departments/justice-and-consumers/justice-and-consumers-funding-tenders/funding-programmes/citizens-equality-rights-and-values-programme_en). It follows the previous Rights, Equality and Citizenship programme, [https://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index\\_en.htm](https://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm).

<sup>180</sup> [2022 FRA Charter consultation](#): Question (N) The European Commission's funding programmes in the area of rights and values ('CERV programme').

<sup>181</sup> Under the last call for proposals, EUR 2 million were awarded to seven projects on, among others, building legal practitioners' knowledge on the use of the Charter, supporting the enforcement of CJEU jurisprudence on LGBTIQ equality, and strategic litigation in support of the rule of law. The projects cover 14 Member States and involve 30 CSOs, see <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/opportunities/topic-details/cerv-2022-char-liti>.

many grassroots CSOs, which promote and protect EU values<sup>182</sup>. Additionally, the Commission is supporting *framework partners*, such as European networks, CSOs active at EU level, and European think tanks active in the area of EU values<sup>183</sup>. The Commission supports, in particular, the ENNHRI and several CSO networks, such as the Civil Liberties Union, the European Center for Not-for-profit Law (ECNL) and the European Civic Forum, which all work to create and maintain an enabling civic space.

CSOs also have access to substantial funding under the other strands of the CERV programme – **equality, rights and gender equality, fighting gender-based violence and violence against children (Daphne), and citizen’s engagement and participation**, where CSOs represent almost half of the beneficiaries<sup>184</sup>. In 2021, the CERV programme provided around EUR 91.8 million in funding<sup>185</sup>. This increased to around EUR 200 million in 2022<sup>186</sup>.

For the 2021-2027 funding period, a *risk management system* has been designed for all stages of the project cycle. Respecting EU values applies to all calls for proposals and throughout the project cycle. All applicants and beneficiaries are regularly screened for compliance with EU values at the application, evaluation and implementation stages.

#### *EU funding to support CSOs during Russia’s war of aggression against Ukraine*

CERV beneficiaries are well placed to respond to the *urgent needs of those affected by Russia’s war of aggression against Ukraine*, in particular through data collection and monitoring, awareness raising, advocacy, and guidance and help for victims. When Russia’s war of aggression started, several of the 2022 calls for proposals were already open, and applicants were given the possibility to adapt their proposals to the needs arising from the war. Submission deadlines were also extended for certain calls. Some framework partners receiving funding have developed activities to respond to emerging needs, such as social media campaigns, providing psychological support, or training volunteer mentors<sup>187</sup>. As from 2023, framework partners will

<sup>182</sup> The first re-granting call in 2022 received 40 proposals from intermediaries with a total request for funding of EUR 120 million. Altogether 16 proposals were selected, amounting to EUR 51 million. The funded proposals cover 16 Member States and include 49 intermediaries. In each project, intermediaries plan to distribute on average EUR 25 000 per CSO to an average of 100 CSOs. The projects will run for the next 3 years. Two additional CERV re-granting calls are planned up until 2027.

<sup>183</sup> Following a call for proposals in April 2021, 73 European organisations were granted financial support to cover their operational costs for 4 years (total budget of EUR 25.3 million). These framework partners can re-grant EU funding to their members at national and local levels, with EUR 5.8 million available, see [call-fiche\\_cerv-2021-og-fpa\\_en.pdf \(europa.eu\)](#).

<sup>184</sup> In the first 2 years of the CERV programme, about 600 projects were awarded a total of around EUR 260 million.

<sup>185</sup> These included support for training, seminars and learning events, research and studies, awareness raising and media campaigns aimed at the public.

<sup>186</sup> [https://ec.europa.eu/info/sites/default/files/1\\_en\\_annexe\\_acte\\_autonome\\_part1\\_v8.pdf](https://ec.europa.eu/info/sites/default/files/1_en_annexe_acte_autonome_part1_v8.pdf)

<sup>187</sup> Such as Women against Violence Europe, Stichting European Roma Grassroots Organisations Network, International Lesbian, Gay, Bisexual, Trans and Intersex Association Europe, International Planned Parenthood Federation’s European Network. From February to April 2022, the Polish Schuman Foundation, a framework partner, ran a social media campaign about EU activities in the context of the war. It also organised a series of

begin re-granting funds to their member organisations at local level, which can target more specific action to respond to this emergency.

#### 4.2.2. Support under other EU programmes

Besides CERV, the EU is a significant supporter of civil society through many other EU programmes. The **Justice programme** ensures effective access to justice for the public by supporting judicial training and awards CSOs grants to implement projects in collaboration with judicial authorities<sup>188</sup>, such as cross-border training projects on EU law for justice practitioners. The research and innovation funding programmes, **Horizon 2020** and its successor **Horizon Europe**, also support CSOs and rights defenders in a number of thematic areas<sup>189</sup>.

