

ACTIVIZENSHIP

CIVIC SPACE WATCH REPORT 2020 • STORIES FROM THE LOCKDOWN

ACTIVIZENSHIP

The image features a teal square background. Centered within this square is a white, stylized bird logo, which appears to be a simplified representation of a bird in flight or a similar abstract shape. Overlaid on this square is the word "ACTIVIZENSHIP" in a bold, black, sans-serif font. The text is oriented diagonally, starting from the bottom-left corner of the teal square and extending towards the top-right corner, passing over the bird logo.

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THE iNViSiBLE GUARDiANS OF EUROPEAN DiGNIty

Anyone who has spent time in those regions of the world affected by conflicts, wars, or natural disasters, has certainly found in the most dramatic situations a civil society organisation or a group of volunteers helping people in need. With few means and little power, they are often the first ones to arrive and the last ones to leave.

Nowadays, it's our continent, together with the whole world, that is going through a huge and unexpected emergency. The Covid-19 pandemic is shaking our lives, our societies, economies and democracies.

We cannot capture the panoramic picture of all civil society activities in times of crisis. This issue of Activizenship provides a few snapshots, showing that in addition to the usual civil society organisations, an enormous number of spontaneous groups have reactivated civic spirit in our communities, enabling mutual care and solidarity.

From the very first days of the pandemic crisis, civic organisations and groups mobilised their means and know-how, stretching way beyond their usual capacities to assist those in need, where needed. They deliver food, medicines, and provide essential services to vulnerable people that often happen to be the poorest. They offer psychological support, legal aid or shelter to the homeless, migrants and refugees, support against domestic violence, fundraise for hospitals... And where governments have used the crisis to seize public space and shrink fundamental rights and

the rule of law, civil society stands at the frontline to oppose and resist.

The health emergency has allowed most European governments to gain exceptional powers, introduce blanket restrictions to fundamental rights and increase the power of law enforcement authorities. As the analysis in this report shows, in most states, the aggressive security narrative went hand in hand with the use of coercive methods to enforce the COVID-19 related restrictions and the closing of public space.

In a context where a lot of regular and institutionalised channels for social and civil dialogue are broken or weakened, and democratic checks and balances are deteriorated, European streets have been crowded with people in protests to manifest their griefs and dissatisfaction, both with public policies and with those who decide them. But more and more, they are met with disproportionate and often violent repression.

This trend towards more and more political control of the social order through coercive measures and policing is very alarming. This year, **five European countries have passed or have on the table** (Greece, France, Poland, Denmark, United Kingdom) **bills restricting the right to protest beyond COVID-19**. Following a trend highlighted in last year's report, in 2020 Poland, Bulgaria and Greece have proposed or introduced legislation officially aimed at improving transparency, but the facto discriminately overburdening and stigmatising the sector.

But with few means and little power, civic organisations and movements try to mitigate the dire costs of the crisis. Every day, all over Europe, they try to plug the holes left by institutional policies (or lack of), especially in the most vulnerable parts of our societies. At the same time, they fight for those gaps to be filled, through the advancement of rights, of social inclusion, of equality. They galvanise people to participate, to preserve and enlarge civic space, which is a precondition for democratic, cohesive and resilient societies. Civil society is more and more connected across borders to protect civic space and democratic values from destructive pressures, from reactionary, racist, and regressive forces.

Despite this undeniable reality, we still have to spend too much of our time proving to institutions at all levels that civic actors are not phantoms, that we exist, that we are a resource for our Europe.

Of course, positive references to the role of civil society can be found in the official EU documents. Dialogue channels have been opened, and we find strong allies inside the European Parliament or the United Nations.

Yet, across Europe, too many governments increasingly divide civil society into “good” and “bad” or distinguish between “political” and “a-political”. The European institutions often neglect the role of organised civil society as providing democratic checks and balances, as mediator between the individual and the state.

Today, the European associations gathering citizens and civic organisations together across borders, are not legally recognised, unlike the European companies or cooperatives. The EU law-making processes today still neglect the implementation of civil dialogue as a good governance principle laid down in Article 11 of the EU Treaty.

During the pandemic, we had to mobilise and unite forces again across borders to ask for the not-for-profit sector to be included in the crisis packages offered to economic operators. Different from enterprises, their not-for-profit economic model relies mostly on donations, subsidies, and membership fees, not on revenues from activities... In a little number of member-states, such criteria have been included in the public support schemes put in place.

And despite the Commission's recommendation to consult civil society in the preparation of their recovery and resilience plans, many governments did not do so. Hundreds of thousands of associations have suspended their normal activities in these times. Millions of workers in the third sector are at risk of losing income. And as many associations close their doors because of the crisis, the local communities and vulnerable people they take care of risk more than ever being left behind and marginalised.

The European Civic Forum coordinated a broad campaign to avoid cuts to the budget of the Rights and Values programme proposed by the Commission in June. Finally, we celebrated a historic victory for civil society, since the deal brokered by the European Parliament and the German EU Presidency finally raised the budget of this programme from 0.8 to €1.6 billion for the 2021-2027 period. This comes in a context when civic action is most needed, when sources of funding are increasingly scarce – a process that is documented in the present report.

The pandemic is teaching our world many lessons. It is teaching us that humans are part of the planet's life chain and do not own it. It is teaching us that the globalised free market and the climate crisis make us vulnerable. It shows us that we are all interdependent, that our security depends on each other's security and that universal health and social protection is needed for all. It shows us that the common good must be protected by public institutions. It shows us what the essential jobs are and that they must be recognised and fairly paid. All in all, it is teaching us again the immense value of solidarity for all.

These are issues we have been talking about for years, our words often falling on deaf ears. These issues feed not only our campaigns but our knowledge, proposals, and alliances with the academic and scientific world, in the European and international spheres.

Collective organizing is crucial to channel people's voices and allow them to be heard. Civil society organisations represent a wide range of constituencies and have extensive knowledge of communities' realities, thus their participation in the public debate and in the law-making is essential to ensure coherent and fair responses to the needs on the ground.

We believe that our knowledge and practices are needed to make Europe resilient and ready to face the future, putting solidarity at the heart of the recovery agenda.

We are here, as always, and will remain so.

And we aim at making tomorrow better than yesterday. ■

Out of thirty inspiring stories that reached us through an open call in May 2020, the European Civic Forum Steering Committee selected seven that present a fair territorial and thematic distribution of the various challenges and rights-related fights during COVID-19. We collected the interviews in July 2020, while the authors wrote the country case studies and the general analysis between August and October 2020. The data for the infographics were collected with the support of The Wheel (Ireland), Maecenata Institute for Philanthropy and Civil Society (Germany), Centre for Information Service, Cooperation and Development of CSOs (Slovenia).

LEARNING FROM CIVIC SPACE WATCH

CIVIC SPACE UNDER LOCKDOWN

Civil society unlocks its potential

By Giada Negri, European Civic Forum

2020 has been characterised by the COVID-19 health emergency that produced consequences on our societies, economies and democracies that are unprecedented in Europe in times of peace. We have changed our life to protect ourselves and others. We have all been expected to act responsibly as individuals and as a community.

The institutions of the European Union and the Member States have taken decisions dictated by the urgency to slow down the spread of the pandemic. The need to provide a quick and strong response in a short time has increased the use of exceptional powers by the Governments at the expenses of the Parliaments and other institutions entitled to act as institutional checks and balances.

The need to prevent the spread of the contagion led to the imposition of strong restrictions on individual and collective freedoms. Some Governments took advantage of this exceptional situation to legitimate

their attempt to concentrate powers in their hands but, even in countries where governments have been praised for their balanced approach, the situation of exception has exposed serious risks for European democracies, adding to the trend of deterioration documented in previous years.



Giada Negri

2020 has also been characterised by an awakening of *active* citizenship to ensure at the widest possible scale effective access to basic rights that the crisis has put at risk. Many have found creative ways to be useful to their communities, to offer social and cultural tools against isolation, to volunteer for providing support to the weak and vulnerable which often happen to be the

poorest, to act as watchdogs vis a vis the consequences of the democratic and social crises, and to propose societal alternatives. Everywhere, organised civic actors, as well as citizens and people spontaneously, have been and are in the front line to witness the precarious situations people suffer from, trying to respond to people's needs, to alert on the limitations and adverse consequences of implemented public policies, to react against abuses of power, to put solidarity for all at the

centre of the response to the crisis. Civic space under the lockdown has been narrowed but, even under detrimental conditions, has shown a high level of dynamism.

The European Civic Forum, together with its members, has contributed to this dynamism and observed these trends through the Civic Space Watch (<http://civicspacewatch.eu/solidarity-amid-covid-19-crisis/>), a platform collecting resources on threats to fundamental rights as well as positive initiatives, including those aimed at countering these threats. Launched in early 2018, the platform has so far gathered nearly 800 resources from dozens of local, national and European organisations active in 26 EU countries.

Throughout the pandemic, the European Civic Forum has organised consultations with major national platforms of civic organisations in order to map civil society's actions concerning the health and social emergencies and to understand the needs and demands of civic actors to be brought to the attention of the European institutions.

The following analysis builds on the information collected through the Civic Space Watch and the work carried out by the ECF with the national platforms of NGOs in 25 countries. The analysis will showcase the challenges civil society faced throughout the year 2020, with a particular focus on how the public measures triggered by the COVID-19 pandemic affected civic space, and how civic actors responded.

Following the structure of the previous annual report, the analysis will look into how the pillars that enable civic actors to unlock their potential were affected by the exceptional circumstances of 2020:

1. The political, cultural and socio-economic landscape;
2. The respect of civic freedoms;
3. The framework for CSOs' financial viability and sustainability;
4. The dialogue between civil society and governing bodies;
5. Civil society's responses.

1. COVID-19 SHAKES THE SOCIO-ECONOMIC AND POLITICAL LANDSCAPE

AS THE SOCIO-ECONOMIC SITUATION DETERIORATES, SOCIETAL VULNERABILITIES INCREASE

Decades of insufficient public investment in and privatization of the healthcare sector and social protection infrastructures have debilitated Europe's capacities to respond efficiently to the health crisis. As a consequence, many states have restricted freedom of movement and the access to public space¹ in order to decrease the pressure on the health system - struggling to meet the demands of the population and to keep the limited available means accessible to the highest risk groups.

The health crisis developed quickly into a social and economic crisis, with tens of millions of people put out of work, many losing partially or in total their

¹ See: COVID-19 Civic Freedom Tracker, <https://www.icnl.org/covid19tracker/>.

In the period January to October 2020, the European Civic Forum (ECF) monitored through the Civic Space Watch the state of civic space in European countries, including during the COVID-19 pandemic. The ECF Secretariat carried out media monitoring and liaised daily with NGOs on the ground. The analysis builds on the results of this monitoring activity, as well as on three consultation meetings with the ECF working group of national platforms of NGOs (3 and 23 April, 14 October 2020), two surveys on the impact of COVID-19 on fundamental rights and on civil dialogue and economic sustainability of the sector, and five interviews with local NGOs. The interviews were carried out with the support of Giorgia Gusciglio, former ECF Communication and event officer, and Vladimir Sestovic, ECF Communication and membership officer. Special thanks to the editorial team for the review and to Vanja Škorić, European Center for Non-for-Profit Law and Carlotta Besozzi, Civil Society Europe, for feedback and input in the analysis.

sources of income and, in large numbers becoming unable to meet the basic needs of their families for food, housing and health protection².

The economic shock triggered by the consequences of the health emergency is exacerbating societal needs and existing inequalities³. As stated by a coalition of networks of associations in a letter to European institutions:

“The COVID-19 pandemic is demonstrating all too well that unequal societies go hand-in-hand with human suffering, fragile economies and delicate democracies. [...] This is more than a public health crisis; it is a systems crisis. Like the climate crisis, and the many other crises we face, it affects everyone but hits some harder than others. The COVID-19 pandemic magnifies the inequalities in our societies. Inequality was already a global problem but it now risks growing to irreversible proportions. Alongside the millions of workers who have lost their jobs and income, those most affected include migrants at the borders, precarious workers, undocumented people, low-income families, homeless people, elderly people, women, and people with disabilities or chronic illnesses – including many racial and ethnic minorities.”⁴

States did implement measures trying to compensate, at least in part, the disrupting effects on households and businesses. But these economic measures have often been insufficient and limited. The vulnerabilities experienced by those who were already vulnerable multiplied as support plans did not include or only partially many categories⁵.

To mention just a few examples, in Spain, domestic and care workers have been exposed to an increase of exploitation and discrimination (read the interviews with Carol Elias); in Greece, the government support did not take into account how a sizeable part of the population, especially young people and migrants, do not hold regular work contracts, thus leaving them without access to public aid (read the Greek chapter); across Europe, the LGBTI community was left behind public relief programmes (read the transnational case

study and the interviews with Czeslaw Walek and Filip Milde). These are trends that have been recurring across Europe. Adding to those who were already fragile, entire groups were exposed to socio-economic difficulties, for example, artists and self-employed people (read the interview with Nika Kovač), small business owners, health workers and renters.

During 2020, civic actors have faced an increased demand for their services while their capacities have been reduced as a result of the economic impact of the states' restrictions and lack of economic responses to meet their needs (see section 4 “Economic difficulties of the sector soar during the crisis”). Additionally, their staff have also been among those suffering from loss of income as national recovery schemes have not systematically included CSOs among employers that can benefit from support.

STATES CRUCIALLY CONFRONTED WITH THEIR RESPONSIBILITY TO PROTECT THE PUBLIC GOOD

Member States have taken decisions dictated by the urgency to slow down the spread of the pandemic. Production was discontinued; economies were under lockdown. The management of the crisis changed the way in which many governments and the European Union considered the role of the State. As mentioned above, during the toughest phase of the restrictions, most EU countries introduced support measures aimed at companies, employees, families and vulnerable groups to counter the impact on income and unemployment⁶. Some introduced unprecedented measures to ensure the health protection of all⁷, breaking loose from the debt tyranny for a while and questioning the privatisation of the health system. The UE suspended the Stability and Growth Pact⁸ and created new tools to support members states - putting aside the principles of austerity of public finances in favour of a solidarity-based approach.

Moving beyond their mostly regulatory approach, States have played a direct role in protecting to most vulnerable from the health, social and economic crises unfolding. Many states have shown a willingness to

² For more information read: Graciela Malgesini, The impact of COVID-19 on people experiencing poverty and vulnerability. Rebuilding Europe with a social heart. https://www.eapn.eu/wp-content/uploads/2020/07/EAPN-EAPN_REPORT_IMPACT_COVID19-4554.pdf, EAPN, (July 2020).

³ Ibidem.

⁴ For a Europe that cares for all – during the COVID-19 pandemic and beyond, <https://civic-forum.eu/publications/open-letter/for-a-europe-that-cares-for-all>, (April 2020).

⁵ See : Graciela Malgesini, The impact of COVID-19 on people experiencing poverty and vulnerability. Rebuilding Europe with a social heart. https://www.eapn.eu/wp-content/uploads/2020/07/EAPN-EAPN_REPORT_IMPACT_COVID19-4554.pdf, EAPN, (July 2020).

⁶ For more information, see: ETUC, COVID-19 Watch // ETUC Briefing notes, <https://www.etuc.org/en/publication/covid-19-watch-etuc-briefing-notes>.

⁷ See : Graciela Malgesini, The impact of COVID-19 on people experiencing poverty and vulnerability. Rebuilding Europe with a social heart. https://www.eapn.eu/wp-content/uploads/2020/07/EAPN-EAPN_REPORT_IMPACT_COVID19-4554.pdf, EAPN, (July 2020).

⁸ Jorge Valero, EU countries warn of ‘severe economic downturn’, suspend Stability Pact, <https://www.euractiv.com/section/economy-jobs/news/eu-countries-warn-of-severe-economic-downturn-suspend-stability-pact/>, Euractiv, (24 Mar. 2020).

act unseen in the last decades, although often insufficient to face the multifold challenges exposed by the pandemic. Universal health and social protection for everybody in our societies emerged in the public debate as a need, not anymore as a utopia. Some countries took action to make a minimum income for all a reality in the time of the crisis⁹.

A CRASH TEST FOR THE EFFECTIVE FUNCTIONING OF DEMOCRACY AND THE RULE OF LAW

The question how to guarantee the democratic life in a situation of emergency has been a challenge in the context of the Covid-19 crisis. In these exceptional circumstances, a general tendency to concentrate powers at the Government level while limiting the role of institutions in charge of checks and balances has been reported across Europe. Most governments also closed the public space (see section 2.2 “Closing the public space, restricting the freedom of peaceful assembly) and restricted fundamental rights claiming it was necessary for protecting people’s lives. To enforce these decisions, they often relied on the power of fear and resorted to coercive measures, raising concerns on their implementation in a number of cases (see section 2.3 “Securitising the public space, policing dissent”). In countries where the functioning of democracy and the rule of law was already strained, authorities have taken advantage of the situation to further concentrate their powers (see, for example, the Slovenian case study) and to pass controversial legislation unrelated to the COVID-19 emergency (see, for example, the chapter on LGBTI rights). Additionally, at European and national level, there is a risk of weakening human rights standards, environmental safeguards, and fiscal regulations as corporations and anti-rights forces are using the pandemic as an argument for action¹⁰.

In this context of emergency where institutional mechanisms of separation of powers and accountability are shrinking, civic actors’ role as checks and balances become more crucial. However, these have

been critically weakened with the narrowing of civic space (see section 2 “The deterioration of civic freedoms continues”) and downsizing of their capacities to act (see section 4 “Economic difficulties of the sector soar during the crisis”). Additionally, in most countries, central governments showcased a real lack of political culture of managing crises by also relying on people’s knowledge and initiatives. As a case in point, civic organisations, that are in a privileged position to provide information on the realities that citizens live, were often underrepresented or squeezed out of the consultation prior to decision-making (see section 3 “The dialogue between civic organisations and governing bodies is challenged during the crisis”). As we move towards a normalisation of the virus in our lives, in the long-term, the danger is to normalise emergency and coercive practices that have emerged.

TEN LESSONS LEARNED OUT OF THE CRISIS

Humanity is going through an unprecedented crisis, with a lot of suffering, sacrifice, pain and drastic changes in our daily life. The crisis gives us many lessons for the future. The European Civic Forum (ECF) proposes these ten.

Lesson one: Our security depends on the others’ security

We need universal health and social protection for everybody in our society and all over the world.

Lesson two: We are all vulnerable and our destiny is interwoven.

Solidarity, equality, rights and caring must be at the base of international relations and every days’ reality.

Lesson three: The common good exists

Public institutions must serve, protect and implement the common good, not particular interests.

Lesson four: Democracy is the crucial antivirus we all need

Citizens’ awareness, civic participation, trustworthy information, public research and education, transparent institutions ensure the public good.

Lesson five: The global market system failed

We have to relocalize production, implement circular economy, and have a universal basic income for all.

Lesson six: We are the earth’s custodians, not its owners

Nature is using our lockdown to recover our damages. We must return to the world with ecological justice.

Lesson seven: Essential workers are real heroes. Women are at the forefront

Their contribution has to be recognized in the social hierarchy, the invisible ones must fully access their rights.

Lesson eight: Time has to slow down

Lockdown forced us to give full place to social bonds, patience, compassion: we have to keep this in the long run.

Lesson nine: We need human, social, ecological security

We commit ourselves for a just recovery and a just transition in our country, in Europe and all over the world.

Lesson ten: The future must be different from the past

We need to learn from the Lessons and act together.

⁹ See, for example, Spain where the coronavirus crisis accelerated the approval of a guaranteed minimum income scheme in the country. This program aims to reach 2,3 million people and it is a mechanism to guarantee earnings for families with low income. The Royal Decree-Law 20/2020 of 29 May, establishing the minimum vital income: <https://www.boe.es/buscar/act.php?id=BOE-A-2020-5493>.

¹⁰ See for example: Corona Lobby Watch, <https://corporateeurope.org/en/2020/05/corona-lobby-watch>; Civil Liberties Union for Europe and Greenpeace European Unit, Locking down critical voices, https://dq4n3btxm8c9.cloudfront.net/files/Mq7uU3/Civic_Space_Report_2020_Liberties_Greenpeace.pdf, (Sept. 2020).

THE CRISIS AS A DRIVER TO PUT SOLIDARITY AT THE CENTRE OF COMMUNITIES

While the pandemic exposed and deepened societal vulnerabilities leaving many without institutional protection, communities, associations and social movements have mobilised quickly and successfully to provide effective accesses to basic rights that the crisis has jeopardised. An incredible number of citizens started offering help to their neighbours both in spontaneous and organised ways. Civic actors have been on the front-lines responding to pressing and emerging societal needs, showing great reactivity and resilience (see section 5 “Civil society unlocks its potential”). The actions to respond to the consequences of the crisis have opened spaces for cooperation with institutions at the local level and with other civic actors. All across the interviews below, the importance of building bridges and convergences across thematic fields and geographies emerges as a lesson learned from the pandemic.

Additionally, while the pandemic made those already vulnerable more at risk than ever, it also made their struggles for solidarity and justice more visible. These communities have been at the forefront of mutual solidarity during the pandemic to deliver services to their members and to advocate for their rights (see for example the interviews with Carol Elias and Moussa Sangaré) but also to bring crucial services to all people in needs without discrimination (see for example the interviews with Khedi Alieva and Moussa Sangaré). They are reclaiming their right to be part of the civic space after years of marginalization and exclusion.

Beyond the practice of solidarity in the form of mutual support, the crisis also opened an opportunity for rebuilding the trust in collective approaches that had been shrinking over the last period. After decades of rising individualism and generalised competition, many citizens have rediscovered the profound links between individual and social responsibility, the absolute need for public services to be managed outside of the markets’ rules, for policies aimed at social cohesion, care and solidarity. These are the basic elements for a democracy that delivers for the people. However, the lessons unveiled by the COVID-19 pandemic are a matter of discussion that is far from reaching consensus.

REGRESSIVE THINKING IN THE PUBLIC SPACE IN TIMES OF THE PANDEMIC?

Distrust in institutions has been growing for decades¹¹. In the current context, it is exacerbated by societal despair caused by the hardships described above and uncertainty for the immediate future. Additionally, it is also fed by the coercive approach chosen by Governments in most EU countries (see section 2.3 “Securitising the public space, policing dissent”). The general feeling of joining forces in a common struggle and high trust in Governments¹² that has characterised the first phase of the emergency has quickly been replaced by contestation, including in the form of protests in the streets. As emerges in several case studies and interviews below, regressive political parties and movements are already trying to surf these societal tensions with various degrees of success depending on the country. These forces also contribute to putting pressure on civic space when they target democratic civic actors through aggressive narratives and attacks and question their role in society.

¹¹ Edelman, Edelman Trust Barometer 2019 – Global report, https://www.edelman.com/sites/g/files/aatuss191/files/2019-02/2019_Edelman_Trust_Barometer_Global_Report_2.pdf, (2019).

¹² Edelman, Edelman Trust Barometer 2020 - Spring Update: Trust and the Covid-19 Pandemic, <https://www.edelman.com/sites/g/files/aatuss191/files/2020-05/2020%20Edelman%20Trust%20Barometer%20Spring%20Update.pdf>, (May 2020).

2. THE DETERIORATION OF CIVIC FREEDOMS CONTINUES

The 2019 report on civic space in the European Union showcased how restrictions (*de jure* and *de facto*) to civic freedoms are growing across the region following certain trends and contributing to shrinking the space of action of civic actors. This section describes some of the main

themes emerged in 2020 concerning civic freedoms, in particular, freedom of association (sections 2.1 and 2.3.3), assembly (sections 2.2, 2.3, 2.4 and 2.6) and expression (sections 2.3.3, 2.5 and 2.6). It also looks at some of the developments concerning the right to access to information and privacy (sections 2.5 and 2.6), that are interconnected and interdependent with and, as a consequence, inevitably affect said freedoms. Some of the challenges to the exercise of civic freedoms described below are generated by the democratic test posed by the COVID-19 pandemic, which reproduced and magnified some of the trends already emerged. Others happen in parallel to the health crisis. All of them cumulate with the ones documented in previous years and create an extremely testing environment in which civil society operated in 2020.

2.1 RESTRICTING FREEDOM OF ASSOCIATION USING TRANSPARENCY LEGISLATION

Following a trend highlighted in the 2019 report¹³ and the footsteps of the Hungarian law on the transparency of organisations supported from abroad dubbed “Lex NGO” that was ruled a breach of the right to association by the European Court of Justice (See the box: “Evolving standards for Freedom of Association”), in 2020 Poland, Bulgaria and Greece have **proposed or introduced legislation officially aimed at improving transparency, but the facto discriminately overburdening and stigmatizing the sector.**

While the pieces of legislation described below present differences, we observe they raise similar concerns and potential threats to the civic sector, including:

- ▶ Double reporting requirements draining CSO resources;
- ▶ Disproportionate sanctions in case of non-compliance;
- ▶ Discrimination of CSOs vis-a-vis other entities (like private companies) that are not subject to the same requirements;

¹³ Giada Negri, One year of monitoring civic space: Challenges for acting for rights are increasing but civil society is striking back, *Activizenship* #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizenship-4>, pp 16-19, (Dec. 2019).

- ▶ Vilification of the sector in the eyes of the public as “foreign interests” (in the case of Poland and Bulgaria) or “colluded with human smugglers” (as in the case of Greece).

As we stressed in the previous report, **this kind of legislation contributes to negatively affecting CSOs capacity to focus on their mission** in contexts where freedom of association is also challenged by smear campaign, difficult dialogue with public authorities (see section 3 “The dialogue between civic organisations and governing bodies is challenged during the crisis”) and reduced financial resources (see section 4 “Economic difficulties of the sector soar during the crisis”).

In Poland, on 7 August, the justice and environment ministers proposed a law that would oblige NGOs to declare sources of foreign funding, which would be published in a public register. Additionally, entities receiving at least 10% of their funding from abroad

EVOLVING STANDARDS FOR FREEDOM OF ASSOCIATION

By European Center for Not-for-Profit Law (ECNL)

The right to freely associate is well established in international and European human rights obligations and standards. Within the European Union context, it has evolved during 2020 through the European Court of Justice (ECJ) case law. ECJ officially sentenced that Hungary’s law on the transparency of organisations supported from abroad is in breach of EU law, including provisions of the Charter of Fundamental Rights of the EU (“CFR”). This decision sets a standard and provides strong arguments for the protection of access to funding by civil society organizations. It establishes that the provisions of the Hungarian Transparency Law are discriminatory and pose unjustified restrictions on foreign donations to CSOs, in breach of its obligations under Article 63 of the Treaty of the EU and breach of right to freedom of association, privacy and protection of personal data from the Charter. The ECJ clarifies the following interpretative and standard-setting points for future law-making:

- ▶ **Free movement of capital** presupposes the presence of capital movements with a cross-border dimension, including “personal capital movements”, such as inheritance, gifts, donations, endowments, etc.
- ▶ In terms of **legitimate interests**, restrictions/derogations to the free movement of capital cannot apply indiscriminately to all CSOs receiving financial support from abroad, but could only target those which, having regard to their aims and the means at their disposal, are genuinely likely to have a significant influence on public life and public debate.
- ▶ The **objective of transparency** cannot justify “a presumption made on principle” that any foreign funding offered and received by a CSO is “intrinsically liable to jeopardise the political and economic interests of the Member State and the ability of its institutions to operate free from interference”.
- ▶ With regards to **privacy**, imposing or allowing the communication of personal data of natural persons to a public authority or public in general without consent is characterised as an interference in their private life and therefore as a limitation on the right, without prejudice to the potential justification of such provisions.

will have to state that on their website while those that receive more than 30% of their funding from abroad will be subject to additional obligations. Lack of compliance can be fined up to 50,000 zloty (11,340 euro) and the repeated violations could lead to the organisation losing its NGO status¹⁴. Also, such information is already available on the websites of civic organizations, that are already subject to stringent reporting requirements¹⁵. While the Polish government took distance from the proposal of the two ministers stressing that this was not politically agreed by the government, the minister in charge of developing policies on CSOs said that he is also working on a legislative proposal concerning the transparency of NGO funding¹⁶. It is important to note that, in the last years, Polish NGOs that are critical of the government have been targeted by smear campaigns representing them as “foreign interests” and have been squeezed out of the public support¹⁷ (see section 4 “Economic difficulties of the sector soar during the crisis”).