The **Erasmus+ programme** funds projects that promote fundamental rights and EU values. Erasmus+ gives structural financial support (operating grants) to European CSOs active in education and training or youth and proposes also annual action grants as from 2021<sup>190</sup>. Lastly, the **civil society empowerment programme** funds training for civil society to create narratives countering violent extremism<sup>191</sup>.

In its *external actions*, the EU has established longstanding practices of funding, engaging with, and identifying challenges facing civil society through thematic and geographic programmes. Geographical instruments, such as the Instrument for Pre-Accession Assistance and the Neighbourhood, Development and International Cooperation Instrument (NDICI-Global Europe), provides targeted support to CSOs through regional and national envelopes ('**Civil Society Facility**' programmes) to strengthen CSO's capacities, strengthen State-CSO dialogue and promote an open civic space. CSOs are also the main recipients of support from the

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meetings on the situation and volunteers' needs on the ground, including psychological support and training for volunteer mentors.

<sup>188</sup> Call for proposals for action grants to support transnational projects on judicial training covering civil law, criminal law or fundamental rights (JUST-2021-JTRA), <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/programmes/just2027>. For example, the CSO-led project '[Pioneering anti-SLAPP training for freedom of expression](#)' trains lawyers representing journalists and rights defenders in 11 Member States.

<sup>189</sup> [https://research-and-innovation.ec.europa.eu/funding/funding-opportunities/funding-programmes-and-open-calls/horizon-europe\\_en](https://research-and-innovation.ec.europa.eu/funding/funding-opportunities/funding-programmes-and-open-calls/horizon-europe_en). For example, in the [MIICT project](#), a consortium of CSOs aim to address the challenge of migrant integration by co-creating improved ICT services with migrants, refugees, public sector services, NGOs and other interest groups. The [Re-InVEST](#) project focuses on rebuilding an inclusive, value-based Europe of solidarity and trust through social investments. The [DigiGen](#) research project studies how children are affected by digital transformation.

<sup>190</sup> <https://erasmus-plus.ec.europa.eu/>. For example, Erasmus+ co-funds the European Youth Forum, a platform representing over 100 youth organisations, which works to 'empower young people to participate actively in society to improve their own lives by representing and advocating their needs and interests and those of their organisations.' In addition, via annual calls for proposals, umbrella organisations in the field of education and training can apply for funding too. One such example is the Lifelong Learning Platform, which gathers 42 European CSOs active in the field of education, training and youth representing more than 50 000 educational institutions and associations covering all sectors of formal, non-formal and informal learning.

<sup>191</sup> [https://ec.europa.eu/home-affairs/networks/radicalisation-awareness-network-ran/civil-society-empowerment-programme\\_en](https://ec.europa.eu/home-affairs/networks/radicalisation-awareness-network-ran/civil-society-empowerment-programme_en)

**thematic programme for civil society organisations** and the **thematic programme for human rights and democracy** under NDICI-Global Europe<sup>192</sup>.

## 5. Empowering CSOs and rights defenders

Civil society is an active and independent partner in the EU fundamental rights system. The EU and Member States must recognise CSOs and rights defenders' roles, enable them to act and make sure that the conditions are in place so they can be meaningfully involved in decision-making and implementing national and EU policies that benefit our democracies. Such empowerment is crucial for a vibrant civic space<sup>193</sup> and to make it possible for CSOs and rights defenders to help shape national and EU policies<sup>194</sup>. However, many stakeholders indicate that CSOs and rights defenders have *difficulty accessing consultations and stakeholder dialogues* in some Member States. Information on open consultations or clear guidelines on accessing them is not always available.

### *Feedback from consultation*

In the consultation conducted to prepare this report<sup>195</sup>, more than half the organisations (53%) reported obstacles in 'participation and cooperation with authorities'. The biggest challenges in this area were obstacles restricting organisations' access to consultations and participation in decision-making (45%) as well as access to information and documents (42%). In addition, a significant number of organisations (30%) stated that they have encountered obstacles to civil dialogue more generally. According to FRA's findings, minorities and vulnerable groups are also not sufficiently represented in consultations<sup>196</sup>.

### 5.1. Examples of how Member States empower civil society actors

Involving CSOs and rights defenders is essential to prepare, implement and monitor legislation and policies. Several Member States have created *consultation mechanisms* to ensure that CSOs and rights defenders can get involved and have the opportunity to assess how proposed measures may affect them, their members, or fundamental rights more generally.

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<sup>192</sup> See respective Multi-annual Implementation Plans at [https://ec.europa.eu/international-partnerships/system/files/mip-2021-c2021-9158-civil-society-organisations-annex\\_en.pdf](https://ec.europa.eu/international-partnerships/system/files/mip-2021-c2021-9158-civil-society-organisations-annex_en.pdf) and [https://ec.europa.eu/international-partnerships/system/files/mip-2021-c2021-9620-human-rights-democracy-annex\\_en.pdf](https://ec.europa.eu/international-partnerships/system/files/mip-2021-c2021-9620-human-rights-democracy-annex_en.pdf)

<sup>193</sup> See the Charter strategy, p. 10, noting that 'the Commission will support an enabling environment for civil society organisations, in particular through the new Union values strand of the Citizens, Equality, Rights and Values programme' and that 'the Commission invites Member States to promote a supportive and safe environment for civil society organisations and rights defenders in their country, including at local level'.

<sup>194</sup> FRA, *Protecting civic space in the EU* (2021), pp. 6, 14.

<sup>195</sup> [2022 FRA Charter consultation](#): Question (K) Obstacles under 'Participation and cooperation with authorities'.

<sup>196</sup> FRA, *Protecting civic space in the EU* (2021), p. 9.



Many Member States gather input from CSOs and rights defenders through *open public consultations*. For example, in **Spain**, before legislation is drafted, there is an open public consultation and a public hearing during which CSOs can share their knowledge and views<sup>197</sup>. Similarly, many Member States facilitate stakeholder participation through online consultation platforms, which provide information on ongoing consultations<sup>198</sup>. In **Austria**, preparing the national strategic plan on the common agricultural policy was supported by a process where everyone was able to get information and contribute<sup>199</sup>.

In several Member States, general rules on conducting *legislative impact assessments* enable the impact of a legislative proposal on civil society to be assessed<sup>200</sup>. In some Member States, this is an obligation on the legislator. For example, in **Germany**, all regulatory impacts of legislative drafts prepared by the federal government have to be assessed, including their impact on civic space<sup>201</sup>. In **Latvia**, the impacts of proposals on human rights, democratic values and the development of civil society are assessed as horizontal impacts<sup>202</sup>.

Permanent dialogue structures are essential to support the development of civil society<sup>203</sup>. Several Member States involve CSOs and rights defenders through *dedicated platforms and networks*, which give them an official mechanism to help implement and monitor legislation and policies. For example, in **Czechia**, the Council for NGOs discusses key issues about CSOs' work and it participated in creating the strategy for cooperation between public administration and NGOs. A methodology is being developed to further facilitate their participation<sup>204</sup>. In **Finland**, the Advisory Board for Civil Society Policy was created to promote interaction between the government and civil society<sup>205</sup>. In **Ireland**, local authorities can connect with community groups, including CSOs, through a public participation network. The primary purpose of the network is to let members voice their opinions within official decision-making structures at local level<sup>206</sup>.

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<sup>197</sup> FRA targeted consultation Member States summary report, p. 25.

<sup>198</sup> FRA targeted consultation Member States summary report, p. 25.

<sup>199</sup> <https://www.zukunftsraumland.at/seiten/185>

<sup>200</sup> FRA targeted consultation Member States summary report, p. 24.

<sup>201</sup> FRA targeted consultation Member States summary report, p. 14.

<sup>202</sup> FRA targeted consultation Member States summary report, p. 15.

<sup>203</sup> FRA, *Protecting civic space in the EU* (2021), p. 23.

<sup>204</sup> FRA targeted consultation Member States summary report, p. 24. According to the 2022 Rule of Law Report, stakeholders report that involving CSOs in public decision-making in **Czechia** is not yet systematic. The strategy for cooperation between public administration and NGOs, from July 2021, contains measures to support partnership and cooperation between public administration and the non-profit sector. A public consultation was organised in January 2022 on a draft methodology so that civil society can participate in advisory and working bodies and help develop central administrative authorities' legislative and non-legislative materials. Following the approval by the Government Council of NGOs, the methodology will be validated by the end of 2024 (2022 Rule of Law Report, Country Chapter Czechia, pp. 19-20).

<sup>205</sup> FRA targeted consultation Member States summary report, p. 24.

<sup>206</sup> FRA targeted consultation Member States summary report, p. 24.

Several Member States involve CSOs and rights defenders through *platforms and networks* dedicated to safeguarding the fundamental rights of specific groups. For example, in **Greece**, CSOs participate in the National Council against Racism and Intolerance and cooperate with the Office of the National Rapporteur for human trafficking issues<sup>207</sup>. In **Spain**, CSOs participate in the Women's Participation Council, which carries out work to foster equality and non-discrimination. CSOs also participate in the National Council on Disability and take part in the Council for the Promotion of Equal Treatment and Non-Discrimination of Persons on the Basis of Racial or Ethnic Origin<sup>208</sup>. In **Portugal**, the Economic and Social Council provides a forum for dialogue between social partners and CSOs on socio-economic issues<sup>209</sup>.