In Bulgaria, on 1 July, a group of MPs from a parliamentary group partner in the ruling coalition proposed a package of amendments to the Not-for-Profit Legal Entities Act (CSO Law) and to several other laws. A coalition of CSOs in the country¹⁸ explained that the amendments would oblige non-profit entities with public benefit status to report all income from foreign sources (foreign states, individuals or companies) above 1000 BGN (500 euro) within seven days from receiving the funding. Failure to comply would result in a pecuniary sanction and, under the decision of the Minister of Finance, the temporary suspension of the public benefit status of the organisation. A second violation could trigger the dissolution of the organization. The amendment also provides for the creation of a register

for CSOs financed from abroad that is unclear whether it would be made public. The Chairperson and board members of CSOs that have received foreign funding will be obliged to declare their assets and interests to the Commission for Combatting Corruption and Confiscation of Illegally Acquired Property regardless of the amount of funding received from abroad by the organisation, an obligation that is now only applicable for individuals in high government positions¹⁹. The proposed package was tabled after numerous representatives of the government coalition have intensified smear campaigns and attacks against democratic civil society²⁰, including a proposal to de-register one of the biggest and oldest human rights organizations in the country - the Bulgarian Helsinki Committee - for being unconstitutional in September 2019²¹.

In Greece, at the beginning of the year, the government has passed a law requiring all NGOs working with migrants to submit information concerning their membership and employees to be collected in a register. The proposal arrived after the Minister of interior had accused NGOs of collusion with smugglers. Following the aggressive government-led smear campaign against volunteers and NGOs helping migrants and refugees, tensions on the Greek islands have also skyrocketed, to the point that a group of far-right activists conducted street and house searches with batons looking for people working for NGOs in the village of Moria²². The registration would be “a necessary precondition for their activity, certification and cooperation with state authorities”. The regulation raises several worries, including double reporting requirement as all NGOs would have to re-register despite being already present in the existing register²³ (read more in the Greek case study).

¹⁴ Juliette Bretan, Polish ministers propose law making NGOs declare foreign funding and creating public register, <https://notesfrompoland.com/2020/08/09/poland-seeks-to-make-ngos-declare-foreign-funding/>, Notes from Poland, (9 Ago.2020).

¹⁵ Magdalena Chrzczonowicz, POLAND: The Minister of environment is planning a law on foreign funding for NGOs, <http://civicspacewatch.eu/poland-the-minister-of-environment-is-planning-a-law-on-foreign-funding-for-ngos/>, Oko.Press (unofficial translation on Civic Space Watch), (10 May 2020).

¹⁶ Juliette Bretan, Polish ministers propose law making NGOs declare foreign funding and creating public register, <https://notesfrompoland.com/2020/08/09/poland-seeks-to-make-ngos-declare-foreign-funding/>, Notes from Poland, (9 Ago.2020).

¹⁷ Filip Pazderski, GROWING CENTRALISATION OF GOVERNMENT'S CONTROL OF THE SECTOR New waves of informal activism emerge, *Activizeship* #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizeship-4>, pp 88- 93 (Dec. 2019).

¹⁸ BULGARIA: MPs Submitted a Draft Law on Controlling Foreign Funding for NGOs, <http://civicspacewatch.eu/bulgaria-mps-submitted-a-draft-law-on-controlling-foreign-funding-for-ngos/>, Civic Space Watch, (8 July 2020).

¹⁹ Ibidem; BCNL, A Dangerous Attack Against Independent Civil Society in Bulgaria, <http://bcnl.org/en/news/a-dangerous-attack-against-independent-civil-society-in-bulgaria.html>, (3 July 2020).

²⁰ BULGARIA: Smear campaign against civil society organisations intensifies, <http://civicspacewatch.eu/bulgaria-smear-campaign-against-civil-society-organisations-intensifies/>, Civic Space Watch, (15 Jan. 2020).

²¹ BULGARIA: Party in the governing coalition threatens de-registration of Bulgarian Helsinki Committee - civil society denounces the attack, <http://civicspacewatch.eu/bulgaria-government-threatens-de-registration-of-bulgarian-helsinki-committee-civil-society-denounces-the-attack/>, Civic Space Watch, (2 Oct. 2019).

²² European Civic Forum, GREECE: Violence against migrants, volunteers and NGOs intensifies in the Islands - Interview with Greek Forum of Refugees, <http://civicspacewatch.eu/greece-violence-against-migrants-volunteers-and-ngos-intensifies-in-the-islands-interview-with-greek-forum-of-refugees/>, Civic Space Watch, (17 Feb. 2019).

²³ HIAS, Some thoughts on the new Joint Ministerial Decision, regulating the registration of migration-related NGOs in Greece, https://www.hias.org/sites/default/files/greece-some_thoughts_on_jmd_3063.2020_ngo_registry.pdf, (8 May 2020).

2.2 CLOSING THE PUBLIC SPACE, RESTRICTING THE RIGHT TO ASSEMBLY

As the COVID-19 virus spread across the region, national authorities started to restrict the public space and limit the possibility for gatherings of people. Freedom of assembly suffered greatly in Europe like in other regions in the world. How to maintain people's right to protest while also safeguarding the rights to life and health has been a great democratic challenge. Most governments have been caught unprepared on how to tackle it. International standards set that freedom of peaceful assembly can be restricted for protecting public health, thus restrictions on gatherings found necessity in the global pandemic. However, at the beginning of the health emergency, case law setting the boundaries and guidance on how to assess whether restrictions were proportionate was missing.

As stressed in the first section of the analysis, in this context of emergency where institutional mechanisms of separation of powers and accountability are tested, civic actors' capacity to act as checks and balances is fundamental. **The right to peaceful assembly and to protest are crucial means for political participation, and they gain special importance at times when far-reaching decisions are taken impacting people's socio-economic rights.** Additionally, freedom of assembly is especially important to give visibility to matters of general interest in contexts where usual channels for dialogue between authorities and civil society are not functioning well (see section 3 "The dialogue between civic organisations and governing bodies is challenged during the crisis"). For example, in Germany, in a report on civil liberties during the pandemic, Greenpeace Germany stressed:

"Freedom of assembly is particularly important for democracy in Germany. The dialogue between politics and civil society is fragile and – unlike in many states and at the level of the European Union – hardly institutionalised²⁴. Apart from intervention in legislative procedures, protests in the streets are the main means for civil society to make itself heard and to stand up for its own demands. The protesting civil society makes a significant contribution to the

critical examination and readjustment of government actions and laws. It also makes marginalised positions publicly visible. The community experience on the street is also important for the formation and strengthening of political movements. As a central democratic element, the political discourse on the street is therefore constitutionally protected by Article 8 of the Basic Law²⁵."

In early March, the European Center for Not-for-Profit Law (ECNL) and the International Center for Not-for-Profit Law (ICNL) started monitoring how governments across the world tackled the pandemic and how the measures introduced affected freedom of assembly, expression and privacy²⁶. In mid-April, ECNL published a first analysis of legislation introduced in Europe concerning the right to protest, pointing out that **in most EU countries freedom of assembly was restricted as a byproduct of restrictions on movement and gatherings, without specifically mentioning the right to peaceful assembly, and leaving certain ambiguity as to what activities were permitted and which were restricted** due to the "broad and vague" wording.²⁷ The briefer also found differences in approaches as to the limit of the number of people gathering and time-frame of the restrictions²⁸.

Often, **the vagueness in addressing the right to peaceful assembly resulted in excessive discretion left to competent authorities to decide whether to allow assemblies.** For example, in Ireland, where restricting freedom of movement provided a non-exhaustive list of reasonable excuses to leave the place of residence, the Irish Council for Civil Liberties (ICCL) observed that the treatment of assemblies across the country showed discrepancies²⁹ (for more information on the right to assembly in Ireland, read the Irish case study). **In a general tendency across Europe, the requirement to notify authorities of planned assemblies has started to de jure or de facto function as an authorisation system, even in case of small gatherings of a handful of participants.** As a result, even where a total

²⁵ Greenpeace und Gesellschaft für Freiheitsrechte, Corona-Pandemie und die Einschränkung der Grundrechte, Eine juristische Kurzexpertise der Gesellschaft für Freiheitsrechte (GFF), https://www.greenpeace.de/sites/www.greenpeace.de/files/publications/juristische_corona_und_grundrechte.pdf, (Sept. 2020).

²⁶ COVID-19 Civic Freedom Tracker, <https://www.icnl.org/covid19tracker/>.

²⁷ Neil Jarman and Simona Ognenovska, ECNL, Protest in a time of pandemic, <https://ecnl.org/sites/default/files/2020-08/Protest-in-a-Time-of-Pandemic.pdf>, (Mar.2020).

²⁸ Ibidem.

²⁹ ICCL, Call to include physically distant protest as a reasonable excuse to leave home, <https://www.iccl.ie/news/include-protest-as-reasonable-excuse/>, (23 Apr. 2020).

²⁴ For more information of civil dialogue, read the German case study.

ban was not in place, often local authorities restricted the right to freedom of assembly on the basis of public health concerns. In several instances, peaceful protesters have been dispersed, fined or arrested on the grounds of not having notified or received authorization from competent authorities.

As civil organisations and organisers of protests started to challenge the restrictions in courts, case law on the issue has started to develop showing different interpretations by Courts across the region and also among courts in the same country.

In Germany, where the COVID-19 restrictions were decided at the state (Land) level - although the *jure* or *de facto* the right to peaceful assembly was restricted all across the national territory during the social lockdown in the spring - the watchdog organisation Gesellschaft für Freiheitsrechte (GFF) reported that in a first phase, many administrative courts confirmed the bans on assemblies, including total bans. However, in mid-April, the Federal Constitutional Court (BVerfG) stated in two landmark rulings (1 BvR 828/20 on 15 April and 1 BvQ 37/20 17 April) that competent authorities cannot rely on blanket restrictions to the right to peaceful assembly and must consider the specific case before deciding to prohibit a demonstration. The Court also stressed the need of authorities to cooperate with the organisers of protests to ensure that the right can be exercised without risks before deciding on the restriction and the responsibility to ensure the respect on safety measures cannot be placed on the organisers alone but should be shared with competent authorities³⁰. This addresses **a tendency of public authorities that emerges in different countries** in some of the cases described in this section and the one that follows (2.3 “Securitising the public space, policing dissent”) **to shift the responsibility to guarantee the compliance with social distances on the organisers of public demonstrations.**

In Spain, the State of emergency³¹ does not allow for the suspension of any fundamental rights, including the right to peaceful assembly, but it allows to adopt some limitations or restrictions to its exercise. The coalition to protect the right to protest Defender a quien defiende (DqD) wrote in an analysis for the Civic

Space Watch in June 2020 that in occasion of the May Day celebration, several trade unions requested to be able to hold rallies or demonstrations following the sanitary requirements. Where this was not allowed, the organisers challenged the decision in court, resulting in rulings of different nature. While many courts ruled in favour of the right to peaceful assembly, the Constitutional Court confirmed the concrete prohibition of the demonstration of the trade unions in Galicia because of the risk of contagion (Order of 30 April 2020, Appeal for protection 2023-2020)³².

As the numbers of hospitalisations and infections started to be under control and governments slowly lifted COVID-19 related restrictions, the European Union Agency for Fundamental Rights (FRA) fourth bulletin on the implications of the pandemic for fundamental rights found that some states (including Denmark, Czechia, Portugal and Estonia) that maintained limitations on large gathering of people made exceptions for demonstrations³³. However, **freedom of assembly remained restricted in some countries even as other areas of public life were opening up.**

For example, in Romania, in mid-June civil society organisations raised concerns that protests remained banned while culture events were allowed in small groups gathering up to 500 people in open spaces, maintaining safety distance³⁴. In June, a protest by human rights groups against a law passed by the Parliament on banning gender education and gender definition was staged in front of the presidency and some people were fined based on these grounds³⁵.

In several states, while demonstrations are allowed, authorities have introduced other forms of restrictions in addition to the respect of hygienic measures (social distancing and wearing of protective masks), such as on the form of the assembly (static v. marching) and limitations to the number of

³⁰ Greenpeace und Gesellschaft für Freiheitsrechte, Corona-Pandemie und die Einschränkung der Grundrechte, Eine juristische Kurzepertise der Gesellschaft für Freiheitsrechte (GFF), https://www.greenpeace.de/sites/www.greenpeace.de/files/publications/juristische_bilanz_corona_und_grundrechte.pdf, (Sept. 2020).

³¹ The state of emergency was declared on 13 March and lasted until 24 June after three extensions approved by the Congress of Deputies.

³² Defender a quien Defiende, SPAIN: Human rights and support networks in times of pandemic, <https://civicspacewatch.eu/spain-human-rights-and-support-networks-in-spain-in-times-of-pandemic/>, Civic Space Watch, (9 July 2020).

³³ FRA, Coronavirus pandemic in the EU - Fundamental Rights Implications - Bulletin 4, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin-july_en.pdf, P. 18, (29 July 2020).

³⁴ Solicităm măsuri care să permită exercitarea drepturilor la adunări publice, <https://www.stareademocratiei.ro/2020/06/18/solicitam-masuri-care-sa-permita-exercitarea-drepturilor-la-adunari-publice/>, TAMTAM, (18 June 2020).

³⁵ Reported during interview with FDSC on 31 July 2020.

participants. For example, in Finland³⁶ and Slovakia³⁷ was limited to 500 people. In Belgium, until 30 June public gatherings were limited up to 20 persons and, as of 1 July 2020, up to 400 persons. Nevertheless, on several occasions, the police allowed demonstrations of more than 400 people by organising the protests in a group of 400 demonstrators. Demonstrations have to be static and to respect the personal distance. Additionally, protesters have to request for the authorisation of competent authorities³⁸ going beyond the international standards of notification.

In France, the decision of the government to ban public gatherings exceeding ten people³⁹ was successfully challenged in court by the French watchdog organisation Ligue des Droits de l'Homme (LDH). On 12 June 2020, the Council of State declared that the ban on demonstrations was not justified by the current health situation when the safety measures could be respected or when the event was unlikely to bring together more than 5,000 people. The judge also added that, in accordance with the law, any demonstration must be declared in advance to the town hall or prefecture, and that it may be banned by the police authorities or the prefect if they consider that it is likely to disturb public order, including for health reasons, or when "*local circumstances so require*"⁴⁰. On 21 June, a new decree allowed prefects to authorise public gatherings if the organisers were able to ensure compliance with the safety measures⁴¹. In July, the Council of State intervened again suspending the requirement for authorisation as a disproportionate infringement of the right to demonstrate⁴².

³⁶ Finnish Government, Changes to restrictions imposed due to COVID-19 epidemic as of 1 June, <https://valtioneuvosto.fi/en/-/10616/muutoksia-koronavirusepidemian-vuoksi-asetettuihin-rajoituksiin-1-kesakuuta>, (31 May 2020).

³⁷ Reported by Via Iuris on 27 July 2020 through survey.

³⁸ Nouvelle phase du déconfinement en Belgique et nouvelles mesures: revirez le direct de la journée et les annonces, <https://www.sudinfo.be/id211462/article/2020-06-24/nouvelle-phase-du-deconfinement-en-belgique-et-nouvelles-mesures-revirez-le>, Sudinfo.be, (24 June 2020).

³⁹ Decree n° 2020-545 of 11 May 2020, available at: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000041858681/>.

⁴⁰ Conseil d'État, Le juge des référés du Conseil d'État suspend l'interdiction générale et absolue de manifester sur la voie publique, <https://www.conseil-etat.fr/actualites/actualites/le-juge-des-referes-du-conseil-d-etat-suspend-l-interdiction-generale-et-absolue-de-manifester-sur-la-voie-publique>, (13 Juin 2020).

⁴¹ Decree n° 2020-759 of 21 June 2020, available at: https://www.legifrance.gouv.fr/affichTexte.do?sessionId=4AEB4FD973788CE05BFD723CA4EEE8C.tplg-fr30s_2?cidTexte=JORFTEXT000042020786&idArticle=8&categorieLien=id.

⁴² Conseil d'État, Le juge des référés du Conseil d'État suspend l'obligation d'obtenir une autorisation avant d'organiser une manifestation, <https://www.conseil-etat.fr/actualites/actualites/le-juge-des-referes-du-conseil-d-etat-suspend-l-obligation-d-obtenir-une-autorisation-avant-d-organiser-une-manifestation>, (6 July 2020).

In Spain, civil society highlighted that the end of the state of emergency in June created a situation of serious legal uncertainty in regard to the right of assembly and protest. As freedom of assembly became a matter of competence for the territorial autonomies, competent authorities at the local level are having great discretion in this regard and showcasing a level of arbitrariness in deciding which protests will be authorised. While the central government asked for this right to be respected, each autonomy acted differently. For example, in Catalonia, marches are not allowed, but gatherings in static form are allowed. Differently, in Madrid, local authorities decide on an individual basis⁴³.

In Italy, the decree-law of 23 February provided for the bans of all public gatherings, including demonstrations. The country adopted a strong stance against any presence in the public space, including for the purpose of protesting. In an analysis for the Civic Space Watch, the Italian watchdog Osservatorio Repressione reported several instances in which activists were identified, brought to the police barricades (sometimes violently) and fined for posting banners demanding more socio-economic support from the state in small gatherings of two or three people maintaining social distancing in occasion of 25 April (national celebration) and 1 May⁴⁴. The ban on public demonstrations was lifted on 18 May, but under the conditions for assemblies to be static and respect 1-meter interpersonal distance among participants⁴⁵. Civil society questions whether it is proportionate to impose a general ban on marches.

It is important to note that **throughout the year, regulations and attitudes of authorities concerning the right to peaceful assembly have changed rapidly inside member states, creating uncertainty on the exercise of this right.** Additionally, in some country, while the right was protected de jure, public officials have discouraged the use of public demonstration as a means for political participation. The public discourse has also sometimes blurred the lines between people gathering for the purpose of protest and for other socialising purposes.

⁴³ Reported By DqD on 23 September 2020.

⁴⁴ Osservatorio Repressione, ITALY: The right to assembly and protest during the lockdown, <http://civicspacewatch.eu/italy-the-right-to-assembly-and-protest-during-the-lockdown/>, Civic Space Watch, (9 June 2020).

⁴⁵ Osservatorio Repressione, ITALY: Restrictions on the right to peaceful assembly are disproportionate, <http://civicspacewatch.eu/italy-restrictions-on-the-right-to-peaceful-assembly-are-disproportionate/>, Civic Space Watch, (16 Nov. 2020).

2.3 SECURITISING THE PUBLIC SPACE, POLICING⁴⁶ DISSENT

The COVID-19 pandemic has been framed as a matter of public security. Especially in the first phase of the pandemic, the public discourse described the efforts to slow down the spread of the virus as a “war” against the virus and shifted the responsibility to “fight” the

⁴⁶ Hereby we are adopting a broad understanding of ‘policing’ beyond the mere actions by the Police institution, in the attempt to include other set of institutions through which social order is created and protected. See Mark Neocleous, *The Fabrication of Social Order. A Critical Theory of Police Power*, 2000.

EVOLVING STANDARDS FOR FREEDOM OF ASSEMBLY

By European Center for Not-for-Profit Law (ECNL)

Protecting the right of peaceful assembly has never been more important, with widespread protests in 2020 followed by repressive practices and restrictions, including limitations on gatherings imposed in response to the COVID-19 pandemic. The UN Human Rights Committee issued a timely comprehensive guidance on the right of peaceful assembly based on Article 21 of the International Covenant for Civil and Political Rights. The General Comment No. 37 on Article 21, ICCPR (Right of Peaceful Assembly) stipulates relevant and authoritative standard-setting interpretations on UN Member States’ positive obligations towards safeguarding fundamental rights and freedoms. These include:

- **Restrictions on assemblies:** authorities should first apply least-intrusive limitations, prohibition should be a last resort. Restrictions must not be based on the message of the assembly. Assemblies must be allowed to be held within sight and sound of their target and “Public order” cannot be used to justify overbroad restrictions.
- **Enforcement:** only law enforcement officials trained in the policing of assemblies should do so, not the military. They must exhaust non-violent means, provide a warning, and only use the minimum force if it proves necessary. Assemblies may only be dispersed in exceptional cases.
- **The inclusion of digitally-mediated physical assemblies as well as assemblies entirely held in the online space in the protection of Article 21, ICCPR:** this is of particular importance especially now when most of our activity is moving online because of the lockdowns related to the pandemic.
- **The acknowledgment that even assemblies that do not have a primarily expressive purpose are protected by Article 21, ICCPR.** This means that assemblies whose function is primarily of social and relational values, e.g. people assembling for commemorative reasons or to play games or take part in other collective recreational activities are now protected under this right.
- **The addition of private meetings to the non-exhaustive list of assemblies protected by the right.** This will ensure that not only assemblies held in public places (e.g., street protests) or in privately-owned but publicly accessible spaces (e.g., gatherings in shopping malls), but also meetings held in enclosed spaces (e.g., in private homes to discuss and plan public demonstrations) enjoy the same protection granted by Article 21, even though they should not be subject to the same type of obligations (e.g., notification regimes) due to the nature of their location.

pandemic on the individual citizens. For example, in June, Osservatorio Repressione wrote in an analysis for the Civic Space Watch concerning freedom of assembly in Italy:

“The political and institutional narrative was immediately characterised by the use of a warlike and patriotic lexicon (“We are at war against an invisible enemy”) and armoury. The military was deployed in the streets with functions of public security and vigilance of the obligation of self-certification to justify individual movements. The Government resorted to the militarisation of the territory by land, sea and sky (even through the use of drones!). The responsibility was placed on individual citizens invited through all media channels to denounce in anonymity the “irresponsible”, “selfish” ones from their balcony via an anti-gathering app. Runners, walkers, delivery men and women were systematically identified as guilty of putting at risk the lives of all to the cry of “It is the fault of those like you if there is contagion!”. As a result, the suppression of collective rights and freedoms appeared as a duty because of the (umpteenth) emergency faced.”⁴⁷

As in Italy, in most states, the aggressive security narrative went hand in hand with the use of coercive methods to enforce the COVID-19 related restrictions and the closing of public space. In this context, citizens lost confidence in using the public space for the most basic everyday needs let alone occupying it for the purpose of public participation and protest. Even when the deployment of the security apparatus to enforce the restrictions and the security discourse were not directly targeting civic freedoms, they created a climate of mistrust and terror that affected people’s ability to make use of the public space and exercise their fundamental rights. In some case, the sole act of gathering in the streets and living the public space became an act of protest and resistance. Thus, the first part of this section briefly looks at the use of the security forces to police the pandemic; the second part showcases examples of heavy-handed policing of assemblies; and the third provides cases of policing freedom of expression and association during the pandemic.

⁴⁷ Osservatorio Repressione, ITALY: The right to assembly and protest during the lockdown, <http://civicspacewatch.eu/italy-the-right-to-assembly-and-protest-during-the-lockdown/>, Civic Space Watch, (9 June 2020).

2.3.1 DEPLOYING THE COERCIVE APPARATUS TO POLICE THE PANDEMIC

In most countries, the enforcement of the restrictions was carried out by the police patrolling the streets. In some countries, governments also deployed the military to enforce the restrictions on freedom of movement. For example, in Italy, the Army put at disposal military hospitals to ease the pressure on the medical facilities in the country⁴⁸, and it was also positioned in several locations to ensure the respect of the restriction to freedom of movement with “public security officer” powers, including the possibility to detain and identify people⁴⁹. In Bulgaria, the military supported civilian law enforcement officers with a mandate to use force if necessary⁵⁰. In Slovakia, in April authorities imposed mandatory quarantine of some Roma settlements for COVID-19 with the supervision of the police forces and the army^{51 52}. In Spain, at the end of September, the army was deployed in Madrid to enforce the local lockdowns in some of the region’s neighbourhoods⁵³.

Some states introduced harsher sanctions and granted (or attempted to grant) police forces new powers to enforce them. For example, some member states granted police officers the power to inflict on spot fines⁵⁴. In some countries, the police were granted additional powers to manage or sanction content deemed fake by the authorities (see section 2.3.3 “Policing freedom of expression and association”) or in the area of access to private data for the purpose of tracking the spread of the virus raising issues of surveillance (see section 2.5 “Data gathering and surveillance”).

In Ireland, the government passed emergency legislation on 20 March which gave the Minister for Health

power to make regulations banning events, and making it illegal to move around the country or leave home without a reasonable excuse⁵⁵. Until the beginning of April, these measures were enforced by consent based on a community policing approach placing emphasis on educating the public rather than on threatening to impose sanctions. However, on 7 April, the Minister of Health signed new regulations giving effect to emergency powers for the police during the Covid-19 crisis, including a 2,500 Euro fine or six months in prison for people failing to respect the restrictions. Police forces were allowed to “ask for names and addresses and where this was refused, they could arrest someone. They were given the power to tell anyone they suspected of breaching the regulations to comply or they could arrest them. And they were given the power to assist a medical officer to detain someone refusing to self-isolate⁵⁶”. As reported by ICCL in the Irish case study below, while after June the regulations ceased these powers and less restricted, they foresee criminal sanctions for organisers of gatherings of more of 50 people indoors and more than 200 outdoors (for more information read the case study). On the basis of the regulations, the police are currently investigating the organisers of Black Lives Matter Dublin for a protest that brought 5000 people in the streets at the beginning of June. As a result, the organisers cancelled the follow-up demonstration planned a few days later⁵⁷.

In Poland, at the end of March, a new petty offence was introduced allowing police officers to arrest, detain or fine in the case of intentional disobedience to the instructions of a Police or Border Guard officer. As reported by the Polish Helsinki Foundation for Human Rights to the FRA in May 2020, the Ombuds Office and civil society raised concern that this measure is vaguely defined and will stay in force and enforced after the pandemic in the context of protests⁵⁸. In the Penal Code, the penalties for exposing other people to dangerous diseases have also been tightened, with

48 L'Esercito contro il Covid - 19, <http://www.esercito.difesa.it/comunicazione/Pagine/LEsercito-contro-il-Covid-19.aspx>, Esercito Difesa, (20 Mar. 2020).

49 Camera dei Deputati servizio studi, L'impiego delle forze armate nella fase 1 dell'emergenza COVID-19, https://www.camera.it/temi/ap/documentazione/temi/pdf/1212563.pdf?_1587562991446, (21 Apr. 2020).

50 Bulgaria military allowed to use force amid coronavirus curbs, <https://www.aljazeera.com/news/2020/03/20/bulgaria-military-allowed-to-use-force-amid-coronavirus-curbs/>, Aljazeera, (20 Mar. 2020).

51 Amnesty International, Policing the pandemic: Human rights violations in the enforcement of COVID-19 measures in Europe, <https://www.amnesty.org/download/Documents/EUR0125112020ENGLISH.PDF>, pp 20-22, (June 2020).

52 Slovakia will test Romani settlement residents for COVID-19 and isolate infected people in state-run facilities, <http://www.romea.cz/en/news/world/slovakia-will-test-romani-settlement-residents-for-covid-19-and-isolate-infected-people-in-state-run-facilities>, Romea.cz, (1 Apr. 2020).

53 Reuters Staff, Madrid asks for Spanish army's help in battling coronavirus surge, <https://www.reuters.com/article/us-health-coronavirus-spain-madrid-idUSKCN26C1TO>, Reuters, (21 Sep. 2020).

54 FRA, Coronavirus pandemic in the EU – Fundamental rights implications: with a focus on contact-tracing apps, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-coronavirus-pandemic-eu-bulletin-may_en.pdf, p20, (Apr. 2020).

55 Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020, available at: <https://www.oireachtas.ie/en/bills/bill/2020/3/>, (20 Mar 2020).

56 Doireann Ansbro, What Are the Dangers with the New Garda Powers?, <https://dublininquirer.com/2020/05/20/doireann-what-are-the-dangers-with-the-new-garda-powers>, Dublin Inquirer, (20 May 2020).

57 Conor Lally, Why is there a criminal investigation into the Black Lives Matter Dublin protest?, <https://www.irishtimes.com/news/crime-and-law/why-is-there-a-criminal-investigation-into-the-black-lives-matter-dublin-protest-1.4270112>, The Irish Times, (3 June 2020).

58 Helsinki Foundation for Human Rights, Coronavirus pandemic in the EU – Fundamental Rights Implications: Poland, https://fra.europa.eu/sites/default/files/fra_uploads/pl_report_on_coronavirus_pandemic_may_2020.pdf, FRA, p. 4, (4 May 2020).

specific mentions to the HIV virus. Additionally, changes to the 2008 Act on Preventing and Combating Infections and Infectious Diseases in People allows state district sanitary inspectors, state border sanitary inspectors, voivodes or the minister of health to impose fines up to 30,000 PLN (approximately 6,500 euro) on persons who “in a state of epidemic danger or state of epidemic do not comply with orders, prohibitions or restrictions established on the basis of Article 46 or Article 46b of the Act” on the basis of evidence provided by the police. Filip Pazderski from the Polish Institute for Public Affairs reported to the ECF:

“The decision on sanctions is delivered immediately and is subject to immediate execution. And there is no need for the relevant services to take evidence. This means that the citizen’s right to be tried in court is effectively withdrawn. Especially in the situation of increasing limitations in the functioning of the justice system, citizens could not effectively appeal against the decision on penalties. On this basis, people participating in one-man demonstrations against various actions of the government or criticising the current president - during the presidential campaign, which lasted continuously since February were also punished and, usually, they received the maximum amount of the punishment applicable in these cases (10,000 PLN, 2,500 euro)”⁵⁹.

In many countries, police forces have been questioned for abuse of their powers in imposing fines (for example, in Austria⁶⁰, Romania, Poland⁶¹, Spain) as well as for the use of force against the public (for

example, in Croatia⁶², Romania, Spain, Belgium⁶³, France, Greece⁶⁴).

For example, in Romania, at the beginning of April, the government increased the sanctions for individuals not respecting the restrictions on movement between RON 2.000 and 20.000 lei (approximately 415-4,150 euro), amounts that many found disproportionate compared to the average income in the country⁶⁵. According to media reports, in the first 35 days of the state of emergency, police had imposed over 200’000 sanctions amounting to 90.7 million Euro⁶⁶. The Ombudsman called on the Minister of Interior to define the offences to avoid abusive sanctions and, at the beginning of May, the Romanian Constitutional Court ruled that the emergency ordinance is unconstitutional⁶⁷. Civil society also reacted to the episodic excessive and unjustified use of force displayed by police forces during ID checks that were recorded on videos spread on social media⁶⁸.

In Spain, the collective Defender a quien defiende (DqD) reported to the ECF in June:

“Differently from other countries, Spain did not develop an ad hoc legislation to enforce the restrictive measures during this state of emergency: the legislative framework introduced in 2015, through

⁶² For example: Helena Tkalcčević and Antonija Tušek, Zagreb: Muškarac ušao u vlak s djetetom, ali nije htio staviti masku. Policija ga je izbacila, <https://www.24sata.hr/news/zagreb-muskarac-usao-u-vlak-s-djetetom-ali-nije-htio-staviti-masku-policija-ga-je-izbacila-702375>, 24 Sata, (27 June 2020).

⁶³ Ligue des Droits Humains, Victime ou témoin d’abus policier : la Ligue des droits humains lance un appel à témoignages, <https://www.liguedh.be/victime-ou-temoindabus-policier-la-ligue-des-droits-humains-lance-un-appel-a-temoignages/>, (20 April 2020); Jennifer Rankin, Black MEP describes being victim of Belgian police brutality, <https://www.theguardian.com/world/2020/jun/17/black-german-mep-pierrette-herzberger-fofana-tells-european-parliament-she-was-victim-of-belgian-police-brutality>, The Guardian, (17 June 2020).

⁶⁴ Iason Athanasiadis, In Pandemic-Era Greece, Fighting for Control of the Square, <https://balkaninsight.com/2020/05/14/in-pandemic-era-greece-fighting-for-control-of-the-square/>, Balkan Insight, (14 May 2020).

⁶⁵ Marcel Gascón Barberá, Romania Police Accused of Abuse As COVID-19 Fines Soar, <https://balkaninsight.com/2020/04/23/romania-police-accused-of-abuse-as-covid-19-fines-soar/>, Balkan Insight, (23 Apr. 2020).

⁶⁶ Ibidem

⁶⁷ Human European Consultancy, Coronavirus pandemic in the EU – Fundamental Rights Implications – Romania, https://fra.europa.eu/sites/default/files/fra_uploads/ro_report_on_coronavirus_pandemic_may_2020.pdf, FRA, (4 May 2020).

⁶⁸ Bogdan Păcurar, VIDEO Polițist filmat cum bate un bărbat pe stradă. Poliția Capitalei anunță că agentul va fi cercetat, <https://www.digi24.ro/stiri/actualitate/video-politist-filmat-cum-bate-un-bate-un-barbat-pe-strada-politia-capitalei-anunta-ca-agentul-va-fi-cercetat-1289018>, Digi24, (8 Apr. 2020); Apador-CR, Apel la calm și reținere către cetățeni și autorități deopotrivă, pentru a traversa starea de urgență fără să ne pierdem încrederea unii în alții, <https://apador.org/en/reguliile-trebuie-respectate-dar-nu-impune-cu-pumnul/>, (9 Apr. 2020); Alison Mutler, Romania Wrestles With Balance Under Coronavirus State Of Emergency, <https://www.rferl.org/a/romania-wrestles-with-balance-under-coronavirus-state-of-emergency/30559749.html>, Radio Free Europe, (16 Apr. 2020).

⁵⁹ Exchange on 22 October 2020.

⁶⁰ Corona-Strafen: 3.300 Einsprüche alleine in Wien, <https://kurier.at/chronik/wien/corona-strafen-3300-einsprueche-alleine-in-wien/400940507>, Kurier, (15 June 2020); Corona / COVID Virus: Einspruch gegen Strafverfügung: <https://www.anwaltklammer.com/COVID-Strafen-Einspruch>.

⁶¹ Agnieszka Wądołowska, Police issue thousands of fines for violating coronavirus restrictions over Easter in Poland, <https://notesfrompoland.com/2020/04/14/police-in-poland-issue-thousands-of-fines-for-violating-coronavirus-restrictions-over-easter/>, Notes from Poland, (14 Apr. 2020).

the amendments to the Penal Code and the Citizen Security Law (known as “Ley Mordaza”, “Gag Law”) was already restrictive enough. For example, police agents used the article 36.6 of Ley Mordaza to sanction people who breached some kind of restriction under the state of emergency with fees ranging between 601 and 30,000 euro for “disobedience or resistance to the authority or its agents in the exercise of their functions”. As a result of the unclear instructions to the population, the ambiguous and restrictive law, and the lack of clear, unequivocal protocols for the law-enforcement authorities, 1,013,000 fines were issued and 8,500 people arrested as of 15 June. In addition, different organizations have been compiling visual evidence of different police actions against people on the street, which have proved repeated arbitrariness on the sanctions and excessive use of force during identifications and arrests.⁶⁹

DqD also highlighted that during the lockdown this framework left particularly exposed those with non-regularised administrative situations, including those working in essential services without regular contracts, like caregivers and domestic workers⁷⁰.

In June, a report by Amnesty International on the human rights violations in the enforcement of COVID-19 measures in Europe documented how **fines and policing abuses across Europe disproportionately impacted racialised groups, including Black people, Roma and people on the move and migrants, as well as homeless**⁷¹. In this sense, the pandemic amplified a tendency of police abuse against these groups that in many countries already existed.

For example, this was the case in France, where a trend of abuse of power and impunity by the police had been under the public eye at least since 2016⁷². The human rights monitoring by civil society during the pandemic as well as the protests against police violence in June (see more information in section 2.3.2

“Heavy-handed policing of freedom of assembly and protests” and section 5 “Civil society unlocks its potential”) brought to the public attention the long-term demand by families of victims of police violence to prohibit the deadly arrest techniques and weapons used by the police in France⁷³. On 10 April, several organisations addressed a letter to the Prime Minister, the Minister of the Interior and the Secretary of State of the Minister of the Interior calling for the respect of the rule of law by law enforcement forces, after the episodes of alleged unjustified fines and violence had multiplied⁷⁴. Civil society also warned against police using insulting language during checks⁷⁵. According to the analysis by Amnesty International, records of heavy-handed policing and unlawful use of force were more frequent in low-income neighbourhoods with larger proportions of people of colour and other minorities⁷⁶.

2.3.2 HEAVY-HANDED POLICING OF FREEDOM OF ASSEMBLY AND PROTESTS

In the first phase of the restrictions, most people complied with the regulations concerning the COVID-19 pandemic and the right to peaceful assembly was not a matter of public debate. However, as the socio-economic effects of the restrictions started to affect the population and the public started to question the legitimacy and legality of governments’ actions, demonstrations started to pop up again.

In some cases, the coercive apparatus in place to police the COVID-19 rules was applied against people exercising their right to peaceful assembly while respecting the safety measures, raising concerns on the intent of authorities to curtail dissent.

In Hungary, all outdoor and indoor events, including assemblies and demonstrations, were banned on 17

⁶⁹ Defender a quien Defiende, SPAIN: Human rights and support networks in times of pandemic, <http://civicspacewatch.eu/spain-human-rights-and-support-networks-in-spain-in-times-of-pandemic/>, Civic Space Watch, (9 July 2020). Examples of police violence reported by DqD: March: <http://civicspacewatch.eu/spain-reports-on-four-cases-of-police-abuses-during-covid-19/>; April: <http://civicspacewatch.eu/spain-report-via-red-malla-of-three-police-abuses-in-april/>; May: <http://civicspacewatch.eu/spain-report-via-red-malla-of-three-police-abuses-in-may/>.

⁷⁰ Ibidem.

⁷¹ Amnesty International, Policing the pandemic: Human rights violations in the enforcement of COVID-19 measures in Europe, <https://www.amnesty.org/download/Documents/EUR0125112020ENGLISH.PDF>, (June 2020).

⁷² For previous developments, check France case study and interview in the Activizenship #4, European Civic Forum: <http://civic-forum.eu/publication/view/activizenship-4>, pp. 53- 68, (Dec. 2019).

⁷³ European Civic Forum, FRANCE: Families of victims of police violence demand the prohibition of deadly arrest techniques and weapons used by the police, Civic Space Watch, <http://civicspacewatch.eu/france-families-of-victims-of-police-violence-demand-the-prohibition-of-deadly-arrest-techniques-and-weapons-use-by-the-police/>, (6 Feb. 2020).

⁷⁴ LDH, POUR UN RESPECT DE L’ETAT DE DROIT EN MATIÈRE DE VERBALISATIONS/AMENDES, <https://www.ldh-france.org/pour-un-respect-de-letat-de-droit-en-matiere-de-verbalisations-amendes/>, (10 Apr. 2020).

⁷⁵ Léa Guedj, Confinement : plusieurs personnes affirment avoir été brutalisées et insultées lors de contrôles de police, <https://www.franceinter.fr/confinement-plusieurs-personnes-affirment-avoir-ete-brutalisees-et-insultees-lors-de-contrôles-de-police>, France Inter, (5 Apr. 2020).

⁷⁶ Amnesty International, Policing the pandemic: Human rights violations in the enforcement of COVID-19 measures in Europe, <https://www.amnesty.org/download/Documents/EUR0125112020ENGLISH.PDF>, pp 20-22, (June 2020).

March 2020 until 18 June⁷⁷. From 20 April for five days, people started to stage protests in front of the Prime Minister's headquarter by honking their cars in opposition to the government's management of the COVID crisis. Participants were fined by the police on the basis of breaking traffic rules and unnecessary movement during the lockdown. The protests were cancelled due to astronomical fines handed out by Budapest police up to 750'000 Florint (2'100 Euro)⁷⁸.

In Poland, on 20 March, the Minister of Health introduced a ban on organising mass events and public assemblies attended by more than 50 persons⁷⁹. In mid-April, two bills were discussed in Parliament, which would have de facto resulted into an almost-total abortion ban and the suppression of relationship and sexuality education⁸⁰. The movement Polish Women's Strike found creative ways to protest online and in the streets by queuing at the store or riding cars. Despite the activists carefully maintaining safety measures, police issued fines up to 6,600 euros to almost 100 protesters due to alleged breaching of traffic laws or social distancing rules⁸¹.

In May, as the government gradually started lifting the restrictions, public assemblies were allowed up to 150 participants with participants keeping at least 2 meters distance and covering their mouths and noses⁸². At the beginning of the month, two artists participating in a socially distant protest carrying a 14-meter banner concerning the controversial presidential elections received 2,000 euro fine by the State Sanitary Inspector for failing to comply with the 2-meter

distance. Following public outcry, the penalties were dropped⁸³.

As the second wave of COVID-19 hit the country, restrictions to the number of protesters have been introduced (25 in Warsaw from 17 October, five from 26 October). Following a court ruling that results in an almost complete ban on abortion on 22 October, Polish women and men have staged daily protests across the country that have met with violence by the police, including the use of tear gas and pepper spray. As of 28 October, the CIVICUS Monitor reported that "about 200 protesters will face administrative fines for not complying with anti-COVID sanitary laws, and about 125 protesters will face criminal fines for participating in an illegal gathering."⁸⁴ On 23 October, Ordinance No 180 of the Prime Minister provided for the use of Military Police soldiers to provide assistance to the Police to curb the protests⁸⁵. On 29 October, a letter by the national public prosecutor instructed subordinate units on how to deal with the organisers of the protest. According to media reports, the letter states: "every person organising an illegal demonstration or inciting participation in one should be assessed in the context of the prohibited act...of causing danger to the life and health of many people by causing an epidemiological threat". The crime can be sanctioned with imprisonment between six months and eight years. The act of calling for the organisation of demonstrations "may qualify as incitement to a crime", which is punishable with up to two years in prison.⁸⁶

In Slovenia, people have been taking to the streets since April against the government's abuses of power, corruption scandals and lack of actions concerning economic inequalities. Participants have reported unprecedented rough approach by the police issuing fines despite the protesters being peaceful and mindful of social distancing (for more information, read the chapter on Slovenia).

⁷⁷ Milieu Consulting SRL, Coronavirus pandemic in the EU - Fundamental Rights Implications : Hungary, https://fra.europa.eu/sites/default/files/fra_uploads/fra_report_on_coronavirus_pandemic_july_2020.pdf, FRA, p. 4, (2 July 2020).

⁷⁸ Horn Gabriella, Car honking protests cancelled due to astronomical fines handed out by Budapest police, <https://english.atlatszo.hu/2020/05/25/car-honking-protests-cancelled-due-to-astronomical-fines-handed-out-by-budapest-police/>, Atlatszo, (25 May 2020).

⁷⁹ Helsinki Foundation for Human Rights, Coronavirus COVID-19 outbreak in the EU - Fundamental Rights Implications: Poland, https://fra.europa.eu/sites/default/files/fra_uploads/poland-report-covid-19-april-2020_en.pdf, FRA, p. 8, (24 March 2020).

⁸⁰ Irene Donadio, Polish ruling party exploits the current health crisis to undermine women and young people's safety, [⁸¹ Claudia Ciobanu, Poles find creative ways to protest despite the pandemic, <https://balkaninsight.com/2020/04/21/poles-find-creative-ways-to-protest-despite-the-pandemic/?fbclid=IwARiEQWsiOJR6hMcKHyvVV5z6EO-8d65LMiVqRLooRJg4GW38zFeOHmbCx7AY>, Reporting Democracy, \(21 Apr. 2020\).](https://www.ippfen.org/news/polish-ruling-party-exploits-current-health-crisis-undermine-women-and-young-peoples-safety?fbclid=IwAR3ikkGR9Vdor-zfuOoL_UzqJLKCoVCetGNiEDABl4Q7ThgqXFxpUOHAKs, IPPF, (14 Apr. 2020).</p>
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⁸² Helsinki Foundation for Human Rights, Coronavirus COVID-19 outbreak in the EU - Fundamental Rights Implications: Poland, https://fra.europa.eu/sites/default/files/fra_uploads/pl_report_on_coronavirus_pandemic_july_2020.pdf, FRA, pp 2-3, (2 July 2020).

⁸³ Dorian Batycka, 'Blatant censorship': Polish government issues artists with fines—then withdraws them, <https://www.theartnewspaper.com/news/polish-government-issues-artists-with-fines-then-withdraws-them>, The art newspaper, (28 May 2020).

⁸⁴ CIVICUS Monitor, Thousands protest as constitutional tribunal imposes a near ban on abortion, <https://monitor.civicus.org/updates/2020/10/28/thousands-protest-constitutional-tribunal-imposes-near-ban-abortion/>, (28 Oct. 2020).

⁸⁵ Maria Skóra, <https://twitter.com/MariaSkora/status/1320785089027018758>, (26 Oct. 2020).

⁸⁶ Daniel Tilles, Polish prosecutors seek charges against organisers of abortion protests for endangering public, Notes from Poland, <https://notes-frompoland.com/2020/10/29/polish-prosecutors-seeks-charges-against-organisers-of-abortion-protests-for-endangering-public/>, (29 Oct. 2020).

In France, throughout May and June, demonstrations were prohibited. In May, four hundred healthcare workers staged a protest in front of a hospital in Paris: according to the media, at least 50 were fined and three people arrested for breaking social distancing rules⁸⁷. The prefect of Paris also banned the demonstration on 2 June commemorating Adama Traore⁸⁸ that drew 20'000 peaceful protesters as well as the march in solidarity to George Floyd on 5 June⁸⁹. On 13 June, they dispersed using tear gas the march of 15'000 people protesting police violence in Republic' square on the basis that it was not authorised⁹⁰. As reported above, restrictions of the right to freedom of assembly were ruled disproportionate by the Council of State. However, even after the sentence, many prefects issued bans against demonstrations on the basis of disturbance of public order and the state of a health emergency⁹¹.

A number of arbitrary arrests of peaceful protesters not linked with the COVID-19 restrictions was also reported. For example, in France, on 16 June, thousands of healthcare professionals carried out a nationwide protest across the country. In Paris, riot police were displayed and, according to videos spread on social media, they violently arrested several protesters and used tear gas to disperse the crowd⁹². During the weekend of 11 to 13 September, the prefect banned Yellow Vest demonstrations in several areas of Paris due to the risks to public order⁹³, and restricted the areas accessible to protesters. Human rights observers reported worrying tactics by the police against protesters, including the use of kettling and the use of non-lethal weapons in close spaces.⁹⁴ Additionally, media reported on 13 September that 287 people had been arrested (including 275 in the capital) and according to the Paris public prosecutor's office,

147 people were in police custody, allegedly for being violent⁹⁵. Among the people arrested on 12 September 2020, three volunteers of the "Street Medics" reported that they were detained by the police for 30 hours on the basis of "participation in a group formed in preparation for violence against people or destruction or damage to property" and "carriage of weapons". They were carrying protective equipment like helmets and glasses⁹⁶.

As documented in the 2019 report⁹⁷, the right to peaceful assembly in France has been severely restricted since 2015 through a series of legislative measures, violent police practices and "preventive" judiciary actions. Most recently, in April 2019, the law dubbed "anti-rioters" has further toughened the doctrine, providing the authorities with the power to search bags and cars in and around demonstrations if requested by the Prosecutor. It also outlawed the covering of faces during public demonstrations. The provision is particularly worrying in a country where disproportionate and sometimes unjustified police violence, including through the use of tear gas grenades and flash ball, has caused serious injuries (including loss of an eye, fractured skull and jaw) to thousands of protesters. Authorities are allowed to detain protesters on the basis of suspicion of "*participation in a group formed in preparation for violence against people or destruction or damage to property*", a measure that has been reportedly used against peaceful protesters and journalists covering protests (see section 2.3.3 "Policing freedom of expression and association"), often preventively on the path to the demonstration on the basis of carrying protective equipment.

In Bulgaria, peaceful anti-government protests have been ongoing since 9 July. During one of the biggest mobilisations on 2 September, many protesters were injured, including journalists, and 126 arrested allegedly due to violence against police forces. According to a report by BCNL, all of the people arrested except one were released by the court several days later, "*proving*

⁸⁷ BBC, French healthcare workers fined at Paris hospital protest, <https://www.bbc.com/news/world-europe-52748510>, (21 May 2020).

⁸⁸ <https://twitter.com/prefpolice/status/1267784581920538624>

⁸⁹ <https://twitter.com/prefpolice/status/1268829914624655360>

⁹⁰ Alessio Dellanna, Black Lives Matter: Police fire tear gas in Paris to disperse unauthorised march of 15,000 people, Euronews, <https://www.euronews.com/2020/06/13/black-lives-matter-police-fire-tear-gas-in-paris-to-disperse-unauthorised-march-of-15-000>, 13 June 2020.

⁹¹ Reported by Amnesty International France during interview on 20 July 2020.

⁹² Will Morrow, Macron unleashes riot police against French health care protests, <https://www.wsws.org/en/articles/2020/06/17/fran-j17.html>, WWSWS, (17 June 2020).

⁹³ Gilets jaunes : les manifestations à Paris interdites dans de nombreux secteurs, ce samedi, <https://www.ouest-france.fr/societe/gilets-jaunes/gilets-jaunes-les-manifestations-a-paris-interdites-dans-de-nombreux-secteurs-ce-samedi-6969797>, Ouest France, (11 Sept. 2020).

⁹⁴ Observatoire Parisien des Libertés Publiques, NOTE D'OBSERVATION Manifestations Gilets Jaunes du 12.09.2020, Paris, https://www.ldh-france.org/wp-content/uploads/2019/04/Note-dobservation-12-_-09-_-2020.pdf, (18 Sept. 2020).

⁹⁵ Aline Leclerc, Affluence modeste et tensions pour la journée de mobilisation des « gilets jaunes », https://www.lemonde.fr/societe/article/2020/09/12/manifestations-de-gilets-jaunes-des-mesures-preventives-et-68-interpellations-a-paris_6051929_3224.html, Le Monde, (12 Sept. 2020).

⁹⁶ Zazaz, La presse et les street médics toujours dans le collimateur, <https://blogs.mediapart.fr/edition/dans-quel-etat-j-erre/article/180920/la-presse-et-les-street-medics-toujours-dans-le-collimateur>, Mediapart, (18 Sept. 2020).

⁹⁷ Arié Alimi, SHIFTING TOWARDS A PREVENTIVE APPROACH TO MAINTAINING PUBLIC ORDER - Restricting the right to demonstrate from exception to routine, Activizenship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizenship-4>, pp. 56-60, (Dec. 2019).

that the police mostly attacked and captured random people and not the actual perpetrators.⁹⁸

In Poland, at the beginning of August, the media reported an episode of police violence against a small protest staged against the detention of an LGBTI activist. The activist had been sentenced for wrapping an LGBTI flag around statues and damaging a vehicle of the pro-life movement that for months was moved from place to place around Warsaw with fake pictures showing fetuses after the abortion. The demonstration was initially peaceful until the police started to take people violently to arrest them⁹⁹. Forty-eight protesters were arrested¹⁰⁰ for active participation in an illegal assembly that is supposed to knowingly violate property (art. 254 of the Criminal Code) and participation in an unauthorised spontaneous meeting - according to the Act on Public Assemblies as amended in 2016. In this regard, it is important to note that the right to peaceful assembly and protest was restricted in Poland with the mentioned change to the law on public demonstrations that limited counter-demonstrations and spontaneous assemblies¹⁰¹.

In Germany, Black Lives Matter Berlin denounced the arbitrary arrest of 93 peaceful protesters during the demonstration commemorating George Floyd on 6 June. According to the group, the police action, in some instance violent, also resulted in the hospitalization of two protesters. The group commenting on the misleading reporting by the media concerning the police actions during the demonstration wrote:

“Much of the current coverage of last Saturday’s event is dedicated to and promotes a discourse of victim-offender conversion. Often the police presentation was reproduced without comment. Statements such as ‘The participants would have provoked with their signs’, by the spokesperson of the Berlin Police Union, make the disproportionate nature of the

police measures clear. This turns the often very young people affected by police harassment and assaults, of whom a disproportionate number are black or of color, into perpetrators. A narrative is created in which the mere participation in the demonstrations provides a reason for police assaults. Since many of us have been there ourselves and have been collecting and analysing reports and video material on the individual cases up to the present moment, there is no doubt for us that these police excesses of violence, harassment and threats against young demonstrators are shaped by a racist climate. [...] We understand the Berlin police’s action as a systematic deterrent strategy. Of course it is traumatizing to experience violence for no reason or to be deprived of one’s freedom. It seems they want to scare young people away from standing up for their own rights and a just society. Breaking their protest.¹⁰²”

The group also warned that in some cases, people of colour were also insulted and harassed after the demonstration was over. The watchdog association GFF also reported to the ECF that on the same day, 36 young adults – many of whom of colour - were put into police custody for several hours, one hour at least standing and facing a wall, for attending an Anti-Racism Demonstration in Hamburg¹⁰³. The association explained that while police in Germany was not granted exceptional powers during the health emergency, many German states had already expanded the powers of law enforcement agency throughout the past years.

In Belgium, in Brussels, on 7 June 2020, 10.000 persons attended a protest against police violence that was for the most peaceful¹⁰⁴. Tensions arose towards the end of the gathering. The police used water cannons to disperse the demonstration and arrested at least 150 protestors due to the damaging of private properties at the hands of a small group whose link with the protest are unclear. Several citizens – including peaceful protesters and bystanders - that were not involved in the action and journalists have filed complaints and spoke out against unjustified intimidations, assaults and arrests they experienced at the hands of the police that was also corroborated by videos spread on social

⁹⁸ Zahari Iankov, BULGARIA – Protests Continue Peacefully after Tension Escalated in Sofia on the Second of September, <http://civicspacewatch.eu/bulgaria-protests-continue-peacefully-after-tension-escalated-in-sofia-on-the-second-of-september/>, Civic Space Watch (29 Sept. 2020).

⁹⁹ Marta Nowak, Hanna Szukalska, Bartolosz Kocejko, “The policeman pinned her head to the pavement”. Demonstrations in defence of an LGBTQ activist in Poland meet with the police crackdown, <https://oko.press/the-policeman-pinned-her-head-to-the-pavement-demonstrations-in-defence-of-an-lgbtq-activist-in-poland-meet-with-the-police-crackdown/>, OKO.press, (8 Aug. 2020).