NHRIs and equality bodies maintain regular contact with CSOs and act as a link between them and different levels of government. They involve CSOs in consultations, advisory committees, joint projects and dialogue events. Most equality bodies have incorporated CSOs into their governing bodies<sup>210</sup>. While several NHRIs and equality bodies speak of the good cooperation with authorities, challenges remain on timely and transparent consultations, providing information, and their systematic involvement independently of own initiative<sup>211</sup>. Four Member States have not yet set up an accredited NHRI in line with the UN Paris Principles<sup>212</sup>.

## 5.2. EU action to empower civil society actors

The founding Treaties of the EU recognise the importance of civil society participation and dialogue. Article 11 of the TEU requires EU institutions to give citizens and representative associations the opportunity to make known, and publicly exchange, views in all areas of EU action. The Article further obliges the institutions to maintain an open, transparent and regular dialogue with representative associations and civil society and to carry out broad consultations on new initiatives. Article 15(1) of the Treaty on the Functioning of the European Union obliges EU institutions, bodies, offices and agencies to conduct their work as openly as possible to promote good governance and ensure the participation of civil society.

The Charter recognises the rights to freedom of expression and information (Article 11) and to freedom of peaceful assembly and to association (Article 12). In line with the jurisprudence of the European Court of Human Rights, the CJEU has confirmed that the right to freedom of

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<sup>207</sup> FRA targeted consultation Member States summary report, p. 5.

<sup>208</sup> FRA targeted consultation Member States summary report, p. 3.

<sup>209</sup> The 2022 Rule of Law Report confirms that, despite certain challenges, CSOs in **Portugal** continue to be involved in government initiatives, in particular in civic participation and gender equality, 2022 Rule of Law Report, Country Chapter Portugal, pp. 1, 17-18, 23-24.

<sup>210</sup> FRA targeted consultation ENNHRI and EQUINET summary report, p. 4.

<sup>211</sup> FRA targeted consultation ENNHRI and EQUINET summary report, pp. 6, 13.

<sup>212</sup> According to the 2022 Rule of Law Report, the creation of a NHRI in **Italy** is still pending due to delays in the legislative process. The report recommends Italy to step up efforts to establish a NHRI, taking into account the UN Paris Principles, and that the democratic participation of CSOs should be promoted through a permanent advisory board (2022 Rule of Law Report, Country Chapter Italy, pp. 1, 23). Similar recommendations have been made to **Czechia**, **Malta**, and **Romania**.

association constitutes one of the essential foundations of a democratic and pluralist society as it enables citizens to act collectively in areas of common interest and, by doing so, contributes to the proper functioning of public life<sup>213</sup>.

This recognition of the key role of the civic space is reflected in the functioning of the EU and in its policies.

### *Involvement in policymaking*

Since 2015, the Better Regulation agenda requires that impacts on fundamental rights are considered when preparing legislative initiatives, alongside economic, social and environmental impacts more generally<sup>214</sup>. This requires the EU institutions to assess how fundamental rights are best promoted and protected in the concrete files, and also allows CSOs and rights defenders to see how potential fundamental rights impacts on civil society are accounted for in EU law-making. Consultation and dialogue mechanisms also enable CSOs and rights defenders to present their views on EU legislation and policy throughout the policy cycle from the initial preparation of the initiative to the negotiations between the co-legislators, the European Parliament and the Council.

### *Formal consultation and complaint mechanisms*

The Better Regulation toolbox<sup>215</sup> confirms the importance of stakeholder involvement, including civil society, in EU policymaking. Consulting stakeholders is a significant part of evidence-based policymaking and makes an invaluable contribution to the legitimacy of the policymaking process.

The Have Your Say portal<sup>216</sup> is the entry point for all contributions to legislative proposals, evaluations, fitness checks and communications. It makes it possible for all interested parties to contribute to initiatives before and after adoption. This can be done by providing general feedback or sharing views and knowledge in an open public consultation. The collection of feedback gives stakeholders the opportunity to share their views on a specific document (usually a ‘call for evidence’).

A public consultation is made up of questions for the public as well as, where relevant, specialised questions for CSO experts, businesses, public authorities, academia etc. Respondents

<sup>213</sup> CJEU judgment in case C-78/18, *Commission v Hungary*, cit., paragraph 112, referring to ECtHR judgments of 17 February 2004, *Gorzelik and Others v Poland*, app. No 44158/98, §§ 88, 90 and 92, and of 8 October 2009, *Tebieti Mühafize Cemiyeti and Israfilov v Azerbaijan*, app. No 37083/03, §§ 52-53.