¹⁰⁰ Elliot Douglas, Poland: Police arrest 48 pro-LGBT protesters, <https://www.dw.com/en/poland-police-arrest-48-pro-lgbt-protesters/a-54494623>, DW, (8 Aug. 2020).

¹⁰¹ Helsinki Foundation for Human Rights, Comments of the Helsinki Foundation for Human Rights to the deputy-sponsored Bill on the amendment to the Assemblies Act (parliamentary paper No. 1044), Citizens Observatory, http://citizensobservatory.pl/wp-content/uploads/2016/12/hfhr-opinion-assemblies_EN.pdf, (29 Nov. 2016).

¹⁰² Black Lives Matter Berlin, <https://www.blacklivesmatterberlin.de/stellungnahme-zu-rassistischer-polizeigewalt/>, (9 June 2020).

¹⁰³ Die Zeit, Demonstration in Hamburg: „Das war wie eine Jagd“, <https://www.zeit.de/hamburg/2020-06/demonstration-hamburg-anti-rassismus-polizei-festnahmen-minderjaehrige>, (8 June 2020).

¹⁰⁴ Fundamental Rights Research Centre (FRC), Vrije Universiteit Brussel, Coronavirus pandemic in the EU - Fundamental Rights Implications: Belgium, https://fra.europa.eu/sites/default/files/fra_uploads/be_report_on_coronavirus_pandemic_july_2020.pdf, FRA, p 2, (2 July 2020).

media¹⁰⁵. In occasion of other demonstrations, the media reported a number of arrests following the end of the authorised protests in instances where protesters refused to disperse and carry on the assembly beyond the time and place agreed by competent authorities¹⁰⁶.

In Spain, media reported that three people were arrested and six injured in the protests carried out on 25 September in Madrid against the selective confinements¹⁰⁷. Defender a quien Defiende reported to the ECF that the police did not wear the correct identification on uniforms and showcased irregular practices and mistreatment of participants. According to the group, in the post-state of emergency phase, the selective confinement introduced in some municipalities disproportionately affect low-income neighbourhoods, and for this reason, people were demonstrating. Civil society and social movements also condemned these restrictions and called for public funding to be allocated to the health sector rather than to the militarisation of the public space. The state of emergency was reintroduced in the region of Madrid on 9 October to provide the restrictions with a legal framework¹⁰⁸. On 25 October, a nationwide state of emergency was declared¹⁰⁹.

2.3.3 POLICING FREEDOM OF EXPRESSION AND ASSOCIATION

Since the outbreak of the global pandemic, all across Europe, several governments have restricted access to information (see section 3.4 “Locking down information during COVID-19”), locked out the media and displayed a general intolerance against criticism. Throughout the analysis and the case studies, this was also showcased

by the records of smear campaigns against civil society countries such as Czechia, Greece, Poland, Slovenia and Hungary.

In a few countries, authorities have made moves to control and sanction citizens, activists and journalists that are critical of their actions. The gravity of the actions described changes greatly in terms repercussions on the activists, but all contribute to **creating a chilling effect** on citizens and activists holding public authorities accountable.

In Hungary, the government did so by introducing stricter provisions concerning the criminalisation of scaremongering. The Hungarian Helsinki Committee reported to the ECF:

“Article 10 of the Authorization Act amended the Criminal Code. It introduced stricter rules into Act C of 2012 on the Criminal Code in relation to the criminal offence of scaremongering. According to the adopted text, a “person who, during the period of special legal order and in front of a large audience, states or disseminates false or distorted facts in such a way that is capable of hindering or obstructing the efficiency of the protection efforts is guilty of a felony and shall be punishable by imprisonment for one to five years”. This criminal offence can easily be used to launch criminal procedures against journalists, further eroding the freedom of the press in Hungary.”

According to the organisation, such measure was meant to create a chilling effect on critical voices as the broad wording of the provisions could be applicable to anyone that expressed dissent against the authorities. As of the end of July, police in Hungary had initiated 134 criminal investigations on suspicion of fear-mongering, resulting in one conviction. In at least two cases, citizens expressing criticism over the government’s actions on social media were summoned by local authorities “under intimidating circumstances” and later released. In one of these cases, the police shared a video of the person being brought to the police car on YouTube. The video was later removed, but it was seen 75,000 times¹¹⁰. These episodes happen in an already difficult context where the media landscape has been occupied by pro-Government media outlets that commonly target critical journalists, civic organisations, activists, academics, programs, and institutions.

¹⁰⁵ Gabriela Galindo, Footage and claims of police violence emerge after BLM protest, <https://www.brusselstimes.com/brussels/116121/footage-and-claims-of-police-violence-emerge-after-blm-protest/>, The Brussels Times, (10 June 2020).

¹⁰⁶ For example: Extinction Rebellion : une soixante d’activistes arrêtés administrativement hier soir, <https://bx1.be/bruxelles-ville/extinction-rebellion-une-soixante-dactivistes-arretes-administrativement-hier-soir/>, BX1, (28 Juin 2020); 35 personnes arrêtées après la manifestation pour le refinancement des soins de santé, <https://bx1.be/news/35-personnes-arretees-apres-la-manifestation-pour-le-refinancement-des-soins-de-sante/>, BX1, (13 Sept. 2020).

¹⁰⁷ Fuertes cargas policiales y tres detenidos en una protesta frente a la Asamblea de Madrid en Vallecas contra los confinamientos selectivos, <http://civicspacewatch.eu/spain-heavy-police-charges-and-three-detainees-in-the-protest-in-madrid-against-selective-confinements/>, El diario, (24 Sept. 2020).

¹⁰⁸ On 8 October, the High Court of Madrid had ruled against the ratification of the COVID-19 restrictions imposed on the region by the central government. Read more: https://english.elpais.com/spanish_news/2020-10-09/the-madrid-cities-under-the-state-of-alarm-what-you-can-and-cant-do.html.

¹⁰⁹ Paola Tamma, Spain adopts curfew, state of emergency to curb coronavirus, <https://www.politico.eu/article/spain-adopts-curfew-state-of-emergency-to-curb-coronavirus/>, Politico, (25 Oct. 2020).

¹¹⁰ Hungarian Helsinki Committee, Information note on certain rule of law developments in Hungary between May-July 2020, https://www.helsinki.hu/wp-content/uploads/HHC_Rule_of_Law_update_May-July2020.pdf, p. 5, (13 Aug. 2020).

Similar legislation was attempted to pass in Bulgaria, where changes to the Penal Code would have foreseen a prison term of up to three years and fines of up to 10 000 leva (about 5100 euro) for spreading “untrue information about the spreading of an infectious disease”¹¹¹. The changes were vetoed by the President.

In Romania, the Decree on the establishment of a state of emergency on the territory of Romania provided a procedure whereby content promoting false news or information on the evolution of Covid-19 could be directly “removed from the source”, and access users to such content could be blocked. The provision has raised concern over the lack of definition of what fake news means. The Ministry of Internal Affairs suspended several sites for this reason¹¹².

In Poland, in June, Amnesty International warned that authorities detained and charged with “theft and burglary” two activists who posted on bus shelters posters accusing the government of manipulating COVID-19 statistics. They risk up to 10 years of prison sentence¹¹³.

In France, on 27 April, the public prosecutor of Toulouse asked the police to enter the homes of people who had placed banners on their balconies saying “Macronavirus, when will it end?”. The people were taken into custody on the legal basis of “contempt for a person who is a representative of public authority”. Confronted with immediate protests, authorities had to apologise for the non-founded intervention¹¹⁴.

Following a trend highlighted in the 2019 civic space report¹¹⁵, in a few countries, records have shown police interference with journalists and citizens covering their actions. These interferences include arrests and physical assaults.

¹¹¹ The Sofia Globe, Coronavirus: Bill on State of Emergency measures in Bulgaria tabled, <https://sofiaglobe.com/2020/03/17/coronavirus-bill-on-state-of-emergency-measures-in-bulgaria-tabled/>, (17 Marc. 2020).

¹¹² Stiri.ong, Document de poziție: Societatea civilă are nevoie de măsuri de sprijin pentru a putea contribui activ la rezolvarea problemelor sociale generate de pandemia COVID-19, <https://www.stiri.org/institutii-si-legislatie/romania/document-de-pozitie-societatea-civila-are-nevoie-de-masuri-de-sprjin-pentru-a-putea-contribui-activ-la-rezolvarea-problemelor-sociale-generate-de-pandemia-covid-19>, (24 March 2020).

¹¹³ Amnesty International, Poland: Activists at risk of 10-year jail term for COVID-19 poster campaign challenging government statistics, <https://www.amnesty.org/en/latest/news/2020/06/poland-activists-at-risk-of-10-year-jail-term-for-covid-19-poster-campaign-challenging-government-statistics/>, (11 June 2020).

¹¹⁴ LDH, UN PROCUREUR RIDICULE MAIS DANGEREUX, <http://civicspacewatch.eu/france-toulouse-prosecutor-asked-the-police-to-enter-the-homes-of-people-who-had-placed-banners-on-balconies/>, (27 April 2020).

¹¹⁵ Giada Negri, One year of monitoring civic space: Challenges for acting for rights are increasing but civil society is striking back, Activizenship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizenship-4>, p. 23, (Dec. 2019).

On 17 September, journalist Gaspard Glanz was stopped by twelve policemen as he was going to cover the Paris trade union demonstration and was detained on the basis of “*participation in a group formed to prepare violence or destruction or damage to property during demonstrations on the public space*” because he was carrying protective equipment¹¹⁶. Already in the 2019 report, it was highlighted that arresting journalists reporting on demonstrations was part of a worrisome trend of repression of observers of police actions in the country¹¹⁷.

In Belgium, several journalists have spoken out against police intimidation and attacks they experienced while they were filming police actions during the Black Lives Matter protest in Brussels in early June¹¹⁸.

The Association of European Journalists in Bulgaria reported attacks by police on a Bulgarian journalist covering the anti-government protests in Sofia on 2 September. According to the organisation, a journalist “*was briefly detained and beaten up by police late in the evening when tensions between protesters and police escalated*” despite the fact that he identified himself as a journalist while other journalists were hit and pepper-sprayed¹¹⁹.

The Human Right House Zagreb wrote to the ECF describing an episode of police violence in Croatia at the end of March:

“While taking a walk in Split, a journalist and her friend were stopped by a police officer who estimated that the number of citizens on that public space will soon exceed the allowed number and warned them about paying a financial penalty. As the journalist asked for grounds on which the penalty would be issued and they both raised their voices, her friend started recording the situation with her mobile phone. Altogether six police officers gathered around them telling them not to move and that they will be arrested. Police officers used physical force towards the person who recorded the situation and asked her to delete the recording. After they grabbed her hand, one citizen

¹¹⁶ Robin Andraca, Pourquoi le journaliste Gaspard Glanz a-t-il été placé en garde à vue jeudi ?, https://www.liberation.fr/checknews/2020/09/21/pourquoi-le-journaliste-gaspard-glanz-a-t-il-ete-place-en-garde-a-vue-jeudi_1799990, Liberation (21 Sept. 2020).

¹¹⁷ Arié Alimi, SHIFTING TOWARDS A PREVENTIVE APPROACH TO MAINTAINING PUBLIC ORDER - Restricting the right to demonstrate from exception to routine, Activizenship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizenship-4>, pp. 56- 60, (Dec. 2019).

¹¹⁸ Gabriela Galindo, Footage and claims of police violence emerge after BLM protest, <https://www.brusselstimes.com/brussels/116121/footage-and-claims-of-police-violence-emerge-after-blm-protest/>, The Brussels Times, (10 June 2020).

¹¹⁹ AEJ-Bulgaria Condemns Police Violence Against Bulgarian Journalist, <https://aej-bulgaria.org/en/aej-bulgaria-condemns-police-violence-against-bulgarian-journalist/>, (3 Sept. 2020).

who was passing by reacted to this situation which was followed by using force towards him and pushing him to the ground. The journalist and her friend were taken to the police station for alleged violation of public order and peace and call to disobedience¹²⁰.”

At the beginning of April, after the coronavirus entered a nursing home in Split, part of the beneficiaries was being dislocated from the premises, and the news was covered by the media representatives reporting in front of the nursing home. Live reporting on Croatian Radiotelevision was stopped by an intervention police officer who shouted at the reporter. Police station reacted the following day by apologizing to the media¹²¹.

Reports in France and Greece point also showcase the use of coercive power against associations working with migrants, a trend also documented in the 2019 report¹²².

In France, In Calais and Grande-Synthe, local authorities restricted associations and volunteers supporting migrants and prevented them from observing the forced eviction of people in camps during the lockdown. Amnesty International reported that that “law enforcement officials fined human rights defenders on 37 occasions between 19 March and 11 May for non-compliance with restrictions on their right to freedom of movement” and, on 24 April, they arrested four activists who were filming a forced eviction in which the police was using tear gas. They were later released without charge¹²³. In September, the possibility to distribute food to refugees in Calais was restricted to a single state-approved association. Associations providing humanitarian support were also accused of “creating problems” and not respecting social distancing measures¹²⁴.

¹²⁰ Naša novinarka svjedočila policijskoj brutalnosti na Bačvicama: Čovjeka koji nam je htio pomoći bacili su na tlo dok je zapomagao ‘Tamo mi je ditel’, <https://slobodnadalmacija.hr/split/vika-i-galama-na-bacvicama-dvije-zene-odbijale-upute-policijaca-i-pozivale-gradane-na-pobunu-a-pridruzio-im-se-i-muski-izgrednik-1012617>, slobodna dalmacija, (29 Mar. 2020).

¹²¹ VIDEO Interventni policajac izderao se na novinarku i prekinuo joj javljanje uživo iz Splita, <https://www.vecernji.hr/vijesti/video-interventni-policajac-izderao-se-na-novinarku-i-prekinuo-joj-javljanje-uzivo-iz-splita-1392686>, vecernji.hr, (8 Apr. 2020).

¹²² Giada Negri, One year of monitoring civic space: Challenges for acting for rights are increasing but civil society is striking back, Activizenship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizenship-4>, pp 19-23, (Dec. 2019).

¹²³ Amnesty International, Policing the pandemic: Human rights violations in the enforcement of COVID-19 measures in Europe, <https://www.amnesty.org/download/Documents/EUR0125112020ENGLISH.PDF>, p. 13, (June 2020).

¹²⁴ LDH, UN ARRÊTÉ PRÉFECTORAL INDIGNE CONTRE LES ACTIONS DE SOLIDARITÉ À CALAIS, <https://www.ldh-france.org/un-arrete-prefectoral-indigne-contre-les-actions-de-solidarite-a-calais/>, (14 Sept. 2020).

In Greece, Doctors without Borders was forced to close the COVID-19 isolation centre on Lesbos island opened on 6 May. The organisation reported that since 1 July local authorities imposed fines and threatened criminal charges on the basis of urban planning regulations¹²⁵.

2.4 LEGISLATIVE CHANGES RESTRICT FREEDOM OF ASSEMBLY BEYOND COVID-19

The 2019 report documented how, in recent years, a number of countries have toughened their approach to public demonstrations by restricting the space accessible to protests and increasing sanctions¹²⁶. In 2020, the Greek government introduced a new law on public demonstrations, while in Italy, France and Spain’s governments started revising their legislation on the matter.

At the end of June, the Greek Minister of Citizen Protection tabled before Parliament a bill on “Public outdoor assemblies and other provisions” to regulate the right to peaceful assembly. According to the draft, authorities would be able to restrict demonstrations they believe to be disruptive of the socioeconomic activity in the place where they are organised or pose a threat to public security. Organisers could be charged for damages against properties and people resulting from the assembly if they failed to notify the authorities and to comply with their orders (for more information, read the case study on Greece)¹²⁷.

In France, on 11 September, the Minister of Interior presented a new national scheme for maintaining law and order that civil society had hoped would bring systemic change in the approach to policing public

¹²⁵ Médecins Sans Frontières, MSF forced to close COVID-19 centre on Lesbos, <https://www.msf.org/msf-forced-close-covid-19-centre-lesbos-greece>, (30 July 2020).

¹²⁶ Giada Negri, One year of monitoring civic space: Challenges for acting for rights are increasing but civil society is striking back, Activizenship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizenship-4>, pp 19-23, (Dec. 2019).

¹²⁷ Centre for European Constitutional Law, Coronavirus pandemic in the EU – Fundamental Rights Implications: Greece, https://fra.europa.eu/sites/default/files/fra_uploads/el_report_on_coronavirus_pandemic_july_2020.pdf, FRA, pp 3-4, (2 July 2020); Amnesty International, GREECE: AMNESTY INTERNATIONAL STATEMENT ON BILL OF THE MINISTRY OF CITIZEN PROTECTION: ‘PUBLIC OUTDOOR ASSEMBLIES AND OTHER PROVISIONS’, <https://www.amnesty.org/download/Documents/EUR257062020ENGLISH.pdf>, (9 July 2020).

demonstrations. Civil society was not consulted¹²⁸ and found that the new scheme recalls that the use of force must be strictly necessary and proportionate but does not develop any proposal to implement these principles effectively¹²⁹. On the contrary, it confirms the practices that emerged between 2018 and 2019¹³⁰¹³¹. For example, the scheme confirms the use of the flash ball and stinger grenades despite the concerns expressed by civil society and international organisations¹³². Additionally, the scheme recognises the right of journalists to wear protective equipment on the condition that “*their identity is confirmed*” and that their behaviour is “*free from any offence or provocation*”. The term “*provocation*” is too vague and allows the police officers to deprive arbitrary a journalist of his or her equipment simply because his or her attitude displeases them. Moreover, the scheme considers that journalists and human rights observers commit a crime if they remain present at the protest after the police’s order of the dispersal even if they are monitoring the possible eruption of force following the order¹³³.

In the framework of this scheme, in November, a new “global security” law that, if not amended, will erode the right to information, respect for privacy, and freedom of peaceful assembly was tabled in the

Parliament by members of the majority. From July 2021, the draft bill allows the police and gendarme patrols – the paramilitary police – to carry cameras and make use of drones to transmit live to the command centre the images of demonstrators and bystanders that can be analysed through facial recognition in real-time. The provision raises concerns over its proportionality and worries that it will contribute to reinforce the “preventive” policing approach implemented in recent years¹³⁴¹³⁵. The law also punishes the public and journalists from disseminating images of the face or any other identifying feature of law enforcement officers – that are crucial for monitoring police misconduct and ensuring justice to victims – with up to one-year imprisonment and a fine of 45,000 euros¹³⁶.

In Poland, in November, a citizen’s legislative initiative led by an anti-abortion organisation was submitted to the Parliament. If passed, the law would prohibit pride parades and any other public gatherings that “promote”, among other things, “sexual orientations other than heterosexuality”, the idea of non-biological gender, same-sex marriage or civic partnerships, or the adoption of children by same-sex couples. According to the media, the bill also includes a ban on assemblies that “violate public morality, including in particular [those] that may morally corrupt children or youths”¹³⁷.

In Italy, between 2018 and 2019 two laws on security and migration were passed criminalising solidarity and practices of social movements, including road blocking (up to six years in prison), covering even partially one’s face during public demonstrations (up to three years in prison and fines up to 6’000 Euro) and throwing fireworks and flares (up to four years in prison)¹³⁸. On 5 October, the Council of Ministers approved a new decree-law on “Measures for city security, immigration

¹²⁸ Doctrine du maintien de l’ordre : « Un nouveau schéma, des vieilles pratiques », dénoncent des ONG et syndicats, https://www.francetvinfo.fr/economie/transports/gilets-jaunes/tribune-doctrine-du-maintien-de-lordre-un-nouveau-schema-des-vieilles-pratiques-denoncent-des-ong-et-syndicats_4126175.html, FranceInfo, (4 Oct. 2020).

¹²⁹ Amnesty International France, NOUVEAU SCHÉMA DU MAINTIEN DE L’ORDRE : UNE OCCASION MANQUÉE, <https://www.amnesty.fr/liberte-d-expression/actualites/schema-du-maintien-de-lordre-occasion-manquee>, (22 Sept. 2020).

¹³⁰ Doctrine du maintien de l’ordre : « Un nouveau schéma, des vieilles pratiques », dénoncent des ONG et syndicats, https://www.francetvinfo.fr/economie/transports/gilets-jaunes/tribune-doctrine-du-maintien-de-lordre-un-nouveau-schema-des-vieilles-pratiques-denoncent-des-ong-et-syndicats_4126175.html, FranceInfo, (4 Oct. 2020).

¹³¹ Arié Alimi, SHIFTING TOWARDS A PREVENTIVE APPROACH TO MAINTAINING PUBLIC ORDER - Restricting the right to demonstrate from exception to routine, Activizanship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizanship-4>, pp. 56- 60, (Dec. 2019).

¹³² Council of Europe, Maintaining public order and freedom of assembly in the context of the “yellow vest” movement: recommendations by the Council of Europe Commissioner for Human Rights, <https://www.coe.int/en/web/commissioner/-/maintaining-public-order-and-freedom-of-assembly-in-the-context-of-the-yellow-vest-movement-recommendations-by-the-council-of-europe-commissioner-for->, (26 Feb. 2019); OHCHR, France: UN experts denounce severe rights restrictions on “gilets jaunes” protesters, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24166&LangID=E>, (14 Feb. 2019).

¹³³ LDH, CONTESTATION DU NOUVEAU SCHÉMA NATIONAL DU MAINTIEN DE L’ORDRE PAR LES OBSERVATOIRES DES PRATIQUES POLICIÈRES/LIBERTÉS PUBLIQUES, <https://www.ldh-france.org/contestation-du-nouveau-schema-national-du-maintien-de-lordre-par-les-observatoires-des-pratiques-policiers/> (13 Oct. 2020); Amnesty International France, NOUVEAU SCHÉMA DU MAINTIEN DE L’ORDRE : UNE OCCASION MANQUÉE, <https://www.amnesty.fr/liberte-d-expression/actualites/schema-du-maintien-de-lordre-occasion-manquee>, (22 Sept. 2020).

¹³⁴ Observatoire des libertés et du numérique, CONTRE LA LOI « SÉCURITÉ GLOBALE », DÉFENDONS LA LIBERTÉ DE MANIFESTER, <https://www.ldh-france.org/contre-la-loi-securite-globale-defendons-la-liberte-de-manifester/>, (12 Nov. 2020).

¹³⁵ For more information on the preventive approach to policing assemblies in France, see: Arié Alimi, SHIFTING TOWARDS A PREVENTIVE APPROACH TO MAINTAINING PUBLIC ORDER - Restricting the right to demonstrate from exception to routine, Activizanship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizanship-4>, pp. 56- 60, (Dec. 2019).

¹³⁶ Amnesty International France, POURQUOI LA PROPOSITION DE LOI « SÉCURITÉ GLOBALE » EST DANGEREUSE POUR NOS LIBERTÉS, <https://www.amnesty.fr/actualites/pourquoi-la-proposition-de-loi-securite-globaleest-dangereuse-pour-nos-libertes>, (12 Nov. 2020).

¹³⁷ Daniel Tilles, Bill banning LGBT parades submitted to Polish parliament, <https://notesfrompoland.com/2020/11/10/bill-banning-lgbt-parades-submitted-to-polish-parliament/>, Notes from Poland, (10 Nov. 2020).

¹³⁸ Gaia Romeo, CRIMINALISATION OF SOLIDARITY AND WIDER REPERCUSSIONS FOR THE SECTOR: Towards an acceleration of shrinking space, Activizanship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizanship-4>, pp 72-76, (Dec. 2019).

and international protection” with the aim to overcome the breaches of fundamental rights introduced by the two laws. However, the new bill does not address the measures introduced concerning freedom of assembly, that are still in place¹³⁹.

In Spain, at the end of September, the Parliament initiated the third attempt to review the Organic Law of Citizen Security, an opportunity to expand civic space. The law was passed in 2015 in the midst of popular protests against the austerity measures. It introduced new crimes such as “disobedience or resistance to the authority and its agents in the exercise of their functions” (fined up to 30’000 Euro) and dubbed as “Gag law” for its repercussions on the right to peaceful assembly and expression¹⁴⁰. As stated above, the law was also used to enforce the lockdown measures (see section 2.3 “Securitising the public space, policing dissent”). The law was partially reformed in 2018 but the early elections interrupted the process¹⁴¹. Civil society is calling for its repeal.

2.5 DATA GATHERING AND SURVEILLANCE

As “tracking the virus” has become the mantra in the tackling of the health crisis, concerns about the expansion of surveillance technologies and the right to privacy have been voiced by civil society and human rights bodies across Europe (see for example case studies on Ireland and Germany). **These warnings have become especially pressing with moves providing or attempting to provide law enforcement agencies with additional powers to collect and use private data**, including on cellphone, tracing apps and other technologies.

For example, in Bulgaria, the police were enabled to acquire metadata from citizens’ private communications from telephone and Internet operators in

order to track the movements of those under compulsory quarantine¹⁴².

ICNL reported that in Poland:

“those required to quarantine were given a choice: either receive unexpected visits from the police or download the “home quarantine app.” The app required users to first register with a “selfie.” The app then sent randomly scheduled requests to upload selfies from their homes within 20 minutes. The selfies were processed through facial recognition software, and the location checked against the existing GPS information from the user’s phone. This data was shared with government agencies and the police. If the selfies were not uploaded in time or did not confirm

¹⁴² Privacy International, Bulgaria: Police to access to citizens’ telephone and Internet data, <https://privacyinternational.org/examples/3578/bulgaria-police-access-citizens-telephone-and-internet-data>, (26 Mar. 2020).

RIGHT TO PRIVACY – UNDER SURVEILLANCE

By European Center for Not-for-Profit Law (ECNL)

The International Covenant on Civil and Political Rights (ICCPR) protects the right to privacy and permits states to restrict it in limited situations to achieve a legitimate aim, such as the protection of public health. Restrictions of right must be accessible and formulated with sufficient precision, narrowly crafted and proportionate to the pursuance of the legitimate aim. Even in emergencies, States must continue to ensure that their actions are established by law, necessary to meet the threat faced, and proportionate to that threat. To meet the proportionality requirement, emergency measures must be narrowly tailored in terms of duration, geographical coverage, and material scope. These restrictions apply to surveillance technology, which the UN Human Rights Council has identified as having implications for the right to privacy. The legislation providing new surveillance powers should include timeline provisions. This will ensure that measures only last for a specific time, and their necessity is regularly reassessed. Ideally, surveillance powers expire after a set period and the legislation can then be extended if the state of emergency continues. The legislation should require collection,

procession, retention, and aggregation of personal data, including sensitive health data, is only used to respond to the specific crisis. The European Data Protection Board provides guidance about data protection during health emergencies in the European Union, stating that any measure taken in response to COVID-19 must respect the general principles of law and must not be irreversible. The sharing of data must be limited to official health ministries or agencies, and health care providers, like hospitals. The legislation should also prohibit the sharing or selling of data, including metadata, to third parties, regardless of whether or not it has been anonymized.

Finally, data-sharing between private, for-profit actors, and governments should be based in law and agreements made public. Every agreement should include sunset provisions. Private entities should be required to take affirmative steps to respect privacy and other human rights. Furthermore, they should be prohibited from profiting from the data-sharing agreement and firewall this activity from other business interests. This protects individuals from governments and companies monetizing personal data.

¹³⁹ European Civic Forum, ITALY – Modification of ‘security decrees’: just a ‘cosmetic’ change of Salvini law, <http://civicspacewatch.eu/italy-modification-of-security-decrees-just-a-cosmetic-change-of-salvini-law/>, Civic Space Watch, (12 Oct. 2020).

¹⁴⁰ Thais Bonilla and Serlinda Vigara, FOUR YEARS OF GAG LAWS: Criminalising organised dissent, Activizenship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizenship-4>, pp 118-123, (Dec. 2019).

¹⁴¹ <http://civicspacewatch.eu/2899-2/>

the user is at home, police would be dispatched and might fine an individual with 1.5 times his or her monthly salary.¹⁴³

In Slovenia, civil society warned about a “tendency” of the new government to “increase the police’s and military’s power¹⁴⁴” particularly in the area of access to private data concerning health (read more in the Slovenian case study). After protests of the Information Commissioner, Ombudsman, many CSOs and experts strongly the articles in questions were softened (e.g. police will now not be able to enter an apartment without justified cause). Similar measures were also discussed in Croatia¹⁴⁵.

As exemplified by the cases described, these powers can be extremely intrusive and not proportional to the need. Additionally, **there is a serious risk that these data could be used beyond the tracking of the spread of the virus.** For example, the NGO Fair trial raised the concern that the data collected could be used in criminal proceeding enforcing COVID-19 restrictions and others¹⁴⁶.

These developments could have serious consequences on civic space. For example, when data are collected in the context of public demonstration. In Germany, the association GFF told the ECF that in some cases, local authorities required organisers of protests to collect data of protesters allegedly for public health reasons¹⁴⁷. In Spain, DqD reported to the ECF in September that since the state of emergency in the spring, they have recorded aleatory identifications before, during and after protests all over the country. In some cases, people were threatened with administrative sanctions. According to the group, these actions are forms of intimidation to discourage people from exercising their right to protest.

Privacy is an important prerequisite for the exercise of fundamental rights, including the right to peaceful assembly and expression. **Being identified in the context of public demonstrations, for example, can have a deterrent effect on public participation, especially for communities that are most at risk of marginalisation.** These concerns are magnified by the expanding use of artificial intelligence to monitor the

respect of COVID-19 rules in many cities in Europe in a context of legal vacuum and lack of public oversight¹⁴⁸.

It is important to notice that worries concerning data gathering and surveillance of activists, including through the use of security and anti-terrorism legislation, had already emerged before the health emergency¹⁴⁹. In the past, there have been instances in which data collected during protests have been used to harass or prosecute people for their activism.

Examples of using surveillance technologies and social media to track protesters and sanction them have also been documented and reinforce the worry that data collected can be used beyond health purposes. For example, a report by Civil Liberties Union for Europe and Greenpeace European Unit published in September 2020 described how this happened in the context on the ongoing protests in Slovenia. It states:

“the Interior Minister has encouraged police to track down protesters through internet and social media and press charges on them. Media also reported that the Minister visited police premises to view the police records of demonstrations. Although police stressed their independence from political pressure, several instances show that law enforcement has not hesitated from systematically using surveillance to track down protesters to enforce the government’s ban on free movement and assembly adopted during the COVID-19 emergency. The use of facial recognition technology is common practice by the Slovenian police even outside the context of the pandemic.¹⁵⁰”

In France, Amnesty International France told the ECF that an episode arose concerns on surveillance after about fifty people who demonstrated in Aveyron in May without any exchange with the police received fines by mail¹⁵¹.

¹⁴³ ICNL, COVID-19: The Surveillance Pandemic, <https://www.icnl.org/post/analysis/covid-19-the-surveillance-pandemic>.

¹⁴⁴ Reported by CNVOS on 2 April.

¹⁴⁵ GONG, In the times of pandemic we must not forget democracy, <https://www.gong.hr/en/electoral-system/parliamentary/in-the-times-of-pandemic-we-must-not-forget-democr/>, (19 Mar. 2020).

¹⁴⁶ Fair Trials, COVID-19 Surveillance: Guide for lawyers, <https://www.fairtrials.org/news/covid-19-surveillance-guide-lawyers>, (12 Aug. 2020).

¹⁴⁷ Phone exchange on 17 Sept. 2020.

¹⁴⁸ For example, in France: <https://www.laquadrature.net/2020/06/03/la-technopolice-progresse-la-cnll-mouline/>.

¹⁴⁹ Giada Negri, One year of monitoring civic space: Challenges for acting for rights are increasing but civil society is striking back, Activizenship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizenship-4>, pp 24- 26, (Dec. 2019).

¹⁵⁰ Civil Liberties Union for Europe and Greenpeace European Unit, Locking down critical voices, https://dq4n3btxm8c9.cloudfront.net/files/Mq7uU3/Civic_Space_Report_2020_Liberties_Greenpeace.pdf, p 15, (Sept. 2020).

¹⁵¹ Grégoire Souchay, D’étranges amendes « sans contact » ont été envoyées à des manifestants en Aveyron, <https://www.numerama.com/tech/636868-en-aveyron-detranges-amendes-sans-contact-ont-ete-envoyees-a-des-manifestants.html>, Numerama, (16 July 2020).

3. CIVIL DIALOGUE IS CHALLENGED

3.1 THERE ARE MANY OBSTACLES, BUT ALSO SOME POSITIVE EXAMPLES

Civic and social organisations are in a privileged position to understand the impact of policies and lack of thereof on the wider population and specific groups. Thus, they can be important allies for authorities that want to tackle societal vulnerabilities and environmental concerns by providing data and proposals. However, **the exceptional circumstances triggered by the COVID-19 health emergency created huge obstacles for the proper functioning of civil dialogue.** Institutions needed to act quickly and effectively to slow the spread of the virus and reduce the heavy impact that the restrictions had on the economy and the population. The increased workload, coupled with social distancing and telework, greatly affected the capacities of institutions to respond to the increased number of requests for dialogue and consultation.

Generally, **across Europe, the emergency procedures reduced the opportunities for consultation and influence by shifting the power from the legislative branch to the executive one.** Additionally, the closing of the public space (see section 2.2 “Closing the public space, restricting the freedom of peaceful assembly”) together with the overwhelming presence of COVID-19 news on the media made it difficult to get other messages across and created new challenges for civil society to put pressure on governments when institutional frameworks for dialogue were not respected, not available or restricted.

Nevertheless, as described by The Wheel’s Ivan Cooper in the interview below, in many countries, in

the first wave of the pandemic, there was a feeling of “coming together” between public authorities and civil society and pulling together in an effort unprecedented in times of peace to face the pandemic and related societal consequences. While there were several challenges and limits, in many European countries (e.g. Ireland – see the Irish chapter, Spain, Italy, Romania, France, Austria and Latvia) the national platforms of NGOs reported appreciation for the attempt to listen to and include civil society’s recommendations in the policies passed, especially with regard to public funding to the sector. In Ireland (read the interview with Ivan Cooper) and Latvia, positive steps were announced to strengthen the civil dialogue. At the same time, **even in countries with a relatively open dialogue between civil society and governments, the quality and the impact of the exchanges depended on the Ministry as well as on previous relations between the individual civic organisation and authorities.**

RIGHT TO PUBLIC PARTICIPATION

By European Center for Not-for-Profit Law (ECNL)

UN Guidelines for States on the effective implementation of the right to participate in public affairs, adopted in 2018, underline that authorities must create and maintain a safe and enabling environment for exercising the right to participate, which includes transparency and openness, an enabling policy and legal environment, empowerment and education. More specifically, the guideline stipulates:

- ▶ The right to take part in decision-making of public authorities through **accessible and inclusive consultative mechanisms**, that consider those most affected, in particular women and other marginalized individuals and groups; supported with financial and human resources, empowered with media education and digital literacy programmes for general public and officials;
- ▶ The right to gain **full access to information** held by public authorities through relevant, accurate and timely information about the process, draft documents, background papers, which are proactively disseminated online and through traditional media and post, accessible, clear, and practical;
- ▶ **Information and communication technologies** should be used to create spaces and opportunities for rights holders to participate meaningfully in a variety of activities that extend beyond communication and information-sharing. Technology should provide real opportunities to influence decision-making processes, for example with regard to submitting, and commenting and voting on, legislative and policy proposals. Where appropriate, States should consider providing additional, complementary offline opportunities for participation.

Furthermore, the toolkit created in response of the pandemic by the Council of Europe reinstates the importance of participation, stating that the public’s access to official information must be managed on the basis of the existing principles set down in the caselaw. Any restriction on access to official information must be exceptional and proportionate to the aim of protecting public health.

In early April 2020, the European Civic Forum identified the huge impact of the restrictions of civil dialogue and the economic viability of civic organisations as a European-wide issue and coordinated a working group of national platforms of CSOs and NGOs representing the interest of the sector at national level from the majority of EU member state and the United Kingdom to share common challenges and positive examples of public measures to support the sector. Throughout the crisis and in the aftermath, the working group met online, collected information and practices to support the advocacy effort of the sector at national and European level. Sections three and four of this analysis are based on the information collected by the working group as well as on monitoring and discussion with other organisations.

Members of the working group: Interessenvertretung Gemeinnützigen Organisationen – IGO (Austria), De Verenigde Verenigingen (Belgium), Citizen Participation Forum (Bulgaria), CROSOL (Croatia), SPIRALIS (Czechia), Global Fokus (Denmark), National Council for Voluntary Organisations – NCVO (England), Network of Estonian Nonprofit Organisations – NENO (Estonia), FINGO (Finland), Le Mouvement Associatif (France), Bundesnetzwerk Bürgerschaftliches Engagement (Germany), Okotars Foundation (Hungary), The Wheel (Ireland), Forum del Terzo Settore (Italy), Civic Alliance Latvia (Latvia), NGO Information and Support Centre (Lithuania), The Association of NGOs in Norway (Norway), National Federation of Polish NGOs (OFOP), Platform of Development NGOs (Portugal), Civil Society Development Foundation (Romania), Scottish Council for Voluntary Organisations – SCVO (Scotland), Gradjanske Inicijative (Serbia), Centre for Information Service, Co-operation and Development of NGOs – CNVOS (Slovenia), Plataforma de ONG de Accion Social (Spain), Wales Council for Voluntary Action – WCVA (Wales).

Bigger networks of civic organisations were in a better position to be taken into account, while smaller or more critical organisations found additional difficulties to influence the policymaking.

In Austria, the national platform IGO – the Interest Group of Public Benefit Organisations – reported that the interaction was intensive with the Ministry of Health, Ministry of Justice, Ministry of Infrastructure that are led by representatives of the Green Party¹⁵². The government also established a crisis task force involving several health experts and a Red Cross representative, although it later stepped out due to the public criticism over the lack of transparency and

the historical relations between the Red Cross and the Chancellor's party¹⁵³.

In France, the Mouvement Associatif reported that dialogue with authorities was satisfactory during the first phase of the pandemic. In June, the organisation commented to the ECF:

“With the outbreak of the pandemic, we had good communication, especially with the Prime Minister. We had a direct consultation with him and with State Secretary Attal. [...] Moreover, we took part in crisis management committees together with the social economy actors every Friday during the lockdown. Nevertheless, in a long-term perspective, we are still calling for the implementation of measures drafted in the action plan for Associations (Plan d'action Vie Associative), which was presented in 2018. The latter notably calls for a more sustainable framework for dialogue and consultation with the government.”

The French platform also noted that there were a lot of exchanges between civil society and authorities at local and regional levels to prepare the post-lockdown strategy.

In Latvia, civic organisations described that there has been an open civil dialogue with the government during the pandemic. The added value of civil society during this time was also recognized and expressed by a statement of the Parliament's Sustainable Development Commission (SDC) in the National Development Plan 2021-2027 (NAP2027). This plan also sets that in the next seven years dialogue with civil society will be granted with equal status as social dialogue and will be enabled with the support of funding. A positive step forward for civil dialogue was also the establishment of a budget for the Memorandum Council, one of the main consultative bodies, to support the participation of CSOs¹⁵⁴.

Civil society also highlighted some positive practices to ensure fast but inclusive consultation of civic organisations and citizens. In Spain, NGO Platform for Social Action wrote that at the beginning of May, the Spanish government constituted the Commission for the Economic and Social Reconstruction of Spain after the COVID-19 pandemic in the Parliament with the aim to receive proposals, hold debates and

¹⁵² Note that Austria's rating on the CIVICUS Monitor was upgraded from “Narrowed” to “Open” on 15 September 2020 as a result of the improved relations between civil society and the government. See: <https://monitor.civicus.org/updates/2020/09/15/austria-civic-space-rating-upgraded-open/>.

¹⁵³ CIVICUS Monitor, AUSTRIA CIVIC SPACE RATING UPGRADED TO OPEN, <https://monitor.civicus.org/updates/2020/09/15/austria-civic-space-rating-upgraded-open/>, (15 Sept. 2020).

¹⁵⁴ ECF, GOVERNMENT RESPONDS TO NGO SECTOR CONCERNS DURING COVID-19 CRISIS, <https://monitor.civicus.org/updates/2020/05/15/government-responds-ngo-sector-concerns-during-covid-19-crisis/>, CIVICUS Monitor, (15 May 2020).

elaborate conclusions on the measures to be adopted for recovery after the emergency¹⁵⁵. In Portugal, the NGDO Platform told the ECF that there was a website in place where people could send information and questions¹⁵⁶. In Poland, the Batory Foundation pointed out that while civil dialogue and advocacy was very difficult especially for NGOs not in line with the government agenda (see section 4.2 “Public support to the sector comes late and is often unfit for the challenge”), a few good initiatives to ensure fast communication were implemented by civil servants in some municipalities¹⁵⁷. Similarly, in many countries good practices of dialogue were observed at the level of local communities, among local institutions and local civil society. This cooperation was key to provide support locally to people in need (see section 5 “Civil society unlocks its potential”).

Nevertheless, **consultation processes at national levels did not always lead to a concrete impact on policy and sometimes civic organisations were left with a feeling that the civil dialogue was a mere ticking-the-box exercise**. For example, in Latvia and France, where the dialogue between the national platforms and the authorities was satisfactory, this was not translated into the creation of specific funding essential for the sustainability of the sector (see section 4.2 “Public support to the sector comes late and is often unfit for the challenge”).

3.2 DISREGARDING CIVIL DIALOGUE MECHANISMS, OVERLOOKING CIVIL SOCIETY VOICES

In some countries, including Bulgaria, Estonia, Latvia and Romania, **civil society reported that the time available for consultation was shortened in disregard of institutional frameworks of civil dialogue** on some policies adopted. In Romania, while contacts between civil society and the Government took place during the pandemic, the government suspended

social dialogue and consultation during the State of emergency through Emergency Governmental Decree 34/2020. As a result, pieces of legislation related to the state of emergency, such as the draft law on quarantine and isolation measures, were adopted in a non-transparent manner, being available for consultation only after adoption¹⁵⁸. As reported above, at the beginning of May, the Romanian Constitutional Court ruled that the emergency ordinance is unconstitutional¹⁵⁹ arguing that measures restricting freedoms should only be passed by the Parliament and not by the Government through emergency decree. In Latvia, while positive steps were taken to improve the dialogue with authorities as described above, civic organisations also underlined a certain concern that the fast procedure implemented to adopt policies during the pandemic without public consultations is still maintained even after the emergency¹⁶⁰.

In some countries, civil society reported their positions have been neglected by the authorities. For example, in Germany, CSOs were not consulted when the first confinement measures were introduced¹⁶¹ and **lack of meaningful dialogue with the sector is deemed to be an important factor for lack of reactivity of the government to many societal emergencies** (for more information, read the chapter on Germany). Similar experiences were reported in Greece (read the case study).

In Slovakia and the Czech Republic, civil society reported a lack of proactivity in using civil dialogue mechanisms, overlooking civil society voices. Nevertheless, civil society came together to react with a common voice to the Government’s measures. In Slovakia, in April, several NGOs’ representatives established a Coordinating Crisis Staff for NGOs to assess current and future needs of CSOs and mobilising possible resources for civil society and presented their requests to the Prime Minister and the Vice-Prime Minister for Information Society and Investments during a

¹⁵⁵ Reported on 17 Aug. 2020 through survey.

¹⁵⁶ Reported on 9 July 2020 through survey.

¹⁵⁷ For example: <https://www.facebook.com/groups/527921871483787/>, https://wro-ngo.pl/wrongo_covid19/.

¹⁵⁸ APADOR, Guvernul legiferează în continuare heuripist și opac, deși nu mai suntem în stare de urgență; Opinia APADOR-CH pe marginea lacunelor noului act emis de guvern privind carantina și izolarea, <https://apador.org/en/patru-lacune-grave-ale-noii-legi-privind-carantina-si-izolarea/>, (6 July 2020).

¹⁵⁹ Human European Consultancy, Coronavirus pandemic in the EU – Fundamental Rights Implications – Romania, https://fra.europa.eu/sites/default/files/fra_uploads/ro_report_on_coronavirus_pandemic_may_2020.pdf, FRA, (4 May 2020).

¹⁶⁰ Ibidem

¹⁶¹ Greenpeace Germany, Demokratische Teilhabe der Zivilgesellschaft in der Corona-Pandemie, https://www.greenpeace.de/sites/www.greenpeace.de/files/publications/so2911_gp_corona-pandemie_demokratische-teilhabe_studie_o6_20.pdf, (June 2020).

meeting in May 2020¹⁶². In the Czech Republic, NGOs took the opportunity for greater coordination under the umbrella network. They also reacted together in a public statement¹⁶³ when the Prime Minister publicly claimed unawareness of the services and resources provided by NGOs, particularly those serving vulnerable, at-risk, and marginalised communities. In both countries, the **smear campaign against individual civic organisations and activists working and advocating on issues deemed controversial by authorities**, e.g. sexual and reproductive rights in Slovakia and corruption in the Czech Republic (read the case study on the Czech Republic for additional information) remains a concern and **risk being amplified by the incoming economic crisis**. Additionally, in the Czech Republic, authorities took advantage of the lack of public oversight and the pandemic to move forward with the contract for building an additional nuclear power block that was previously stalled due to public protests (read the Czech case study).

In Hungary, the Authorization Act allowed the government to rule by decrees, which further reduced the opportunity for civil dialogue with public institutions, in a context in which democratic civic organisations are systematically discouraged from engagement through targeted smear campaigns and politicisation of the distribution of public funding. When reporting on the functioning of the institutional frameworks for civil dialogue during the pandemic, Ökotárs Hungarian Environmental Partnership Foundation wrote to the ECF:

“It varied - on the local level some mayors (ab) using their extraordinary powers took decisions unilaterally without consulting anyone, while others maintained a level of dialogue. On the national level, there was no civic dialogue whatsoever; the government hardly even consulted professionals and ignored protests before making decisions.”¹⁶⁴

Additionally, **as a general trend, the civil dialogue is particularly rare on European matters. This was true also during the pandemic**. As a case in point, at the end of September, the European Commission presented to the Member States guidelines for the Recovery and Resilience Facility, the “investment plan” within the Next Generation EU package, including references to the role of civil society in the design and implementation of the national plans. According to the guidelines document, Member States have to report on how

they have interacted with civil society and other stakeholders in addition to the social partners in the preparation of the plans¹⁶⁵. The first deadline to send the draft of the national plans was 15 October, but by that time national platforms of NGOs in most European member states reported not having been informed or consulted on the national recovery plans, even where a civil dialogue framework is already in place and consultation takes place regularly.

3.3 PANDEMIC AS AN OPPORTUNITY TO CHANGE THE RULES AND ‘EMPTY’ CIVIL DIALOGUE

In some countries, authorities not only disregarded civil society but also made moves that will affect the quality of public participation in the future. In Slovenia, representatives of the sector from the national platform CNVOS were not involved in the first stage of the consultations around the measures to tackle COVID-19 and the first economic package adopted did not include support measures for CSOs under economic pressure. Only in a later stage, the Government included NGOs among the beneficiaries of economic support to employers¹⁶⁶. The Government also included a series of measures to change the criteria allowing environmental and nature conservation NGOs to have access to the environmental impact assessments of building planning demands until the end of 2021 (read more in the box “Targeting environmental organisations” of the Slovenian case study). Additionally, the Executive took control over the process of electing NGO representatives in Monitoring Committee of the European Cohesion Policy and the European Economic and Social Committee (EESC) (read more in the timeline of the Slovenian case study). **Similar moves affecting European civic space**

¹⁶² Reported by Via Iuris on 27 July 2020 through survey.

¹⁶³ Reference by Spiralis on 14 April 2020.

¹⁶⁴ Reported on 10 July 2020 through survey.

¹⁶⁵ European Commission, GUIDANCE TO MEMBER STATES RECOVERY AND RESILIENCE PLANS, https://ec.europa.eu/info/sites/info/files/3_en_document_travail_service_part1_v3_en_o.pdf, (17 Sept. 2020).

¹⁶⁶ ECF, GOVERNMENT USES THE COVID-19 PANDEMIC AS A PRETEXT TO CURTAIL CIVIC FREEDOMS, <https://monitor.civicus.org/updates/2020/06/19/government-uses-covid-19-pandemic-pretext-curtail-civic-freedoms/>, CIVICUS Monitor, (19 June 2020).

have emerged in other countries during the election of NGO representatives at the EESC ¹⁶⁷.

In Bulgaria, the above-mentioned package of amendments to the CSO law (see section 2.1 “Restricting freedom of association using transparency legislation”) proposed reducing some of the functions of the Civil Society Development Council, an advisory body to the Council of Ministers, including setting the priorities for and the distribution of public funding to the sector. A coalition of NGOs wrote:

“After more than 2 years delay, the procedure for its establishment was finally started in February 2020. In May 2020 the results were publicly announced and 14 CSOs were elected as members of the Council after an electronic vote from all public benefit CSOs that have expressed interest to vote. Even prior to the introduction of the proposed amendments, there have been attempts to stop the establishment of the Council by attacking its elected members.

*On June 10, 2020 after the results from the voting for Council members were announced, the Commission for Combatting Corruption and Confiscation of Illegally Acquired Property decided to exercise for the first time its power to analyse areas with potential for corruption and propose legislative changes. It issued a statement that the Regulation of the Civil Society Development Council needs to be changed because it does not follow the principles of publicity and transparency and prevention of conflict of interests. This happens at a time when a number of political scandals about high-level corruption take place while the Council, after being established, will decide on the priorities for spending just 1 million BGN (500 000 EUR) planned in the state budget for 2020.”*¹⁶⁸

In Croatia, Human Rights House Zagreb reported to the ECF in September 2020 concerning the dialogue with authorities and the respect of the institutional framework for civil dialogue:

“The Government did not have a dialogue with civil society with respect to the adoption of measures related to the coronavirus epidemic. There were also no Government consultations with the Council for Civil Society Development [Ed. an advisory body to the government expressing opinions on the impact of legislation on civil society] regarding the protection of human rights of the most vulnerable groups during the coronavirus epidemic.”

Additionally, the Croatian watchdog organisation GONG wrote in a report that in May 2020 the Council for Civil Society Development saw a change in the Rules of Procedure strengthening the representatives of public authorities in the body and allowing decisions to be made without holding sessions, hearings and discussions in violation of the legally prescribed standards of transparency and openness. In a letter to the Government Office for Cooperation with NGOs, the coalition of civic organisations Initiative for a strong civil society condemned “the demise of the autonomy of the decision-making process of CSOs, the collapse of cooperation and the ruin of the Council for Civil Society Development” ¹⁶⁹.

3.4 LOCKING DOWN INFORMATION DURING COVID-19

Among the issues that made civil dialogue and civil society’s advocacy more challenging in times of crisis was access to information, especially concerning fast-track, continuously changing legislation (read for example the Irish and Czech case studies). In some countries, governments suspended transparency legislation or parts of it.

In Hungary, the Hungarian Helsinki Committee wrote to the ECF:

“In Decree No. 179/2020 issued on 4 May, the Hungarian government has restricted the protection and rights of data subjects concerning anti-pandemic measures as stipulated by the EU’s General Data Protection Regulation (GDPR) and the Hungarian Act on Freedom of information and data protection

¹⁶⁷ See for example: ECF, The European Civic Forum condemns the retaliation of the Polish Government against the re-election of Karolina Dreszer-Smalec, representing the National Federation of the Polish NGOs (OFOP), for another term as member of the European Economic and Social Committee (EESC), <https://civic-forum.eu/uncategorised/eesc-members-nomination-poland>, (13 July 2020); CSE, Open letter on breaches in transparency and accountability on Member States nominations to the EESC 2020-2025, <https://civilsocietyeurope.eu/open-letter-on-breaches-in-transparency-and-accountability-of-member-states-nominations-to-the-eesc-2020-2025/>, (17 July 2020).

¹⁶⁸ Letter from Bulgarian civil society organisations, RE: Attacks against civil society organisations and pro-European policies, <https://civicspacewatch.eu/wp-content/uploads/2020/07/Bulgarian-CSOs-under-attack-2020-1.pdf>, (15 Jan. 2020).

¹⁶⁹ Suzana Jašić, GOVERNMENT ATTACKS ON CIVIL SOCIETY IN CROATIA - Supported by EU funds, https://www.gong.hr/media/uploads/government_attacks_on_civil_society_in_croatia_eng.pdf, GONG, pp. 8-9, (June 2020).

organisations were not being able to run fundraising or economic activities to support their operations. Organisations active in cultural, recreational, sportive, and artistic activities have been obliged to close their social centres during the lockdown and remained completely or partially unable to restart them until the end of the year. In some countries, NGOs providing services to vulnerable groups were not able to operate during the first part of the emergency, as personal protective equipment (PPE) was not available. These challenges meant **NGOs were struggling, like the business sector, to maintain activities, offices and staff.**

Civic organisations are facing reduced economic and financial resources at a time when their services are most needed. As an example, when asked about the main challenges faced by the sector in providing support to their constituencies during the crisis, the Greek association Solidarity Now responded:

“[The main challenge is] higher demand for services, including in collaboration with municipalities and local governments, in some cases with fewer employees and without receiving additional funding. For example, work in refugee camps is more demanding and challenging while we operate with less staff; migrants who do not have access to social benefits and cannot work anymore need more support; the homeless need more assistance these days so NGOs and grassroots groups have to provide more services; municipalities are asking CSOs to help with the management of new emergency shelters etc.”

Many civic organisations had to shift their focus and redirect their limited resources to provide humanitarian assistance to their beneficiaries and the wider population, thus weakening their capacity to carry out their regular mission, including policy and advocacy work (see for example the case study on civic space for LGBTI activism). This shift happens in a context where funding for advocacy is already limited and challenged in many European countries¹⁷⁵ (see for example the Czech, German and Irish case studies) and is exacerbated by the fact that, as described below, in some countries, the public funding to respond to the COVID-19 crisis is redirected to service provision.

Although reports of difficulties were collected in most EU member states and the United Kingdom, data concerning the economic impact of the

pandemic are only available for a handful of countries. IGO – Interest Group of Public Benefit Organisations in Austria wrote to the European Civic Forum that finding reliable data on the sector and the impact of the pandemic was one of the major challenges during the first phase of dialogue with the government to support civic organisations. IGO wrote to the ECF on 7 April:

“Since March 27, there is a 2 billion emergency fund in place. On March 15 a law (Covid-19 Gesetz) passed our parliament that for the first time in Austrian history mentions “Nonprofit Organisations” and says they are eligible for this emergency fund, the same as small entrepreneurs. However, until today administration is struggling with criteria and calculations, to the effect that NPOs still have no access to these funds. This is where we are currently supporting the government with information on the sector and on the impact of the crisis on our members.”¹⁷⁶

According to IGO, the Vienna University of Economics estimated the financial loss of the sector to be at least 700 million Euro, compared to 2019, depending on the sub-sector: the loss was highest in sports and culture, lower in education, health and research¹⁷⁷. The Wheel reported that in Ireland charity fundraising and the possibility of earning income through service fees, for example, was completely decimated and estimated €400 million of loss of generated income between March and May 2020 (for more information, read the interview with Ivan Cooper from The Wheel).