<sup>214</sup> Tool #11 of the [Better Regulation Toolbox](#) (2021)

<sup>215</sup> [https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox\\_en](https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox_en)

<sup>216</sup> [https://ec.europa.eu/info/law/better-regulation/have-your-say\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say_en)



may supplement their contribution with written contributions, such as position papers. Contributions can be made in any of the 24 official EU languages<sup>217</sup>.

Representatives of CSOs and rights defenders may also lodge formal complaints before the Commission when they suspect a breach of EU law by Member State authorities. After assessing the complaint, the Commission decides whether to initiate infringement proceedings<sup>218</sup>.

Additionally, the European Ombudsman is mandated to investigate complaints from individuals and organisations about maladministration by the institutions, bodies and agencies of the EU, including where there is a violation of fundamental rights<sup>219</sup>.

Civil society actors are major partners in the *preparation of EU initiatives*. A recent example is the role which CSOs' played in shaping the EU's approach to human-centric and trustworthy artificial intelligence (AI)<sup>220</sup>. Over 160 CSOs contributed to the public consultation on the **White paper on AI**<sup>221</sup>. They provided valuable input to the **proposal for a regulation on AI**<sup>222</sup>, which aims to create a single market for trustworthy AI that is safe and respects fundamental rights.

Other recent examples include the proposal for a directive on **corporate sustainability due diligence**<sup>223</sup>, the **anti-SLAPP package**<sup>224</sup>, the proposal for the establishment of the European **health data space**<sup>225</sup>, the Commission Recommendation on the protection, safety and empowerment of **journalist and other media workers**<sup>226</sup> and the legislative initiative to

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<sup>217</sup> Better Regulation toolbox pp. 113-132, 446.

<sup>218</sup> [https://ec.europa.eu/info/about-european-commission/contact/problems-and-complaints/complaints-about-breaches-eu-law/how-make-complaint-eu-level\\_en](https://ec.europa.eu/info/about-european-commission/contact/problems-and-complaints/complaints-about-breaches-eu-law/how-make-complaint-eu-level_en)

<sup>219</sup> <https://www.ombudsman.europa.eu/en/home>

<sup>220</sup> CSOs were members of the High-Level Expert Group on AI, which produced the *Ethics Guidelines for Trustworthy AI*, and a self-assessment tool for developers and deployers of AI systems.

<sup>221</sup> [https://ec.europa.eu/info/sites/default/files/commission-white-paper-artificial-intelligence-feb2020\\_en.pdf](https://ec.europa.eu/info/sites/default/files/commission-white-paper-artificial-intelligence-feb2020_en.pdf)

<sup>222</sup> COM(2021) 206 final. CSOs also maintain an active dialogue with the Commission and the EU co-legislator during the legislative process. They are seen as key partners in the future multi-stakeholder expert group that will support the legislation's implementation after its adoption.

<sup>223</sup> The open public consultation received responses from 1 620 NGOs, 5 consumer organisations and 4 environmental organisations, [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance/public-consultation\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance/public-consultation_en). A roundtable meeting was organised with CSOs, and several meetings took place between the Commission, rights defenders and environmental organisations.

<sup>224</sup> Results available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13192-EU-action-against-abusive-litigation-SLAPP-targeting-journalists-and-rights-defenders/public-consultation\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13192-EU-action-against-abusive-litigation-SLAPP-targeting-journalists-and-rights-defenders/public-consultation_en).

<sup>225</sup> COM(2022) 197 final. The open public consultation received 382 valid responses, including from 84 NGOs and 4 consumer organisations. Views were collected on a wide range of issues, including access to health data, health data interoperability, digital infrastructure, requirements for digital health solution providers, secondary use of data and data quality requirements, [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_2083](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2083).

<sup>226</sup> Commission Recommendation (EU) 2021/1534 of 16 September 2021 on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, prepared in consultation with organisations and associations representing journalists or providing support to journalists.

strengthen the **role and powers of equality bodies**<sup>227</sup>. Consultations with civil society are also an integral part of preparing and implementing EU **trade agreements**<sup>228</sup>. The Commission created the Expert Group on the **views of migrants in the field of migration, asylum and integration**, composed of civil society representatives with relevant expertise, to provide advice on migration policies.

The **EU LGBTIQ Equality Strategy**<sup>229</sup> establishes an ongoing consultation with CSOs on its implementation. This Strategy also involves CSOs in many of its actions, including in the dialogue with Member States. The **EU Roma strategic framework**<sup>230</sup> for equality, inclusion and participation puts a high emphasis on participation, especially that of the Roma civil society, in all stages of policy making process.