¹⁷⁶ Reported during working group meeting on 3 April 2020.

¹⁷⁷ Reported on 28 July through survey.

ACCESS TO FINANCIAL RESOURCES AS A VITAL PART OF THE RIGHT TO ASSOCIATION

“The ability to seek, secure and use resources is essential to the existence and effective operations of any association, no matter how small. The right to freedom of association not only includes the ability of individuals or legal entities to form and join an association but also to seek, receive and use resources – human, material and financial – from domestic, foreign, and international sources.” – UN, HRC, Second thematic report on the freedom of peaceful assembly and association, 2013 (para. 8)

“Associations shall have the freedom to seek, receive and use financial, material and human resources, whether domestic, foreign or international, for the pursuit of their activities. In particular, states shall not restrict or block the access of associations to resources on the grounds of the nationality or the country of origin of their source, nor stigmatize those who receive such resources.” – Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Association, 2014 (principle).

¹⁷⁵ Giada Negri, One year of monitoring civic space: Challenges for acting for rights are increasing but civil society is striking back, Activizenship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizenship-4>, pp 9-36, (Dec. 2019).

In many countries, in order to supply this lack of data, national platforms of NGOs and grant-making organisations carried out surveys to assess the needs of the sector and estimate the economic impact. In France, le Mouvement Associatif conducted two surveys, one during and the other after the lockdown in France. During an exchange in July, the platform told the European Civic Forum that 40% of the nearly 12,000 respondents said that they were expecting a loss of income. One of the main concerns is the termination of partnerships, both public and private. The Mouvement Associatif also noticed that associations working in solidarity and social action saw a drop in activities of up to 80%, mostly because of the vulnerability of their volunteers and lack of protective equipment. On the opposite, CSOs linked to the health sector maintained 90% of their activities. The platform estimated that from 15 March to 15 April the CSO sector lost about 1,4 billion EUR in revenue. In the second survey, 60% of the associations said they would not expect to have any activities before September and, in some sub-sector (e.g. culture, informal learning, sports), many were not sure of resuming activities in September. Nevertheless, according to the national platform, the financial impact will affect all the sub-sectors. In terms of employment, small associations are the most impacted. For example, 24 000 associations with less than two employees, 20 000 associations between 3 and 20 employees and 10 000 associations with over 20 staff members will be forced to cut in their staff¹⁷⁸.

In Hungary, the Civilisation coalition conducted a survey among CSOs in May, and 75% of the respondents reported financial difficulties¹⁷⁹. In Romania, a survey by the Civil Society Development Foundation (FDSC) showed that over 90% of respondents are concerned about being able to continue to provide their regular services in the following six months¹⁸⁰. According to FDSC, in order to face the crisis, NGOs need more flexible funding sources due to the impossibility to conduct all the planned activities. The NGO also said:

“NGOs and citizens are expecting the effects of the upcoming economic crisis. NGOs are expecting

to suffer greatly as companies are unlikely to sponsor them. Most companies opened to sponsorships for NGOs ‘used up’ these mechanisms of donation that are being deducted by their taxes during the emergency. Thus, the rest of the year is rather uncertain for NGOs relying on partnerships with companies.”¹⁸¹

A decrease in donations from individuals and companies is a recurring challenge in many countries. In Spain, the NGO Platform for Social Action found that 70% of social NGOs in the country expects the contributions they receive from companies and individuals to decline, while many of these entities have increased the number of beneficiaries and expenses¹⁸².

In Italy, in the first three months of 2020, 81% of the beneficiaries of donations suffered a significant decrease in fundraising and 4 out of 10 reported a decrease of more than 50%¹⁸³. In an article of the magazine Vita dating 17 April 2020, the Italian Forum of the Third Sector explained:

“The data on donations tell a very serious situation and testify to an exceptional reversal of the trend that sees a reorientation of donors’ choices towards those perceived as closer: support for organisations, primarily international cooperation, is abandoned in favour of support for public institutions, such as civil protection and hospitals. A change of this magnitude, in the critical moment that the country is living, will have dramatic consequences with respect to the [civic] organizations’ ability to resist and survive”¹⁸⁴.

Similar shift in priorities in donations also emerged in Belgium¹⁸⁵.

Associations from across Europe also reported a generalised uncertainty concerning future funding as in short to mid-term there are serious risks of changing the focus of private donors and individuals as well as public grants. These difficulties are expected to be exacerbated by the new restrictions imposed in the second phase of the pandemic.

¹⁷⁸ Interview with Le Mouvement Associatif on 6 July 2020. For more data on the impact of the COVID-19 lockdown on the sector: https://lemouvementassociatif.org/wp-content/uploads/2020/06/COVID19_assos_enquete_2_synthese.pdf.

¹⁷⁹ Civilization, How did CSOs respond to the Covid-crisis? - rapid analysis, <https://civilizacio.net/en/news-blog/how-did-csos-respond-to-the-covid-crisis-rapid-analysis>, (May 2020).

¹⁸⁰ Reported during interview with FDSC on 31 July 2020.

¹⁸¹ Ibidem.

¹⁸² Reported by NGO Platform for Social Action through survey on 17 August 2020.

¹⁸³ Corrado Fontana, Il coronavirus causerà il saccheggio dei fondi per il Terzo settore?, <https://valori.it/coronavirus-fondi-terzo-settore/>, Valori, (20 May 2020).

¹⁸⁴ Unofficial translation from Italian: Lorenzo Maria Alvaro, L'impatto dell'emergenza sulle donazioni? Per l'11,5% degli enti il calo è del 100%, <http://www.vita.it/it/article/2020/04/17/limpatto-dellemergenza-sulle-donazioni-per-115-degli-enti-il-calo-e-d-155066/>, Vita, (17 Apr. 2020).

¹⁸⁵ Reference?

4.2 PUBLIC SUPPORT TO THE SECTOR COMES LATE AND IS OFTEN UNFIT FOR THE CHALLENGES FACED

Despite the huge impact the COVID-19 crisis and related restrictions had on the economic and financial viability of the civic sector and despite civic organisations being crucial allies of public authorities that want to address the complexity and dimensions of the societal challenges ahead – as demonstrated by the incredible mobilisation during the emergency (see chapter 5 “Civil society unlocks its potential”), support for the sector often arrived quite late with many governments prioritising funding for businesses first. As noted above, this had a direct impact on the associations’ ability to respond to societal needs during the lockdown¹⁸⁶ and will affect their capacities in the future.

To date¹⁸⁷, **only a minority of the European countries created specific funding for the sector fit for its specificities.** In Austria, IGO – Interest Group of Public Benefit Organisations reported that since 8 July, civic organisations have access to a support fund specifically designed for them for a total of 700 million Euro. CSOs, fire brigades, churches and other religious organizations, as well as organizations owned by them, may apply for cost recovery with a cap of 2,4 million Euro or the total amount of income loss compared to 2019. This fund is open to all Non-profit organisations as defined by law regardless of the activity they carry out. In addition to a grant that covers fixed-costs of NPOs (such as rent, water, energy, communication, insurance, costs for cancelled events, covid-19 costs..), Austrian NPOs receive a structure-protection-contribution in the amount of 7% of their revenue of the past year¹⁸⁸. Additionally, the government announced that it would honour public grants, at least for the national level, even if the activities planned were not carried out.

In Italy, in May, the Government allocated an additional 100 million Euro to the existing fund for associations and volunteers, and supplementary 100 million

Euro to support the third sector in southern Italy. It also extended the incentives available for SMEs and associations carrying out economic activities, such as reduction of rent costs to the entire sector and accelerated the allocation procedures of 5x1000 Income Tax to support non-profit organizations for the 2019 financial year¹⁸⁹.

In Ireland, the Government established a special emergency fund for charities - the Stability fund for charities - to cover lost income between March and May for the amount of 45 million¹⁹⁰. This funding will be accessible by charities and social enterprises delivering front line services, experiencing a loss of income of 25% or more as a direct result of the COVID-19 pandemic. Charities and social enterprises carrying out ‘essential services’ are also eligible for the Wage subsidy scheme if they are able to show a loss of income above 25% (for more information on Ireland, read the interview with Ivan Cooper from The Wheel). In Lithuania, in June the government opened a subsidy of two million Euros for the NGO sector working on social services. NGOs are able to apply for grants between 1000 and 5000 Euro¹⁹¹.

Some local government had special funds for NGOs (e.g. in Spain¹⁹², France¹⁹³ and Germany). In some countries, governments announced or implemented specific support for the culture sector that is open

¹⁸⁶ Read more: Graciela Malgesini, The impact of COVID-19 on people experiencing poverty and vulnerability. Rebuilding Europe with a social heart. https://www.eapn.eu/wp-content/uploads/2020/07/EAPN-EAPN-REPORT_IMPACT_COVID19-4554.pdf, EAPN, (July 2020).

¹⁸⁷ As of the last working group meeting on 14 October 2020.

¹⁸⁸ <https://npo-fonds.at/>.

¹⁸⁹ Forum del Terzo settore, MEASURES TAKEN DURING THE COVID-19 PERIOD, SUMMARY TABLE OF THE MAIN MEASURES IN FAVOR OF THIRD SECTOR ENTITIES (ETS), ITS WORKERS, THE RECIPIENTS OF THE ACTIVITIES’, 20/07/2020, accessed on 16 September 2020, <https://www.forumterzosettore.it/files/2020/07/20200720-riepilogo-PROVVEDIMENTI-ASSUNTI-DURANTE-IL-PERODO-COVID-2.pdf>; <https://welforum.it/il-punto/decreto-rilancio-e-welfare/dl-rilancio-il-terzo-settore-non-e-piu-dimenticato/>.

¹⁹⁰ Charities Institute Ireland, Cii Welcomes Additional €10M for COVID-19 Stability Fund, <https://www.charitiesinstituteireland.ie/our-blog/2020/10/15/cii-welcomes-additional-10m-for-covid-19-stability-fund>, (15 Oct. 2020).

¹⁹¹ CIVICUS Monitor, PROTEST OVER LGBTI RIGHTS; GOVERNMENT PRAISED FOR MILESTONE NGO FUNDING SUPPORT, <https://monitor.civicus.org/updates/2020/09/29/protest-over-lgbti-rights-government-praised-milestone-ngo-funding-support/>, (29 Sept. 2020).

¹⁹² Axencia Estatal Boletín Oficial do Estado, COVID-19: Colectivos Vulnerables https://boe.es/biblioteca_juridica/codigos/codigo.php?lang=gl&id=359&modo=2&tipo=L, (16 Nov. 2020).

¹⁹³ Interview with Le Mouvement Associatif on 6 July 2020.

also for CSOs in this field e.g. Austria¹⁹⁴, Belgium¹⁹⁵, Estonia¹⁹⁶, France¹⁹⁷ and Italy¹⁹⁸).

In Poland, the Government promised to implement a 2 million Euro programme for civic organisations operated by the governmental agency National Center for Civil Society Development (NCRSO). Critics stress that this amount is clearly not sufficient for the Polish sector comprising ca. 90 000 - 100 000 active NGOs. Additionally, since 2015 we witnessed in Poland a growing centralisation and politicisation of public funding to the civil society through the establishment of the NCRSO. In the past, it was noted that NGOs not aligning with the ruling party have had restricted access to funding distributed by the NCRSO¹⁹⁹ and there is now concern that the support will reach mostly those NGOs which are not critical of the ruling party's agenda. In a monthly monitoring of COVID-19 measures to support CSOs, the Batory Foundation noted the continued exclusion of some sub-sectors of CSOs from the public support. It reported to the ECF:

"CSOs engaged in activities aimed to promote civic activism in public sphere, independent culture, independent journalism and civic media; in defence of women and kids rights (including measures to counteract gender-based violence and domestic violence), ethnic, national, sexual minorities rights as well as animal rights and in environmental protection; in watchdog and advocacy activities and support to refugees and immigrants are not only devoid of public support but continue to be an object of attack by the media which support the government. Also due to the pandemic, they are losing other sources of funding they have managed to develop: donations from business (which suffers itself and directs its aid to causes related directly with COVID-19), their constituencies (which

*are losing jobs and income), economic activity (which had to be suspended), local authorities which are under other emergency pressures"*²⁰⁰.

The Foundation also reported that some municipalities designed local public support programmes, but they are dedicated mostly to local small and medium-sized enterprises (SMEs) and do not answer CSOs' needs. These funds, as well as public funds for employers at national level (e.g. the "Anti-crisis shield"), do not address the specificity of civic organisations. For example, a significant part of the public support is dedicated to organisations having employees on a permanent basis and/or running economic activities but, in Poland, only 19% of CSOs have employees while the majority of organisations work with people with civil contracts or on self-employment and only a minority of organisations carries out economic activities²⁰¹. The Government took in "barely any recommendations from the CSOs' side" in the Anti-crisis shield²⁰². A further challenge for CSOs' access to state support is the "very large information chaos" between announced measures and measures that are already available in practice²⁰³. As a result, the Batory Foundation commented:

*"Most of the activities cannot be carried out in the same form or on the same level as before. There is a danger that some outcomes and indicators will not be reached and certain costs which were incurred cannot be recovered despite the fact that the events had to be called off. There are no clear and common stipulations as to the continuation of the projects financed from the European Union funds distributed by the national agencies or public tasks commissioned to CSOs by the state or municipalities during the pandemics."*²⁰⁴

¹⁹⁴ IG KULTUR ÖSTERREICH, Unterstützungsmöglichkeiten für von COVID-19-Maßnahmen betroffene Kunst- und Kultursakteur*innen, <https://igkultur.at/artikel/unterstuetzungsmoeglichkeiten-fuer-von-covid19-massnahmen-betroffene-kunst-und-> (12 Nov. 2020).

¹⁹⁵ Culturloket, Overview of coronavirus measures in Belgium, https://www.vgc.be/sites/vgc/files/2020-05/20200430_Overview%20of%20coronavirus%20measures%20%28Belgium%29_EN.pdf, (2020).

¹⁹⁶ Reported through Survey on 24 Aug. 2020.

¹⁹⁷ Ministère de la culture, Plan de relance: un effort de 2 milliards d'euros pour la Culture, <https://www.culture.gouv.fr/Presse/Communiqués-de-presse/Plan-de-relance-un-effort-de-2-milliards-d-euros-pour-la-Culture>, (3 Sept. 2020).

¹⁹⁸ Forum del Terzo Settore, Accordo di rilancio per il sostegno al settore cultura e spettacolo dal vivo <https://www.forumterzosettore.it/2020/07/13/accordo-di-rilancio-per-il-sostegno-al-settore-cultura-e-spettacolo-dal-vivo/>, (13 July 2020).

¹⁹⁹ For more information: Filip Pazderski, GROWING CENTRALISATION OF GOVERNMENT'S CONTROL OF THE SECTOR New waves of informal activism emerge, *Activizenship* #4, European Civic Forum, <http://civicforum.eu/publication/view/activizenship-4>, pp 88- 93 (Dec. 2019).

²⁰⁰ Reported on 9 Sept. 2020 through survey.

²⁰¹ Reported by Filip Pazderski from the Polish Institute for Public Affairs during working group exchange on 23 April 2020.

²⁰² Reported by Batory Foundation on 9 Sept. 2020 through survey.

²⁰³ Ibidem.

²⁰⁴ Ibidem. For more information on the economic impact of COVID-19 on the Polish civic sector read: Situation of social cooperatives and social enterprises due to the COVID-19 outbreak: http://spoldzielnie.org/new,934?fbclid=IwARzHM4-4Q2AmwhRDISCzXkPXrql88Gz8dB-zngHQTxmLNL_LvIYoGl7eQr7s; Situation of the civil society organizations due to the COVID-19 outbreak: <https://publicystyka.ngo.pl/zamrozone-walczace-zmobilizowane-pierwsze-wyniki-badania-organizacje-wobec-pandemii-stowarzyszenia-klon-jawor>; <https://api.ngo.pl/media/get/135421>; Situation/condition of the cultural organizations due to the COVID-19 outbreak (above others from the economic perspective): <http://mik.krakow.pl/wp-content/uploads/Kultura-w-Ma%C5%82opolsce-KORONARAPORT.pdf?fbclid=IwAR3-BIfcQI0jsWRMVKI2EeN1eJah-88HXa4s8QfRE9Dd3AZTX9iydLmnKNU>; <https://www.metropoliagdanski.pl/upload/files/Odmra%C5%BCanie%20sektora%20kultury%20%20w%20kresie%20post%20pandemicznym%20spowodowany%20Covid-19%206maja%202020.pdf>.

Other than Austria, Ireland, Italy and Poland, **many other countries included NGOs in some of the measures supporting employers and businesses** (e.g. Belgium, Bulgaria, France, Germany – see the country case study, Estonia, Romania, Slovenia – see the country case study, Spain). **However, in most cases, NGOs reported to the ECF that only a part of civic organisations was actually eligible for this support, and this funding was unfit for the specific needs of the sector.**

For example, in France, thanks to the strong advocacy of the national platform Mouvement Associatif, associations eligible for measures supporting businesses, including the €2 billion Solidarity Fund for SMEs²⁰⁵ and delayed deadlines for the settlement of administrative taxes and loans. However, many associations are unable to benefit from these measures. One challenge highlighted by the Mouvement Associatif is that the decrees implementing the Solidarity Fund imposed the condition of being an employer thus making it impossible to many associations to access it because they do not employ salaried workers, even though they have an economic activity (and related expenses). In mid-May, non-employer associations had already suffered more than 400 million euros in losses since the beginning of the crisis²⁰⁶. In June, Mouvement Associatif commented to the ECF:

“Many organisations lost their subsidies during the pandemic and had to activate various solutions: 38% of them used the postponement of payment of administrative costs and rents; 37% used the Solidarity Fund; 20% were granted Funds by departmental authorities and 18% by regional ones. Finally, 13% received support from the local councils. In the end, very few organisations benefited from the State Fund and from State-guaranteed bank loans (7%)²⁰⁷. This [fact] reveals that many organisations found the measures by local and regional authorities more adapted to their situation, than the ones provided by the government. Associations were also calling for an Emergency Fund to the sector of 300 million EUR. The Emergency Fund, as proposed by Mouvement

Associatif, aims at supporting both organisations with employees and those relying solely on volunteers. However, the State Secretary in charge of associations was not convinced about an Aid to non-profit sector²⁰⁸.”

As a result, the current measures in place in France are insufficient to ensure the sustainability of the sector.

Similarly, in Bulgaria, CSOs were covered by some of the general measures in support of businesses, but the conditions did not allow many of them to apply. As reported to the ECF by the Bulgarian centre for not-for-profit law (BCNL) in August 2020, only entities subject to a 20% reduction in sales revenue are eligible for these measures, thus excluding all those NGOs that are not running economic activities, even if their other income (donations, fees, funding) has decreased. Additionally, BCNL noted that some sub-sectors are explicitly excluded from compensation, including education, humanitarian aid and social work.

In some countries, authorities supported the operational costs of civic organisations through other mechanisms. For example, the national platform Civic Alliance Latvia reported that the Parliament allowed associations and foundation that lease their offices in buildings property of a municipality or a company controlled by a municipality are entitled to a reduction of rent and excused from contractual penalties in case of late payment. Donors are also allowed to donate an additional 3% of the profits from the previous year in activities linked with the containment of COVID-19. In Belgium, tax deductions for private donations to certified not for profit associations of minimum 40€ have been increased to 60%²⁰⁹.

4.3 THE CRISIS AS A DRIVER TO FURTHER REDUCE AND RESTRICT PUBLIC SUPPORT TO CIVIC ORGANISATIONS

In some countries, the economic difficulties caused by the lockdown implemented in most EU countries have been exacerbated by the decision of public authorities to

²⁰⁵ Ministère de l'économie des finances et de la relance, Fonds de solidarité pour les entreprises, indépendants, entrepreneurs, <https://www.economie.gouv.fr/covid19-soutien-entreprises/fonds-de-solidarite-pour-les-tpe-independants-et-micro?gclid=COCe3cHHv-kCFUqNG-wodmbwEoQ>.

²⁰⁶ Le Mouvement Associatif, Le fonds de solidarité, <https://lemouvementassociatif.org/acces-des-associations-au-fonds-de-solidarite/>, (13 May 2020).

²⁰⁷ For more information on the data: https://lemouvementassociatif.org/wp-content/uploads/2020/06/COVID19_assos_enquete_2_synthese.pdf.

²⁰⁸ Unpublished interview with Mouvement Associatif - 06/07/2020

²⁰⁹ Service Public Federal, Réduction d'impôt pour dons, https://finances.belgium.be/fr/particuliers/avantages_fiscaux/dons#q2.

shift the priorities of national and EU funding for NGOs to tackle the health emergency. **Fears that in short to medium term the public support will suffer due to budgetary concerns and the states' priority to rescue the economic sectors have raised in several countries** (see for example the interview with Ivan Cooper from the Irish The Wheel).

The Slovak association Via Iuris reported to the European Civic Forum in July:

"A few local governments have already cut the assigned subsidies to CSOs as a result of cuts in expenditure and transferred these resources to fight the spread of COVID-19. The state subsidies have not been cut so far, however, NGOs call for a chance to repurpose or extend ongoing projects funded from state subsidies. [...] Following estimated economic decline, there is [also] a justified concern that social tension will intensify populist rhetoric against NGOs and question the state subsidies for advocacy, human rights and watchdog organisations."²¹⁰

In some cases, these moves raised suspicion that they were aimed at disadvantaging specific sub-sector of NGOs that are critical of the authorities.

In Hungary, on the one hand, the government did not provide any state support to CSOs; on the other hand, it reduced the public funding for municipalities²¹¹, a move that indirectly impacts their budget to support the sector. It is important to note that following the elections in the fall 2019, the opposition took over local governments in several municipalities thus the measure seems to be politically motivated by the will to target "actors potentially able to show political alternatives to the ruling party"²¹². Democratic civil society in the country has been economically drained due to lack of access to the increasingly politicised public funding as well as obstacles to receiving funding for abroad. In 2017, the Government passed a law on the transparency of organisations supported from abroad – dubbed the Hungarian foreign agent law – requiring NGOs receiving at least 22,000 Euros a year from outside of Hungary to declare themselves as foreign-funded. Some organisations pledge to disregard the law believed unjust. In June 2020, the European Court of Justice found that the law does not comply with EU law (for

more information, read the box "Evolving standards for Freedom of Association" in section 2.1). Nevertheless, a Hungarian public foundation has denied access to European funding to one NGO on the basis of non-compliance with the law²¹³.

In Slovenia, a new government was formed in March led by Prime Minister Janša, from the conservative right-wing party SDS, who has a track record of been critical of state funding to NGOs and had previously pledged to cut state support²¹⁴. It is not surprising that 2020 was a "turbulent year" for public funding for the sector requiring great advocacy efforts in this area (read the case study on Slovenia for more information). The national platform CNVOS, reported to the European Civic Forum on 8 April:

"In the first days of the new right-wing Government, 30% budget cut for 2020 was announced, leaving hundreds of NGOs without secured contracts. Although the government policy changed later on, the budget for 2020 is still closed, meaning there is no new tenders. Furthermore, Ministry of culture, for example, stopped all funding activities, including already contracted one. Similarly, the Government Office for Communications notified all grantees of their 2020 Communication Call that they want to abolish the contracts under the pretence of the Covid crisis. While the whole amount of the call is only 107.000 EUR, we should notice the priorities of the call: migrants, media literacy and victims of human-trafficking. CNVOS strongly advised NGOs against the signing of the annex."²¹⁵

In the Czech Republic, in March, the Communist party (KSČM) tabled a draft law seeking to restrict the access to public funding to organisations "or the implementation of beneficiary projects that contribute to the fulfilment of state policy objectives arising from the main areas of state subsidy policy approved by the government,²¹⁶" in the fields of culture, education, health and social services. It would also increase bureaucratic complications for all that might apply to

²¹⁰ Reported by Via Iuris on 27 July 2020 through survey.

²¹¹ Political Capital, Nothing is more permanent than a temporary solution - the state of danger will come to an end in Hungary, but its impact remains, https://www.politicalcapital.hu/pc-admin/source/documents/pc_flash_report_nothing_is_more_permanent_than_a_temporary_solution_20200528.pdf, (28 May 2020).

²¹² Ibidem p. 3.

²¹³ Péter Sárosi, Hungarian Public Foundation Rejects NGO Application for EU Funding over Unlawful Foreign Agent Law, <https://autocracyanalyst.net/hungarian-ngo-foreign-agent-law/>, Autocracy Analyst, (30 Sept. 2020).

²¹⁴ CIVICUS Monitor, CIVIL SOCIETY FUNDING UNDER THREAT FOLLOWING ELECTIONS, <https://monitor.civicus.org/updates/2018/07/30/Civil-Society-Funding-Cuts-Threatened-Following-Elections/>, (30 July 2020).

²¹⁵ CIVICUS Monitor, GOVERNMENT USES THE COVID-19 PANDEMIC AS A PRETEXT TO CURTAIL CIVIC FREEDOMS, <https://monitor.civicus.org/updates/2020/06/19/government-uses-covid-19-pandemic-pretext-curtail-civic-freedoms/>, (19 June 2020).

²¹⁶ Azlarm, KSČM vytáhla proti neziskovkám. Snaží se je odstavit od systému státní podpory, <https://azlarm.cz/2020/03/kscm-vytahla-proti-neziskovkam-snazi-se-je-odstavit-od-systemu-statni-podpory/>, (31 Mar. 2020).

public grants. The association Spiralis, which serves as the secretariat for the national NGO platform, told the ECF in April:

“The Communist Party targeted NGOs through a legislative proposal to change the current state subsidy funding mechanism. The proposal would specifically eliminate public funding for any organizations perceived as opposing any state policy positions or deemed as not serving the public interest. In response to these attacks, the Czech NGO sector issued a joint public statement, highlighting numerous ways they continue to fill long-standing gaps in local and regional services.”²¹⁷

In Croatia, a decision of the Government in April redirected all public funding, including those for CSOs, to providing services and medical help as part of the response to COVID-19 and the earthquake that shook the country in March 2020.²¹⁸ This choice has been interpreted as an attempt to reshape civil society, as it will restrict access to funding for advocacy-based organizations²¹⁹. Additionally, a study by the watchdog association GONG from June 2020 found that in 2020 most public tenders for “good governance” and “social inclusion” of the European Social Funds announced at the beginning of the year were not opened²²⁰. GONG writes that the large discrepancy between announcements and publication of public calls leaves civic organisations unable to plan and financially exhausted. It is to be noted that organisations affected by the manoeuvres are those dealing with human rights, right of vulnerable groups, corruption and transparency²²¹. This issue is not new in Croatia, and it was reported the Civic Space Watch 2019 report too²²².

²¹⁷ Reported during working group on 23 April 2020.

²¹⁸ Narodne novine, Odluka o ograničavanju korištenja sredstava predviđenih Državnim proračunom Republike Hrvatske i financijskim planovima izvanproračunskih korisnika Državnog proračuna za 2020. Godinu, https://narodne-novine.nn.hr/clanci/sluzbeni/2020_04_41_855.html, (2 Apr. 2020).

²¹⁹ Balkan Civil Society Development Network, COVID-19: The Effects to and the Impact of Civil Society in the Balkan Region, Part II, <http://www.balkancsd.net/novo/wp-content/uploads/2020/05/78-6-Balkan-Civil-Society-in-the-COVID-19-Crisis-Part-II.pdf>, 14 May 2020.

²²⁰ GONG, In the times of pandemic we must not forget democracy, <https://www.gong.hr/en/electoral-system/parliamentary/in-the-times-of-pandemic-we-must-not-forget-democr/>, p. 15, (19 Mar. 2020).

²²¹ Ibidem.

²²² Giada Negri, One year of monitoring civic space: Challenges for acting for rights are increasing but civil society is striking back, Activizenship #4, European Civic Forum, <http://civic-forum.eu/publication/view/activizenship-4>, pp 9-36, (Dec. 2019).

5. CIVIL SOCIETY UNLOCKS ITS POTENTIAL

Civil society organisations and movements play an essential role in supporting communities. From one country to another, civic actors have different status and modus operandi. The tasks and functions they perform also vary. But everywhere they are in the front line to witness the precarious situations people suffer from, trying to respond to people’s needs for effective access to rights, to alert on the limitations and adverse consequences of public policies. From the onset, the crisis has shown how diverse and fundamental civic actors’ roles are. Throughout the pandemic, the European Civic Forum has been collecting, mapping and giving visibility to some of the activities associations and social movements have been carrying out²²³. This section showcases some of these initiatives, including ones nominated for the Civic Pride award.

COMMUNITY SUPPORT AND SOLIDARITY

Faced with the exceptional circumstances triggered by the COVID-19 pandemic, citizens and associations have been organising to respond to pressing societal needs produced by the health emergency and the isolation. As stated above (see section 1 “COVID-19 shakes socio-economic, political and cultural landscape”) many citizens in this crisis have experienced the value of solidarity and practised it daily through mutual support in their neighbourhoods and beyond. Especially the first phase of the crisis saw a surge in volunteers spontaneously initiating actions, many for the first time in their lifetime. Often these actions could benefit from the organisation of associative infrastructures.

A crucial area of action was boosting the capacity of public healthcare institutions through support for medical workers, fundraising for hospitals, running information campaigns about the pandemic, and producing and distributing medical supplies. A

²²³ Solidarity amid the COVID-19 crisis, <http://civicspacewatch.eu/solidarity-amid-covid-19-crisis/>.

great example is the Women on the Road Foundation, which mobilised to sew masks to be distributed all across Poland (read the interview with Khedi Alieva, co-founder of the foundation).

In Slovakia, at the beginning of the crisis, citizens launched the #KtoPomozeSlovensku (Who helps Slovakia) in order to connect all those who wanted to help through financial or material assistance in order to fundraise, collect protective equipment and provide services to hospitals, social service facilities and vulnerable groups. The initiative was opened to anyone who wanted to help, and it supported hundreds of hospitals, ambulances, social service facilities, civic associations and other organisations in need²²⁴. Associations have carried out similar initiatives in many countries²²⁵.

In Italy, which was amidst the first and most seriously hit countries at the start of the crisis, among the thousands of actions organised to fundraise and offer support to the medical staff it is worth to report about the NGO Mediterranea - Saving Humans. The association, formed by a network of Italian initiatives which came together in 2018 to save lives in the Mediterranean, redirected its services that had to stop in the sea, to provide help in the health emergency. The organisation communicated:

“The development of the coronavirus pandemic, and the indisputably necessary measures adopted to try to contain it, protecting the frailer among us, and those more exposed to the risk, require us to suspend our operations at sea. [...] The fact that our ship cannot set sail does not mean that we are stuck. As we know very well, our beloved Mare Jonio is made of more than its steel, its engines, its rudder and its hull: it is made of what we bring to it ourselves, of what is within each one of us, and how we manage to bring it together. Our ship will now sail through this crisis thanks to its crews that carry it in their hearts everywhere they go. Our crews are made of those 100+ doctors and paramedics who are part of the Mediterranea ground and sea crews, who have been on the front line in the Italian hospital since day one of this epidemic. Our crews are the dozens of activists who are lending their hand to the public services in the various areas affected by the contagion, working in the ambulance and assistance services. As we’ve

said since the beginning, Mediterranea will only stop when its mission isn’t necessary anymore. And if this is true for sea rescue, it applies to our commitment on land today.”²²⁶

Mediterranea also created telephone lines to respond to the concerns and anxieties of people without social networks and to give basic medical and health advice, but also to translate to foreigners the guidelines and vademecum distributed in Italian language only. It also provided psychological support for doctors and health care workers on the front line presenting a high risk of burn out²²⁷.

All over Europe, many CSOs used their platforms to contribute to the spreading of trustworthy information concerning the virus and governmental measures. These efforts have been particularly crucial to reach out to the most marginalised communities, as it is exemplified by the interview with Moussa Sangaré, president of the Ivorian Community of Greece and Vice-president of the Greek Forum of Refugees. They used the social media platforms of the two associations to inform migrants communities in Greece about the situation. In Italy, Arci - with the support of UNCHR Italy - used the platform JumaMap, which maps services for asylum seekers and international and humanitarian protection holders available in Italy, to share information on the pandemic in multiple languages. A free telephone line was created in cooperation with the doctors of Médecins du Monde and UNICEF to ensure migrants access to medical services.

Associations have also provided advice to understand how the government measures would impact and support specific groups and the wider population in order to help them to access governmental aid.

Civic actors have been active in supporting communities to better cope with the pandemic also by providing social services to all people in need, including the elderly, patients, people in quarantine, sidelined minorities, migrants and refugees, and marginalised and rural communities.

For example, in Hungary, the Civil College Foundation, together with the aHang campaign platform and the Chance Labor Association, launched the initiative

²²⁴ Reported to the ECF by Via Iuris; <https://ktopomoze.slovensku.sk/>.

²²⁵ Poland: https://www.facebook.com/pg/PodarujPrzyblisceSzpitalowi/about/?ref=page_internal; Croatia: <http://www.futura.com.hr/isporuceno-preko-2-000-zastitnih-vizira-za-medicinsko-osoblje/?fbclid=IwARogTeq7REKRI-519nEtK9pPUBDJTOv5cT3hSzzPn4zimLLBqV-CboeRuE4>; Romania: <https://www.romania-insider.com/coronavirus-ngos-donations-fundraising-romania>.

²²⁶ Mediterranea Saving Humans, Sailing through the crisis, planning hope. A letter to all the ground and sea crews, <https://mediterranearescue.org/en/news-en/sailing-through-the-crisis-planning-hope-a-letter-to-all-the-ground-and-sea-crews/>, (19 Mar. 2020).

²²⁷ Amnesty International Italia, Mediterranea Saving Humans: medici volontari in prima linea per l'emergenza da Covid-19, <https://www.amnesty.it/mediterranea-saving-humans-medici-volontari-in-prima-linea-per-le-emergenza-da-covid-19/>, (20 Apr. 2020).

“Another bite”, collecting and distributing food and sanitary products for 500 families in 12 villages in disadvantaged areas during the weeks of the lockdown.

In Rome, a network of grassroots organisations active in North-East of the city - Terzo a Domicilio - coordinated local associations and volunteering efforts to support over 300 families having difficulty paying for food and medicines. They also provided help filling out papers and bureaucratic procedures with lawyers and other professionals involved voluntarily, as well as psychological support provided by qualified volunteers.

In June, Inese Vaivare, from the Latvian development association LAPAS, reported to the ECF:

“In Latvia, local activists organised a hackathon to find IT solutions as an emergency response. This event brought together eight people who were professionals in their own field - IT, start-ups, communication and others - but were strangers to each other before. They worked on finding a way to reach out to the digitally divided groups who are at the same time high-risk groups: the elderly, people with disabilities, etc. We developed a 24/7 call centre with HelpLine - a social enterprise employing people with disabilities, a website and a mobile app. The requests [received by phone] are put in the system by HelpLine and are reviewed by volunteers operating in the “back office”. Then through the mobile app, volunteers can “pick up the task” related to the geographical area they have subscribed for. [The process] is decentralised and person-to-person. In two months since the launch, we had almost 1000 volunteers registered. Our research shows that for most of them it is the first volunteering experience, so we managed to bring in new people. Also, we found out that half of them have established long-term relations with people in need, meaning that community support has been growing.”

Through this process, the Latvian group was able to identify “emerging” vulnerable groups, like doctors (all the time mobilised outside the home) and small businesses, and address their needs with targeted actions and partnerships.

In many cases, these self-organised solidarity experiences established forms of cooperation with local institutions in order to articulate their action and implement public policies. This articulation could be seen, for example, in Italy, where many mutual help groups distributed vouchers and parcels of the Municipalities to supplement the lack of public services in their communities.

In Bulgaria, the Youth Centre in the Rose Valley mobilised young volunteers to support elderly people in rural villages. They worked with the local municipality to identify people in need. They supported homeless, jobless people and single parents with children in remote villages and small towns by donating humanitarian packages with essential food products, disinfectants and masks.

With different impacts, in many countries, associations and volunteers tried to soften the impact of the crisis which put on families the burden of schooling and harshened the digital divide, creating enormous barriers for children in low-income families to access education. For example, in Hungary, Chain Reaction and Invisible School organised a fundraising campaign to collect and distribute digital devices to over 180 children in need throughout the country. The devices were distributed by community organisers working on the ground with local schools. They also mentored and supported families using the material. In Austria, the association Volkshilfe Favoriten, raised funding to provide 25 kids in the low-income Favoriten district in Vienna with laptops to follow lessons online²²⁸. In Germany, an initiative called “Corona School” brought together 12’000 university students and teachers to support kids and their parents with the schoolwork load on a weekly basis.

Concerning the situation in Spain, “Defender a quien Defiende” wrote on the Civic Space Watch:

“Social movements have been essential during the most critical moments of the health crisis. [...] They put their infrastructures, knowledge and contacts into the creation of support networks in different neighbourhoods of the most overcrowded cities in Spain, covering the deficiencies of the public aid networks. Thanks to the self-managed networks, families who were left with nothing after the lockdown were able to access food, children have been provided with school materials to follow their classes and help and attention has been promoted for the elderly by doing their shopping and not leaving them alone.”²²⁹

Another crucial aspect of organised solidarity was providing relief to the psychological and

²²⁸ Meinbezirk, Computer werden für Schüler gesammelt, https://www.meinbezirk.at/favoriten/c-lokales/computer-werden-fuer-schueler-gesammelt_a4048416, (4 May 2020); Dunav.at, Spendenaktion für Kinder in Favoriten: #allekidsonline, <https://dunav.at/de/spendenaktion-fuer-kind-in-favoriten-allekidsonline/>, (20 Apr. 2020).

²²⁹ Defender a quien defiende, SPAIN: Human rights and support networks in times of pandemic, <https://civicspacewatch.eu/spain-human-rights-and-support-networks-in-spain-in-times-of-pandemic/>, (9 July 2020).

community traumas caused by isolation and loneliness. Associations have deployed their expertise to provide mental health support online and via telephone, as well as online collective spaces to create a sense of belonging and entertainment. Cultural activities online blossomed during the crisis, in a period in which many felt vulnerable: online meetings, broadcasts, cinema, theatre, discussions... were organised in the attempt to provide people with an opportunity to stay together, not to lose sociality, to remain mentally active.

For example, in Palermo, a city in the south of Italy, the association Maghweb created a web community radio, called Radio Comunitaria, to share information but also to broadcast music and provide free cultural and artistic content. The association reported to the ECF:

“During these months of Radio Comunitaria, we aired music and live concerts, leisure, narratives and theatre pieces, storytelling for children, news and solidarity initiatives [...] What we experienced with Radio Comunitaria is that one of the cures to this pandemic is not feeling alone, feeling part of a community.”

Many cultural events held online by civic actors have also been used as fundraising opportunities to support medical staff and groups most hit by the crisis. For example, the Czech LGBTI initiative “We are fair” aired a theatre play on their social media to raise funding to actors, single parents and medical students sewing masks (read the interview with Czeslaw Walek and Filip Milde).

INFORMING PUBLIC POLICIES AND HOLDING INSTITUTIONS ACCOUNTABLE

Being in close contact with vulnerable groups and the population at large, civic organisations and social movements have a deep understanding of societal challenges and how public policies (or lack of thereof) affect them. **Governments and institutions at all levels have found valuable, yet demanding partners in civic actors who alerted of the conditions of the population and provided them with information and policy proposals.**

An example is the advocacy action carried out by the Czech LGBTI initiative “We are fair” calling for a marriage equality bill. When the Czech borders were opened to reunify married couples that were separated in different countries by the lockdown non-married

couples were not included in the legislation. The association pointed out the situation to the authorities and successfully obtained to include more categories in the law (read the interview with Czeslaw Walek and Filip Milde below).

When authorities would not take into account the alerts of civic actors, they organised contestation and mobilised the public. For instance, in Spain, as the health emergency worsened the conditions of domestic and care workers, especially those with migrants backgrounds, the association SEDOAC (Asociación Servicio Doméstico Activo - Active Domestic Service Association) succeeded in making a strong case for state’ support to the sector (read the interview with Carol Elias). On this action, the Calala Women’s Fund reported to the ECF:

“Faced with this situation, SEDOAC carried out a strong political advocacy campaign through the media, demanding that the government should adopt measures for domestic and care workers. While, at the same time, accompanying and informing domestic and care workers through their social networks and the telephone. This advocacy campaign was built in coordination with the NGO Alianza por la Solidaridad [...], and it was echoed in most of the media, thus becoming a mean of pressure for the Spanish State, which had to issue a special measure for domestic and care workers: the Extraordinary Subsidy for Domestic Employees. With all this work, precedents are set for the viability of achieving the objectives of their struggle, while directly impacting the living conditions of those domestic and care workers that have access this benefit. This opens the way to the political process to achieve equality of rights with other labour sectors.”

CSOs have closely monitored the legislation introduced to face the health emergency, its impact on democracy, human and civil rights as well as the policing of the measures.

For example, in Spain, the collective Defiende a quien Defiende has been monitoring, mapping and denouncing instances of police abuses. It also produced a step-by-step manual of instructions with a video to empower anyone challenging imposed fees considered unfair.²³⁰ In Bulgaria, a group of lawyers started the initiative #rightsincrisis monitoring the violation of rights during the state of emergency, carrying out

²³⁰ Ibidem.

interviews and providing legal materials²³¹. In Hungary, human rights organisations provided legal monitoring and aid to people in need²³². Also, as a law was passed making legal gender recognition impossible, LGBTI organisations are challenging it nationally in Court²³³ and transnationally through advocacy campaigns (see the case study on LGBTI activism). In France, the Ligue des droits de l'Homme documented and denounced abuses by institutions and police forces throughout the country²³⁴ and successfully took legal actions against government's decrees banning public gatherings and freedom of assembly²³⁵. In Ireland, the Irish Council for Civil Liberties was able to obtain the introduction of a sunset clause to limit the timeframe for extraordinary powers of the government (see the Irish case study).

All across Europe, **civic actions have sprung showcasing how most often the sanitary measures and associated sanctions disproportionately impacted migrants, Roma, homeless people, those in detention centres and prisons, LGBTI people** (see the case study by ILGA Europe), **people of colour and the low-income class**.

For example, in France, in April, thirty civic, political and social groups joined an initiative promoted by the collective “Truth and Justice for Adama Traoré”, condemning police behaviour in ghettoised neighbourhoods. The initiative stated:

“People living in working-class neighbourhoods are on the front line of the health crisis: they are among those who work in the “essential sectors”, those who help our society not to collapse today. Yet social inequalities, already glaring, are reinforced by the management of the coronavirus and will explode with the economic and social crisis to come. This is already reflected, among other things, in the particularly high excess mortality in Seine-Saint-Denis since

the beginning of the epidemic. Racist discrimination, which is already unbearable, is reinforced by police impunity and violence and humiliation are increasing in working-class neighbourhoods. In addition, there is the discriminatory curfew imposed on the inhabitants of these neighbourhoods by the city of Nice. These blatant injustices are documented, and no one can ignore them²³⁶.”

At the beginning of June, protests have sparked in cities all across Europe after the murder of George Floyd in the United States. This wave of demonstrations has brought into the spotlight the issue of institutional discrimination and police violence that also exist for many decades in Europe and has been regularly documented during the lockdown (see section 2.3.1 “Deploying the coercive apparatus to police the pandemic”). In France, on 3 June 2020, despite legal limitation to the right to demonstrate in the framework of the pandemic, the collective “Truth and Justice for Adama Traoré” mobilised 20 000 people in Paris in solidarity with Black Lives Matter and in protest against a judgment regarding the Adama Traore case²³⁷, who died after being arrested in 2016²³⁸. Mobilisations also happened in Belgium, Germany, Portugal, Italy, Greece, and many other countries. They are forcing Europe to face the present inheritance of its colonial past.

The online space has been crucial to mobilise support for advocacy proposals and protest. Still, associations and movements also found creative ways to carry out mobilisations in the streets while maintaining safety measures. For example, in Poland, people protested against the move to tighten abortion legislation while queuing at the supermarket²³⁹, while in Slovenia, activists have protested against the government's moves to restrict rights by cycling around the city (read the interview with Nika Kovač).

Other groups that have been particularly hit during the pandemic also have self-organised or mobilised in protest. It is, for example, the case of

²³¹ BCNL, Temporary Derogation from the European Convention on Human Rights – is it Necessarily?, <http://bcnl.org/en/news/rights-in-the-time-of-crisis-1.html>, (26 Mar. 2020).

²³² See for example: <https://www.helsinki.hu/en/covid-19-news/> <https://hclu.hu/en/articles/research-on-the-obstruction-of-the-work-of-journalists-during-the-coronavirus-pandemic-in-hungary>; <https://hclu.hu/en/articles/how-not-to-commit-scaremongering>; <https://hclu.hu/en/articles/coronavirus>.

²³³ Transvanilla, #LGRforHungary - Call to action page, <http://transvanilla.hu/home/news/lgrforhungary-call-to-action-page>, (22 June 2020).

²³⁴ Malik Salemkour, DU RISQUE SANITAIRE AUX RISQUES DÉMOCRATIQUES, <https://www.ldh-france.org/du-risque-sanitaire-aux-risques-democratiques/>, LDH, (24 Mar. 2020).

²³⁵ Civic Space Watch, FRANCE: The French Ligue des Droits de l'Homme takes legal action against the government's decree banning public gatherings and freedom of assembly, <https://civicspacewatch.eu/francethe-french-ligue-des-droits-de-lhomme-takes-legal-action-against-the-governments-decree-banning-public-gatherings-and-freedom-of-assembly/>, (16 June 2020).

²³⁶ La colère des quartiers populaires est légitime, <https://www.bondy-blog.fr/societe/police-justice/la-colere-des-quartiers-populaires-est-legitime/>, Bondy Blog, (24 Apr. 2020).

²³⁷ AFP / The Local, Who is Adama Traore and why are there protests across France in his name?, <https://www.thelocal.fr/20200603/who-is-adama-traore-and-why-are-there-protests-across-france-in-his-name>, (3 June 2020).

²³⁸ European Civic Forum, FRANCE: Interview with Comité pour Adama – Fighting for justice and truth for victims of mistreatment by the police, <http://civicspacewatch.eu/france-interview-with-comite-pur-adama/>, Civic Space Watch, (19 Jan. 2020).

²³⁹ Claudia Ciobanu, POLES FIND CREATIVE WAYS TO PROTEST DESPITE THE PANDEMIC, <https://civicspacewatch.eu/poland-people-find-creative-ways-to-protest-despite-the-pandemic/>, Reporting Democracy, (21 Apr. 2020).

renters with rent strikes carried out both by people in difficulty and by people in solidarity with them²⁴⁰. Doctors and health workers have organised protests in different countries²⁴¹. In Italy, the families of those who died in great numbers inside retirement houses have started mobilising asking for the truth²⁴².

The monitoring and advocacy work was also carried out at the European level. Among the most critical transnational civic mobilisations was the call to close Moria's refugee camp on Lesbos island and ensure dignified life to all²⁴³. This demand came from many different actors at the same time at national and European level, through petitions, letters, joint statements and creative protests. For instance, in Germany, on 5 April, people walked individually through the Brandenburg Gate in Berlin, maintaining a safe distance and left coloured footprints or empty shoes all over the square²⁴⁴.

Other examples are the tracking initiative by the civil liberties associations ICNL and ECNL looking at the impact of emergency measures on civic freedoms globally²⁴⁵, and the Corona Lobby Watch by Corporate Europe Observatory monitoring how lobbyists of many industries opportunistically used the health emergency to deregulate their sectors and reduce the European Union's scrutiny²⁴⁶. The Election-Watch.EU network conducted a Rapid Assessment of the impact of Covid-19 on elections in Europe²⁴⁷.

²⁴⁰ Germany: <https://www.wirzahlennicht.com>, Spain: <https://civicspacewatch.eu/spain-human-rights-and-support-networks-in-spain-in-times-of-pandemic/>.

²⁴¹ Spain: <https://www.aa.com.tr/en/europe/spain-sees-396-new-covid-19-infections-doctors-protest/1875766>; France: <https://www.france24.com/en/20200616-enough-applause-french-health-workers-rally-answered-for-post-coronavirus-reforms>; Belgium: <https://www.aa.com.tr/en/europe/belgium-workers-protest-during-pms-hospital-visit/1843971>.

²⁴² Gazzetta di Modena, I decessi nelle Case di Riposo, protesta sotto la Regione Emilia Romagna: «Come è morto mio nonno?», https://gazzetta-dimodena.gelocal.it/modena/cronaca/2020/06/10/news/i-decessi-nelle-case-di-riposo-protesta-sotto-la-regione-emilia-romagna-come-e-morto-mio-nonno-1.38950367?refresh_ce, (10 June 2020).

²⁴³ For example: Change.org, #LeaveNoOneBehind: Prevent the Corona catastrophe now - also at the external borders!, <https://www.change.org/p/european-governments-leavenoonebehind-prevent-the-corona-catastrophe-now-also-at-the-external-borders>.

²⁴⁴ Seebrücke: <https://seebruecke.org>.

²⁴⁵ ICNL and ECNL, COVID-19 Civic Freedom Tracker, <https://www.icnl.org/covid19tracker/>.

²⁴⁶ Corporate Europe Observatory, Corona Lobby Watch, <https://corporateeurope.org/en/2020/05/corona-lobby-watch>.

²⁴⁷ Election Watch, <https://www.wahlbeobachtung.org/en/election-watch/principles/>.

PUTTING SOLIDARITY AT THE CENTRE OF THE AGENDA FOR RECOVERY, PROPOSING ALTERNATIVES

As discussed in the first section of the analysis, the pandemic brought serious concerns for large parts of the population, especially with the surge in unemployment and income insecurity that challenge the day-to-day survival of many. As presented so far, civil society has played a key role in bringing these fears and related concerns to the attention of the institutions, providing rapid assistance to these needs and elaborating targeted policy proposals to tackle them.

At the same time, while the outbreak of the pandemic created a lot of confusion and anxiety, it also opened a **window of opportunity to call for substantial and comprehensive reforms in order to change the way societies, economies and institutions work**. Many civic organisations and social movements have been joining forces and calling for a just and fair society for years. In the context where the effects of the crisis are exposing the unsustainability of the present economic and social model, they presented proposals and joint statements. They launched petitions and online events. The aim of these initiatives has been urging to start thinking a desirable future for the 'day after' the health emergency, to brainstorm collectively the changes the crisis should make inevitable²⁴⁸. This mobilisation for alternatives did not only target specific sectors but also allowed for broader inter-sectoral coalitions and demands. For example, at the end of March in France, 18 associations and trade unions appealed "*to all progressive and humanist forces [...] to rebuild together a future, ecological, feminist and social, breaking with the policies carried out so far and the neo-liberal disorder*"²⁴⁹. In Italy, over 700 organisations came together around a manifesto "*for the society of care*" and are now working towards convergence and formulating concrete proposals putting at the centre life and dignity²⁵⁰.

At the core of all the demands and mobilisations that encompass a broad approach, is the idea that to recover from the collective trauma we experience, solidarity from all and with all has to be at the centre of the agenda. As explained in the interview with

²⁴⁸ See examples: <http://civicspacewatch.eu/category/call-for-action-covid19/>.

²⁴⁹ «Plus jamais ça!» : 18 responsables d'organisations syndicales, associatives et environnementales appellent à préparer «le jour d'après», <https://civicspacewatch.eu/tribune-plus-jamais-ca-18-responsables-d-organisations-syndicales-associatives-et-environnementales-appellent-a-preparer-le-jour-dapres/>, FranceInfo, (27 Mar. 2020).

²⁵⁰ La società della cura, <https://societadellacura.blogspot.com>.

Corinna Genschel and Rebecca Rahe from the collective #Unteilbar, bridging different civic and social actors in Germany, solidarity should be understood as more than the spontaneous practice we observed in all neighbours in Europe. Solidarity also means demanding that the costs of and resources mobilised for the crisis are distributed equally in society. On 14 June, the group called on civic actors and citizens to take on the streets of ten cities across the country to remain “indivisible”, united through the crisis. The call to action stated:

“Now we decide who bears the costs of this global crisis, who will come out of it stronger, and who weaker. Now we decide whether we manage to strive together towards an anti-racist, social and climate just society – for a better life for all. Even in this crisis we demonstrate that this can be handled with solidarity – we do not allow to be played off against each other.”²⁵¹

During the months of the lockdown, we have seen an impressive number of webinars and meetings connecting struggles and attempting at strategising. While the day-to-day work was dictated by the urgency of responding to health, societal and democratic emergencies very locally rooted, the internet offered a space to revitalise regional, European and global thinking and coalition-building.

For example, over 50 civic organisations called on the European institutions and Member State governments to make solidarity the “bedrock” of the response to the crisis and “to seize this moment to work towards a fundamental change in our social, economic and political systems.” They also committed to “working together towards a shared vision of the future of Europe, one that is based on a socially just, feminist, sustainable, democratic and inclusive society” and to be “ready to support the transition away from the current social and economic model, which drives inequality and environmental destruction and leaves us unprepared when crises hit.”²⁵²

Despite the problems and the limitations of the internet, this tool is providing civil society with a new possibility to meet and to cooperate, with reduced need for funding for travelling, minor impact on the climate, and with the possibility to involve also “peripheral” communities and persons.

CSOs also organised and coordinated intense pressure on European and national authorities around

the negotiations for national recovery plans and the next European Multiannual Financial Framework to ensure that national and European budgets match the priorities and need to change path highlighted by the crisis. For example, the European Civic Forum coordinated over 300 civic organisations to protest the cut of funding allocated to the Justice, Rights and Values programme by the proposal of the European Commission. The programme would provide essential funding for civil society working to defend fundamental rights and the rule of law in the European Union²⁵³. As a result of this pressure, in November 2020, the European Parliament and the German Presidency of the Council of the EU agreed to significantly increase the budget for the programme, raising from 0.8 to €1.6 billion for the 2021-2027 period²⁵⁴. ■

²⁵¹ Unteilbar, <https://www.unteilbar.org/sogehtsolidarisch/>.

²⁵² For a Europe that cares for all – during the COVID-19 pandemic and beyond, http://www.foeeurope.org/sites/default/files/democratic_europe/2020/for_a_europe_that_cares_for_all_-_during_the_covid-19_pandemic_and_beyond.pdf, (Apr. 2020).

²⁵³ ECF, FUNDAMENTAL RIGHTS: PUT OUR MONEY WHERE OUR MOUTH IS, <https://civic-forum.eu/publications/open-letter/letter-to-eu-and-national-leaders>, (8 June 2020).