### *Implementation of EU funds*

Under the **Common Provisions Regulation (CPR)**<sup>231</sup> CSOs and rights defenders can be entrusted with tasks. Under that legislation, Member States have to put in place effective mechanisms to ensure that EU funded programmes<sup>232</sup> are conceived and implemented in compliance with the relevant provisions of the Charter. This is part of the horizontal enabling condition on the effective application and implementation of the Charter (the ‘horizontal enabling condition’)<sup>233</sup>. It also provides for a ‘partnership’ with a number of regional, local and

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<sup>227</sup> Numerous consultation activities were organised with CSOs, including three workshops, a final conference and the youth policy dialogue. Altogether 38 CSOs replied to the public consultation on the initiative (representing 21% of respondents). In addition to their participation in these consultation activities, all equality bodies and Equinet were interviewed and replied to targeted surveys.

<sup>228</sup> The Commission publishes its recommendations for negotiating directives so that civil society can give comments. A highly participatory sustainability impact assessment is carried out to provide more in-depth analysis of the potential economic, social, human rights, and environmental impact of each ongoing trade negotiation. After negotiations, the Commission publishes the final text of the agreement and the reports and agendas of the committees and dialogues set up as part of the trade agreements. Once the agreement comes into force, the Commission publishes an *ex post* evaluation of the impact of the agreement, which draws in large measure on input from stakeholders, including civil society.

<sup>229</sup> COM(2020) 698 final.

<sup>230</sup> COM(2020) 620 final.

<sup>231</sup> Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy, OJ L 231, 30.6.2021, pp. 159–706. To support Member States, the Commission is developing a digital training manual to help ensure the Charter is respected when implementing the funds concerned.

<sup>232</sup> The European Regional Development Fund (ERDF), the Cohesion Fund, the Just Transition Fund, the European Social Fund Plus (ESF+), the European Maritime and Fisheries Fund, the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument.

<sup>233</sup> Article 15 of and Annex III to the CPR. Article 8 of the CPR requires Member States to involve CSOs in the preparation of partnership agreements and throughout the preparation, implementation and evaluation of programmes, including in monitoring committees. Article 9(1) of the CPR requires Member States and the Commission to ensure respect for fundamental rights and compliance with the Charter in implementing funds

civil society bodies, such as fundamental rights bodies. The Member State shall involve these bodies throughout the preparation, implementation, and evaluation of programmes, including through participation in a committee in charge of monitoring the implementation of funding programmes where a balanced representation of the partners concerned shall be ensured.

Member States are increasingly making arrangements to involve CSOs in implementing the horizontal enabling condition<sup>234</sup>. They must, where relevant, allocate appropriate resources from the funds to the administrative capacity building of social partners and CSOs<sup>235</sup>.

For example, in **Denmark**, CSOs and NHRIs were included in bilateral and public consultations organised by the managing authority of the CPR programmes. They also participate in monitoring the implementation of all programmes<sup>236</sup>. In **Romania**, the managing authorities of each programme have set up monitoring committees that include CSOs for all programmes<sup>237</sup>. In **Czechia**, CSOs are included among the bodies that prepare, implement, and monitor the CPR funds. This enables them to influence the content of programmes and calls for funding and participate in the evaluation and monitoring, including the compliance of operations with the Charter<sup>238</sup>.

### *Improved structural dialogues*

In addition to consultations, the Commission has created several tailored *dialogue mechanisms* to enable stakeholders, including CSOs and rights defenders, to regularly contribute to policymaking and implementation in specific fields. Structural civil society dialogue takes place, for instance, through forums and platforms, which cover broad policy areas such as the **Permanent Anti-racism Civil Society Forum**, the **Disability Platform**<sup>239</sup>, the **European**

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covered by the CPR. See [https://ec.europa.eu/info/funding-tenders/find-funding/funding-management-mode/common-provisions-regulation\\_en](https://ec.europa.eu/info/funding-tenders/find-funding/funding-management-mode/common-provisions-regulation_en).

<sup>234</sup> Such as those responsible for promoting social inclusion, fundamental rights, the rights of persons with disabilities, gender equality and non-discrimination, as well as environmental partners. See also Chapter 2.

<sup>235</sup> Article 8 CPR.

<sup>236</sup> FRA targeted consultation Member States summary report, p. 26.

<sup>237</sup> FRA targeted consultation Member States summary report, p. 26. Similarly, in **Slovakia**, CSOs participate in monitoring CPR programmes as members of monitoring committees and working groups. A monitoring system for the horizontal enabling condition on the effective application and implementation of the Charter is being set up by the Ministry of Labour (FRA targeted consultation Member States summary report, p. 26). In **Spain**, CSOs are represented in the monitoring committees of each operational programme co-financed by the ERDF, ESF+, European agricultural guarantee fund (EAGF) and European Agricultural Fund for Rural Development (EAFRD) funds. Their involvement focuses, among others, on approving the selection criteria, implementation reports and public summaries (FRA targeted consultation Member States summary report, p. 26). In **Finland**, the monitoring committee appointed to oversee the EU's regional and structural policy programme for 2021-2027, led by the Ministry of Economic Affairs and Employment, includes two representatives of organisations responsible for promoting social inclusion, fundamental rights, rights of persons with disabilities, gender equality, and non-discrimination (FRA targeted consultation Member States summary report, p. 26).

<sup>238</sup> FRA targeted consultation Member States summary report, p. 26.

<sup>239</sup> <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=10124&furtherNews=yes>

**Migration Forum**<sup>240</sup>, and the **EU Health Policy Platform**. The **EU Network for Children's Rights** has been set up to support implementing, monitoring and evaluating the EU's strategy on the rights of the child. The **Victims' Rights Platform** was launched in 2020 to facilitate dialogue and the exchange of best practices and information among its members, two thirds of which are from civil society<sup>241</sup>.

Dialogues on more specific matters have also been established by the EU, for example the **LGBTIQ Equality Civil Society Forum**, the **European Platform for Roma Inclusion** and the **Roma Civil Monitoring 2025**<sup>242</sup>, the **Civil Society Forum on Drugs**<sup>243</sup> and the **EU Civil Society Platform against Trafficking in Human Beings**. The **Civil Society Forum on Combating Antisemitism** brings together representatives from the Commission and Jewish communities, civil society and other stakeholders to create links and maximise the effect of joint action. As signatories of the **Code of Practice on Disinformation** and as members of the Code's **permanent task force**, CSOs provide expert advice on better understanding emerging disinformation narratives or developing key deliverables, such as indicators for measuring the impact of the Code on disinformation in the EU<sup>244</sup>.

Civil society is also a key partner of the EU in promoting a stronger *rule of law* culture. When preparing the annual rule of law reports, the Commission holds meetings with stakeholders, such as European networks, national and European CSOs, and professional organisations<sup>245</sup>. CSOs and rights defenders also provide written contributions to the reports. This is essential for having an informed assessment of the areas covered by the reports, namely justice systems, anti-corruption systems, media pluralism and media freedom, and other institutional checks and balances.

A regular civil society dialogue<sup>246</sup> and domestic advisory groups<sup>247</sup> also take place on *EU trade* issues, and civil dialogue groups help the Commission maintain a regular dialogue on all

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<sup>240</sup> [https://home-affairs.ec.europa.eu/policies/migration-and-asylum/legal-migration-and-integration/european-migration-forum-emf\\_en](https://home-affairs.ec.europa.eu/policies/migration-and-asylum/legal-migration-and-integration/european-migration-forum-emf_en)

<sup>241</sup> The Platform is composed of 34 members, including 23 members from civil society, [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/protecting-victims-rights/victims-rights-platform\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/criminal-justice/protecting-victims-rights/victims-rights-platform_en).

<sup>242</sup> <https://romacivilmonitoring.eu/>

<sup>243</sup> The Civil Society Forum on Drugs in the EU is a Commission expert group to support drug policy formulation and implementation. It was created in 2007 and is currently composed of 43 members representing a range of drug policy areas, including harm reduction, treatment, prevention, social reintegration, etc.

<sup>244</sup> <https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation>

<sup>245</sup> Civil society have been active in offering feedback and recommendation on the rule of law report as a mechanism: [joint-statement-on-rule-of-law-reports-22-09-21-epd.pdf](#). The Commission is reflecting on ways to respond to this feedback and improve involvement, for example, in 2022 it included country-specific recommendations, a request from CSOs.

<sup>246</sup> There are currently around 360 organisations registered in the Civil Society Dialogue database, including traditional non-governmental organisations, employers' organisations, trade union organisations, environmental and consumer associations, business associations, faith-based groups, as well as representatives of the European Economic and Social Committee. A contact group of 13 members supports the civil society dialogue.

**common agricultural policy** issues<sup>248</sup>. The Commission also maintains a structured civil dialogue with CSOs active in the fields of *disability, social exclusion and poverty*<sup>249</sup> and the *cultural and creative sectors*<sup>250</sup>.

A significant opportunity to exchange with civil society and human rights defenders in the EU's *external action* is the **annual EU-NGO Human Rights Forum** co-organised by the European External Action Service, the Commission and the civil society umbrella 'Human Rights and Democracy Network (HRDN)'. This event brings together hundreds of CSOs, human rights defenders, and representatives from the UN and EU institutions to discuss the most pressing human rights issues<sup>251</sup>.

The EU's main platform for structural dialogue between the EU and CSOs networks on development issues, including on issues of an enabling environment for civil society in EU partner countries is the **Policy Forum on Development (PFD)**.

At EU partner country level, support for civil society is framed by 110 **CSO Country Roadmaps**; EU and Member States strategies for engagement with civil society, reflecting the core priorities of the EU, including a heightened focus on support for an enabling environment for civil society. The new generation of Roadmaps additionally focus on the inclusion of civil society, including women's, youth and local organization, in policy dialogue at country level.

## 6. Conclusion

Civil society is an essential part of our democracies and instrumental for putting into practice the fundamental values on which the EU is founded. CSOs and rights defenders are invaluable partners in making fundamental rights a reality in people's lives. They have continuously shown great strength and tremendous resilience in very challenging circumstances, especially during recent crises.

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<sup>247</sup> [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/transparency-eu-trade-negotiations/domestic-advisory-groups\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/transparency-eu-trade-negotiations/domestic-advisory-groups_en)

<sup>248</sup> [https://ec.europa.eu/info/food-farming-fisheries/key-policies/committees-and-advisory-councils/civil-dialogue-groups\\_en](https://ec.europa.eu/info/food-farming-fisheries/key-policies/committees-and-advisory-councils/civil-dialogue-groups_en). In particular, as part of the EU's work to protect geographical indications, frequent contact with CSOs support Member States and the Commission by providing feedback on how the mechanism is working and identifying areas where further action is needed.

<sup>249</sup> The main event of the civil dialogue is the Annual Convention on Inclusive Growth, a 1-day event bringing together around 450 stakeholders to discuss a topic particularly relevant for developing the EU's social agenda. The civil dialogue also includes the European Meeting of People Experiencing Poverty.

<sup>250</sup> <https://voicesofculture.eu/>

<sup>251</sup> The 23rd edition of the Forum in 2021 discussed a human rights-based recovery from the pandemic and made specific recommendations to policymakers ([https://www.eeas.europa.eu/eeas/eu-ngo-human-rights-forum\\_en](https://www.eeas.europa.eu/eeas/eu-ngo-human-rights-forum_en)), and recent past Forums have tackled subjects such as environmental human rights defenders and shrinking civic space.



A sustained and joint effort is therefore needed by Member States and the EU to ensure that CSOs and rights defenders can operate in an enabling environment as key partners for protecting our democracies, including from foreign autocrats targeting our own countries<sup>252</sup>.

This report shows that Member States and the EU are, to varying degrees, taking measures to protect, support and empower civil society actors. It also shows the range of opportunities that CSOs and rights defenders have, as valuable partners of the decision-makers, for making their views known on legislation and policymaking. At the same time, many challenges persist.

As highlighted by CSOs<sup>253</sup>, the European Parliament<sup>254</sup>, and the Conference on the Future of Europe<sup>255</sup>, there is a need to step up the work towards an enabling and empowering civic space through concrete and targeted measures tailored to the specific characteristics of CSOs and rights defenders. The challenges that CSOs and rights defenders are facing, and the responses needed, may differ depending on the national situation and topic. However, the EU's common objective should remain the same: to protect, support and empower CSOs and rights defenders.

The Commission welcomes the strong engagement and contributions from civil society actors, the European Parliament, the Council and Member States, as well as the European Economic and Social Committee and the Fundamental Rights Agency in preparing this report. This provides a good foundation for further work together on the topic.

The Commission encourages other EU institutions, Member States and stakeholders to use this report to discuss its findings and develop a dialogue on civic space in the EU. In particular, the Commission encourages the European Parliament and the Council to have a dedicated discussion on the findings of the report. To support this debate, the Commission will launch a targeted dialogue with stakeholders through a series of thematic seminars on safeguarding civic space, focusing on *how the EU can further develop its role to protect, support and empower CSOs and rights defenders* to address the challenges and opportunities identified in this report. These seminars could examine themes such as protecting the digital civic space, how to better target EU and national funding to support CSOs and rights defenders, and ways to empower the civic space to bolster our democratic resilience. The outcome of this debate will be presented and discussed in a European high-level roundtable meeting in 2023.

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<sup>252</sup> In 2023, the Commission will put forward a Defence of Democracy Package to deepen the action under the European Democracy Action Plan; COM(2022) 548 final, p. 11.

<sup>253</sup> See European Civic Forum and Civic Space Watch, [Towards vibrant European civic and democratic space](#) (2022), Civil Society Europe, [European Commission work programme 2023: the need to include the development of a European Civil Society Strategy](#) (2022), Recharging Advocacy for Rights in Europe, [Advocacy brief on an European strategy for civil society: recognition, inclusion, protection](#) (2022).

<sup>254</sup> See footnote 83 on the two European Parliament reports.

<sup>255</sup> See footnote 36 on the Conference proposals.