²⁵⁴ ECF, CIVIC ORGANISATIONS TO SECURE A HISTORIC VICTORY!, <https://civic-forum.eu/press-release/civic-organisations-to-secure-a-historic-victory>, (13 Nov. 2020).

*This is the story of the war widows of Chechnya who know what it means to lose beloved ones. When Khedi Alieva and her sister Aminat learnt that people were dying in masses in Italy and Spain because of COVID-19, they swung into action to save lives. Together with their women's group **Women on the Road Foundation**, the Chechen sisters got behind their sewing machines and started making protective masks and overalls. To date, the women, based in the Polish city of Gdańsk, have sewn at least 31,000 masks for doctors, nurses and others in the wider community. This story is a great example of how we all can feel responsible for each other during an epidemic that affects all of us. It has been undertaken by women who come from war zones and are familiar to death. Their experience has given them the strong will to live and determination to make the most of life. By undertaking this work, not only do they strengthen their feeling of belongingness to receiving society, but they also counteract persistent negative stereotypes about refugees.*

Filip Pazderski,
Institute of Public Affairs Foundation

THE EPIDEMIC HAS PUT US ALL ON THE SAME FOOTING

Women refugees sew masks for everyone in Poland

Interview with Khedi Alieva, Fundacja Kobiety Wędrownie / Women on the Road Foundation

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Can you tell us about the Women on the Road foundation? When was it founded, who are its members and goals?

Kobiety Wędrownie is the only foundation organised by refugee women in Poland with the goal to cooperate and live in peace together in Poland. The foundation is led by me and sociologist and psychologist from the Gdansk University Dorota Jaworska. We also created similar groups in other cities in Poland: in Warsaw and Grupa. For migrant women, it is often difficult to spend time outside the family so we thought that sewing together would be a good pretext for them to spend time outside the house. The women involved in the foundation are from Chechnya, Azerbaijan, Tajikistan, Russia, Ukraine... Before the COVID situation, we were designing and producing dresses. We were going to sew some for women in refugee camps in

Italy. I am a woman of the world. I touched dead human bodies with my hands as I was searching for the body of my husband who lost his life in the war in Chechnya. I suffered from post-traumatic stress disorder. When I heard about the situation of refugees in Italy, I got afraid that it might be a similar story. But I thought: I am strong also because of my past. With the dresses, we wanted to show them that they can also have their own goals and be active, instead of spending time thinking about dark memories. We had to interrupt this project because the pandemic started, but we hope to be able to resume it soon.

What pushed you to get organised in Poland and what is it like to be a woman refugee and an activist in the country?

When I arrived in Gdansk, I was thinking of the speech that Lech Walesa gave to the Congress of the United States 'We the

people..' and I thought 'Yes, I am a human too'. I believe in that statement because I fled war in my country with the hope to find peace in Poland. I wanted to show the Polish people here in Gdansk that even though I am different - I am a woman, a refugee, a Muslim... - I have the same

**PEOPLE WILL NOT
GIVE UP IN DIFFICULT
TIMES AND WILL BE
ABLE TO SUPPORT
EACH OTHER AND NOT
DIVIDE THEMSELVES
INTO GOOD AND BAD,
WEAK AND STRONG**



Khedi Alieva

feelings, hopes and rights as everybody else. I wanted them all to know that.

When I came here, I felt like a child and when I met Dorota, she was walking me as a child, holding my hand. With the help of Dorota, I found that there are about 20 organisations working with refugees in Poland and they are doing a lot of great work, but none was founded by refugees. So, with Dorota, I decided to change this and start a foundation that would be led from the beginning by a refugee. For the next years, our goal is to prepare and train the younger generation to take the lead of the foundation one day. We started an informal group called 'Not sweet girls', with teenage refugees from USSR countries. We helped them write a project and they got a grant for it, so they are working on it now! Also, we thought that it would be good to find them mentors in the industries they would like to succeed in. For example, one of them would like to become a fitness instructor wearing hijab, another one has physical disabilities and the other one is a very skilled designer. We are looking for mentors to help each of them in the area they want to succeed.

Do you consider yourself and your organisation feminist?

Yes!

What initiatives did you carry out to support people in your community during the pandemic?

When the COVID broke out, we were somehow prepared: we had sewing machines and knowledge to use them. When I learned about the lack of masks in Poland, I thought that we, women from the foundation could help. I started reading how to make masks and with the internet, it was easy to find that out. Then there was the issue of the material. Somebody brought us fleece, a material used for medical purposes, but it can only be used once. I remembered that cotton is natural; you can wash it and use it again. So, I started to search for it. I found it quite quickly, but it was three times more expensive than fleece. I told the story of my life to the owners of a store and what I wanted to do with it. They gave me the material even if I was not able to pay them and they even took material that they were keeping for other customers. They believed that I was going to use it well. They were asking me how I was going to do with such a big bill, and I told them that people would help. And that was the case. My friends organised a fundraising action and they collected the money to pay all the material. In June I paid all my debts. To whom would ask, we said that we did not want money, we preferred receiving fabric, so people started organising to bring us material.

We started producing the masks around 15 March. I went to the Director of this school, to ask for a space to manufacture masks. Schools were closed all across Poland and teachers were doing their lessons online. She took a risk: at that point it was not clear what the rules were going to be in the next period. She allowed us to use the school library to sew the masks. I started only with my sister. We wanted to keep it in the family, to avoid spreading the virus outside the family. Even my son decided to leave his job and started helping. When we started we had no food. At one point we were

scared we could starve. But this did not happen because people, friends, neighbours started to prepare food and bring it to us for free. Then people also started asking to volunteer and help us sewing the masks. At the beginning we were refusing because it was too risky. But there were so many requests... so, we decided that they could sew the masks and leave them in boxes outside the school 'quarantining' for some time. 15 people helped; we gave them all the resources and knowledge to sew masks in their homes. We exchanged practices with five other civic organisations. We also cooperated with other migrants' centres in Poland to sew the masks as well as with municipal and regional health, social welfare, education and security institutions.

We were afraid that we were not doing enough and not helping enough people, so we were even sleeping at school to make more masks. So far, we sewed 31,000. We distributed masks in all Poland: in Churches, hospitals, nursing homes, schools... To our neighbours, Roma people, refugees, homeless people through associations that support them.... whoever was asking us on Facebook, could come and pick up the masks. At the beginning, it was impossible to buy masks, even online. We even gave them for free to shops. Then, when the situation with masks improved, we started producing medical overalls,

I FOUND THAT THERE ARE ABOUT 20 ORGANISATIONS WORKING WITH REFUGEES IN POLAND AND THEY ARE DOING A LOT OF GREAT WORK, BUT NONE WAS FOUNDED BY REFUGEES

fifty so far. Now, we are still sewing masks in the school during the summer break. We want to be prepared in case there is a second wave in the Autumn.

Throughout the lockdown, I was also so full of the belief that I would not get sick, that I would be okay and that gave me a lot of energy to work. I even danced Chechen dances for people on the social media of the foundation. Dorota offered psychological support to people. Many people said that we gave them a lot of energy and strength during the lockdown. We reached thousands of people. They believed in us and helped us. They trusted our story and our willingness to help. Some newspapers and media also picked up on the news. At the beginning, a very prominent local journalist was questioning why we were doing it, if not for money. So, I showed him my bank account with only 10 Euro balance and he was shocked and moved. He started believing the story.

Do you think that this story had an impact on the perception of migrants in the public?

There is a common view of Poles as anti-migrants. But I do not believe this is true. The warmth that I received from people, especially during this action, really tells a different story. Polish people fed me and my family for three months. I am in contact with refugees from Chechnya in Austria, Germany and Switzerland. Their situation is clear; they got the documents. On the contrary, I am still waiting for my documents. I have been waiting for too long, for seven years. But here in Poland I have the freedom to be who I want. I also lived in Austria for three months. Anywhere I go I like to be active but in Austria authorities stopped me from being active. My idea is that they wanted to keep refugees less educated. The system there is also very demoralising: when you are in the camps and you are not working, you receive more money than when you have a job. Somehow it was better not to work. I



did not like that system. In Poland, it is very difficult from an economic point of view, but for me freedom is more important. For example, pursuing higher education instead of sitting demoralised and doing nothing. I had the opportunity to co-author a book for the University of Katowice with Dorota on the situation of Chechen people.

Do you think that the freedom you perceived as a refugee is also connected with Gdansk pro-immigration policies?

Yes. Since the first moment I arrived, I felt I belonged here, but the situation was quite difficult at the beginning. One day there was a celebration and the then-Mayor Mr Adamowicz was present. When he saw us, ladies dressed in colourful clothes and hijabs, he came to greet us and welcomed us.

Is there a desire to get organised also transnationally in Europe?

Dorota and I have been invited to go and meet other organisations in Germany, Italy, and Spain but because of my documents it is impossible for me to travel.

Do you think that the European Union can be an ally in your struggle? In what way?

Since the work of the association is becoming better known also at the

international level, the Polish Ombudsman started looking into my situation, because the wait for my documents is too long. Some European officials have put pressure and that is helping. So, it might be over soon.

What lessons can be learned from this initiative that can potentially inform a post-COVID-19 institutional and societal response?

During the lockdown, through our activities many people got the knowledge and understanding for refugees and people coming with other cultures. I think that people are now richer with the experiences in their hearts and open to cooperation. Many people learned that life is the most important value and it must be protected. We hope that this initiative will be an example so that people will not give up in difficult times and will be able to support each other and not divide themselves into good and bad, weak and strong. The epidemic has put everyone on the same level. We must learn to live together. Nobody should have the same dark experiences that I have had, so my lesson is: be alive and cherish your life! ■

The interview was carried out on 14 July 2020. It was carried out in Polish, translated by Joanna Dunajska.

*Before the state of the sanitary emergency, domestic and care workers were already in a situation of great inequality of rights in comparison to other labour sectors. This became worse in the state of emergency. The sector was considered an “essential” job and was not paralysed at any moment. However, domestic and care workers were never provided with the necessary preventive measures to avoid infections. In addition, there was an increase in layoffs and shorter working hours, as many employers decided to stop employing them because they were afraid of possible infections. At first the State did not adopt economic measures to cover the state of vulnerability and extreme poverty that affected almost 600.000 people who work in this sector, while it was done for other labour sectors. However, already at the beginning of the sanitary emergency and in a moment of great confusion in Spain, **the movement of domestic and care workers** has managed to organise and position their demands. This is especially relevant as it is a grassroots movement led by migrant women. In addition to resolving the emergency situations in their own and their colleagues’ and families’ daily lives, they have been able to make their voices heard and to achieve concrete changes that represent a further step towards the equality of domestic and care workers labour rights with other workers in Spain.*

Fiona Montagud,
Calala Women’s Fund

IN SPAIN THE PANDEMIC EXPOSED THE FRAGILITY OF ITS CARE SYSTEM

An opportunity to set a new course

Interview with Carol Elías, Sedoac Servicio Doméstico Activo

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Can you tell us about the Association for Active Domestic Service (SEDOAC)? When was it founded, who are its member and goals?

At the beginning of 2005, some NGOs began to organise informative meetings about the regularisation of migrants. This led many migrant women to meet each other and to realise that most of them worked in the domestic sector, where they suffered many abuses, exploitation and above all, lack of recognition of rights in comparison to the rest of the workers in Spain. For this reason, they saw the need to organise and found an association in which they would fight together for that equality of rights that is so necessary to live a dignified life. This is how SEDOAC was born.

Its members are women of different nationalities, especially from Latin America, between 25 and 60 years old, who work or have worked in the domestic and care sector.

Our main objectives are:

EMPOWERMENT: The empowerment of our members through information and training about their rights, working on their self-esteem and being a well-rounded person.

SENSITISATION: To make the wider society aware of the value of this work, which guarantees the sustainability of life itself.

NETWORKING: The construction of strategic alliances with other similar Associations or Organisations, in order to join forces to achieve our objectives.

POLITICAL IMPACT: We are convinced that it is necessary to reach

the people who represent us and who have the power to make decisions in the State and in the different Public Institutions, in order to achieve the legislative and structural changes that guarantee equal rights to our sector as the rest of the workers in Spain, Europe and the world.

What pushes you to get organised in Spain and what is it like to be an activist from Latin America in the country?

In El Salvador, I worked as a lawyer in a women's association that fought for the rights of women textile workers. There, I supported them in their struggle for

**THIS WORK GUARANTEES
THE SUSTAINABILITY
OF LIFE ITSELF**



Carol Elias

rights. There I saw the importance of organising and fighting to live a life that is 'worth living'. In 2009 I arrived in Spain, and despite having a degree in law and an Official Master's Degree in Gender Equality from the Complutense University of Madrid, the only work I found was in the domestic sector. For 5 years I myself experienced labour exploitation, class discrimination and racism for being a migrant and a domestic worker. This motivated me to organise myself and look for an association where I could

find support. I found this support when I joined the Latin American and Caribbean Women's Network, an entity to which SEDOAC belonged since 2010. This is how I became part of SEDOAC in 2012. In 2014 I became its president. In SEDOAC I not only found support, but also friends and a reason not to give up and to fight tirelessly until all domestic workers obtain the rights that we deserve to do such an important job as caring for life.

How has the pandemic impacted your community?

The Pandemic has highlighted Spain's healthcare crisis and how fragile its care system is. The pandemic further aggravated the working conditions of domestic workers. Many of those who worked part-time or full-time suffered reductions in their working hours. Others were dismissed without receiving fair compensation and without the possibility of finding another job that would allow them to obtain the income necessary to support their families in their countries of origin and to survive in Spain. Those who kept working suffered further exploitation, they were not provided with the necessary means to protect themselves against COVID-19 and to protect the people they were caring for. Those who worked as live-in domestic workers saw their workload increase as they had the whole family at home, and even had to perform tasks for which they were not hired. The worst thing was that many of them were forced by their employers not to go out to rest on weekends in their respective homes and to remain confined in the workplace. As a result, they could not go to take care of their own children, as they were threatened of dismissal if they left their workplace. They were forced to accept not seeing their families for more than 90 days.

What strategies did SEDOAC put in place to leverage support for domestic workers?

SEDOAC had a lot of presence in the different national and international media (radio, TV, written and digital press). We also carried out campaigns in the different social networks where we denounced the various situations of vulnerability to which domestic workers were exposed. We held workshops and online meetings with our members to talk about their situation and to inform them about their rights amid the pandemic. Above all, these meetings allowed them not to feel so lonely and to support each other.

We coordinated with the associations of Domestic Workers all over Spain to make a strong advocacy effort so that our sector would be included among the measures that would help to alleviate the consequences of the tremendous economic crisis caused by the State of Alert.

What impact have these actions had?

We managed to attract the interest of different media about the situation of domestic workers so that they were talking about it on a weekly basis, raising awareness about the value of our work among the public.

The pressure on the Government was effective, as it enabled the implementation of an extraordinary subsidy for domestic workers. More than 30,000 workers have requested it and we hope that they will soon start receiving it.

We managed to make our members feel supported and informed, thus contributing to the process of empowering each one of them.

Is there a desire to get organised also transnationally in Europe?

Being able to organise ourselves with other domestic workers across Europe is a much-needed strategy, in order to achieve

IN SEDOAC I NOT ONLY FOUND SUPPORT, BUT ALSO FRIENDS AND A REASON NOT TO GIVE UP AND TO FIGHT TIRELESSLY UNTIL ALL DOMESTIC WORKERS OBTAIN THE RIGHTS THAT WE DESERVE TO DO SUCH AN IMPORTANT JOB AS CARING FOR LIFE

WE MANAGED TO ATTRACT THE INTEREST OF DIFFERENT MEDIA ABOUT THE SITUATION OF DOMESTIC WORKERS SO THAT THEY WERE TALKING ABOUT IT ON A WEEKLY BASIS, RAISING AWARENESS ABOUT THE VALUE OF OUR WORK AMONG THE PUBLIC

the structural changes that will lead to the dignified working conditions for our sector. Unfortunately, what we experience in Spain is also experienced by many migrant domestic workers throughout Europe. What prevents us from taking the step to coordinate transnationally is the lack of essential resources and means to carry out this work. We need to hire qualified personnel to support us and facilitate the communication effort (translation into and from Spanish), as well as to

get the contacts of those other associations of domestic workers outside Spain.

Do you think that the European Union can be an ally in your struggle? In what way?

The European Union can be a great ally in our fight, since it can adopt public and legal policies that oblige the Member States to modify the regulatory framework that marginalises us and discriminates against the rights that the rest of the workers already enjoy. It can also make information available to us, but also training and human and economic resources to facilitate our fight for rights.

What lessons can be learned from this initiative that can potentially inform a post-COVID-19 institutional and societal response?

The struggle that we, civil society groups carry out is fundamental to achieve a more just society, but this struggle needs coalitions and strategic partners that can provide the necessary tools so that it does not last forever. The current post-COVID19 context is an opportunity to strengthen the struggle that we have already been carrying out and for

THE PANDEMIC HAS HIGHLIGHTED SPAIN'S HEALTHCARE CRISIS AND HOW FRAGILE ITS CARE SYSTEM IS

governments to set a new course that will prevent the continuation of the modern slavery in which hundreds of thousands of domestic workers live. ■

The interview was carried out in written form in Spanish on 24 July 2020. Thanks to Fiona Montagud from Calala Women's Fund for the support with the translation.



LGBTI

The space for LGBTi activism is under pressure

The COVID-19 crisis has put an extraordinary burden on LGBTI organisations. Like in other fields, many members of LGBTI communities were unable to have their basic needs met, thus civic organisations acting for LGBTI rights faced an increased request for service provision in face of decreased internal resources. Attempts to fill humanitarian gaps left by the States' response to the emergency have taken away their capacity to do the usual work, including advocacy, policy work and standard-setting through strategic litigation. Additionally, organisations faced new obstacle accessing advocacy spaces which are vital to inform governments' policies. In the long run, the loss of funds, together with the likelihood of this funding not being replaced, is likely to cause significant sustainability issues for many organisations. All of this is happening in a context of stagnating progress on or even deterioration of LGBTI rights overall. Nevertheless, successful civil society initiatives popped-up across Europe to keep the LGBTI connected and the spirit of the Pride alive despite the restrictions.

DENMARK

Activists used virtual reality to march virtually in the Copenhagen Pride

From concerts to programme of lectures, exhibitions and an LGBTQIA+ hall of fame, this year LGBTI members could explore the Copenhagen Pride through the virtual reality. From their homes, but as if they were in the streets.



UNITED KINGDOM

Bristol Pride went online to show LGBTI community that they are not alone

One of the largest Pride's of the UK decided to take place online in September, in order to support all those that are living through a lockdown with unsupportive families or housemates. The LGBTI community of Bristol could enjoy the activities, performances and even the "Pride parade" from their own homes.

POLAND

LGBTI activists set up a "Rainbow disco" in front of the presidential palace to protest against President words

In reaction to President Andrzej Duda's words stating that the LGBTI rights are "a foreign ideology that we will not allow to be introduced into our country", a brave group of activists danced in sign of protest in front of the presidential palace.

SPAIN

Trans young people mobilised during the pandemic for self-determination in Spanish law

After a successful online campaign, Confluencia Trans decided to take to the streets of Spain on Youth Day to call on the government to protect the right to gender self-determination in "children, adolescents and youth". The demonstration obtained wide visibility in the Spanish media.



SLOVENIA

LGBTI community brought the pride on bicycles, the symbol of anti-government protests

As different Slovenian cities protest against the right-government Prime Minister Janez Janša of their bicycled during the pandemic, the LGBTI community cycled through the streets of Ljubljana to celebrate Pride and to demand rights and protection over this pandemic.



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BULGARIA

The lockdown brought Bulgaria's LGBTI community virtually closer

With the declaration of the state of emergency, the oldest Bulgaria's LGBTI organisation, Bilitis, decided to take their work to the digital level. It launched an online psychological support programme focused on the crisis and dealing with the lockdown. As a result, it managed to keep the community connected, reach even more people than usual, also from the countryside.

LGBTI COMMUNITIES ARE VULNERABLE IN THE HEALTH CRISIS

NGOs shift their work from advocacy to humanitarian aid

By Akram Kubanychbekov and Manon Yzermans, ILGA Europe

The COVID-19 pandemic has been a challenging period for everyone and a test for the governments' protection of fundamental rights, civic space, and vulnerable communities. For the LGBTI community, social distancing measures often meant not having access to peers and LGBTI-specific support and healthcare. Furthermore, the COVID-19 crisis unfolded amid growing backlash affecting LGBTI communities.¹ ILGA-Europe has been documenting the impact that this global health crisis has on LGBTI communities and organisations. Such documentation is essential to inform policymakers on how to ensure that responses to this crisis are inclusive of the specific needs of the LGBTI community. We conducted a survey on the impact of COVID-19 crisis

on LGBTI communities and organisations. Based on responses to the survey, together with direct communications with activists, reports from our members and input from webinars organised by international organisations and NGOs during the crisis, ILGA-Europe published a briefing document on impacts of the COVID-19 crisis on LGBTI people, including a compendium of recommendations to policymakers as well as descriptions of specific barriers faced by the community.²

THE IMPACT OF THE COVID-19 HEALTH CRISIS ON THE LGBTI COMMUNITY AND THEIR RIGHTS

As a consequence of the crisis, most States derogated, whether *de jure*³ or *de facto*⁴, from their obligations under international and regional human rights law. Even in times of crisis, some rights are non-derogable; however, in practice, they are most frequently violated in times of emergency, hindering a prompt and full return to a normal situation. The crisis had a strong impact on the LGBTI community and their fundamental rights, putting additional pressure or limitations on civic space for LGBTI people and organisations.

³ Officially notifying the international community that they will adopt measures impacting the human rights of their citizens.

⁴ States which do not notify that they are adopting measures derogating from their obligations, although they are practically doing so.

¹ Find out more: https://issuu.com/ilgaeurope/docs/annual_review_2020

² Find the full report: https://www.ilga-europe.org/sites/default/files/COVID19%20_Impact%20LGBTI%20people.pdf.

Health and access to health

Already before the crisis, LGBTI people had significantly lower health outcomes due to stigma and discrimination, biases held by healthcare providers, and lower socio-economic status, often linked with lower access to comprehensive health insurance and were, therefore, more vulnerable.⁵ In response to the survey, ILGA-Europe received or observed reports of impacts on access to health from 30 countries across Europe and Central Asia. They show how pre-existing limitations in LGBTI affirming healthcare⁶ were exacerbated as healthcare systems redirected their resources.

Transition-related medical care, which is life-saving care for trans people, was largely deemed non-urgent and postponed or cancelled in the light of COVID-19. In 26 countries, organisations reported limitations on transition-related healthcare, including access to continuity of care for ongoing treatments. Many intersex people, both those who identify as cis and as trans, need access to continuing care for hormones and other treatments related to their sex characteristics variations. For trans people, this has the additional impact of delaying access to legal gender recognition procedures in countries in Europe where transition-related medical care is required.

Issues accessing sexual health and HIV services were reported in 12 countries, with reports of cancellation of HIV testing programmes as well as check-up appointments for people living with HIV, suspension of new prescriptions of PrEP, and PrEP trial cancellations. Research in Belgium⁷ found that many appointments for PrEP and for people living with HIV

⁵ https://ec.europa.eu/health/sites/health/files/social_determinants/docs/stateofart_report_en.pdf

⁶ LGBTI-affirming healthcare is healthcare that holistically attends to LGBTI people's physical, mental, and social health needs and well-being while respectfully affirming their sexual orientation, gender identity and gender expression and sex characteristics.

⁷ University of Antwerp Institute of Tropical Medicine, çavaria, & Sensoa (2020). Preliminary results of PROMISE project study.

AS A CONSEQUENCE OF THE CRISIS, MOST STATES DEROGATED, WHETHER DE JURE OR DE FACTO, FROM THEIR OBLIGATIONS UNDER INTERNATIONAL AND REGIONAL HUMAN RIGHTS LAW

were postponed and about 1 in 10 PrEP users were worried about running out of medication.^{8, 9} Within the community, sex workers in the region experienced unique hardships in access to health. The International Committee on the Rights of Sex Workers in Europe (ICRSE) and the Sex Workers' Rights

⁸ For additional information specifically about HIV and the COVID-19 pandemic, see reports from EATG: EATG (2020). EATG Rapid Assessment COVID-19 crisis' Impact on PLHIV and on Communities Most Affected by HIV, Issue 1, available from: <https://drive.google.com/file/d/1Fhv4dMkFGg3Bb4NWhvDxGVQIZAedJtP4/view>.
⁹ EATG (2020). EATG Rapid Assessment COVID-19 crisis' Impact on PLHIV and on Communities Most Affected by HIV, Issue 2, available from: https://drive.google.com/file/d/1x_cSX8vpBsAzhYBNCygu4sJ_2Uh9-ddG/view

ILGA-Europe (<https://www.ilga-europe.org/>) is an independent, international non-governmental umbrella organisation bringing together over 600 organisations from 54 countries in Europe and Central Asia. The main pillars of work include advocating for human rights and equality for LGBTI people at the European level and strengthening the LGBTI movement in Europe and Central Asia. To do so, ILGA-Europe connects organisations and provides training, support and small grants to its member organisations and other LGBTI groups. During the crisis, ILGA-Europe supported the movement by monitoring its consequences on the community, raising awareness around such impacts, and advocating for LGBTI inclusive responses. Through the "Protect, Adapt and Rally" plan ILGA-Europe also developed resources to help members during the crisis (<https://www.ilga-europe.org/covid19>). These resources include briefing documents on identifying States' breach of their obligations and documenting them, working safely online and managing financial resources, communicating clearly to reach out to communities, as well as organising LGBTI prides online and making online fundraising events. In addition, ILGA-Europe launched a fund to support the LGBTI movement's capacity to effectively address socio-economic inequalities within LGBTI communities at this critical moment (<https://www.ilga-europe.org/covid19/funding-opportunities>). The objective of this fund is to enable LGBTI groups and organisations in Europe and Central Asia to gain skills and knowledge, build alliances and relationships, and test new types of activities, to develop longer-term responses to underlying causes of social and economic inequalities.

Advocacy Network (SWAN) reported problems accessing ongoing hormone therapy and HIV prevention and treatment, as well as to COVID-19 testing and personal protective equipment and supplies for those who were required to continue working.¹⁰

Access to housing, food, and subsistence through public relief programmes

Problems in accessing basic needs, public assistance, support, and service programmes were reported from 21 countries. This figure points to the greater than average rate of LGBTI people who are unemployed and in precarious jobs, and living on very limited and unstable financial resources. An estimated 25-40% of young people experiencing homelessness identify as LGBTI. In order to respond to the extreme vulnerability of people in precarious jobs and housing situations, including questions of access to social protection and access to healthcare services, many LGBTI organisations

¹⁰ ILGA-Europe COVID-19 assessment report, p.4. See also ICRSE & SWAN (2020). COVID-19 crisis impact on access to health services for sex workers in Europe and Central Asia, available from: http://www.sexworkereurope.org/sites/default/files/user-files/files/Covid19_SWAN%26ICRSE_Final_Interactive%20%281%29.pdf

in these countries reported having shifted their previous plans and budgets to cover humanitarian aid gaps within States' response to the crisis, which indicates that LGBTI people in many countries are left behind public relief programmes. To finance the provision of basic support services to LGBTI people, NGOs redirected existing funding where possible or conducted targeted fundraising campaigns. Funds and resources for these measures were unable to meet the needs of the communities, according to most reports. Such attempts to fill humanitarian gaps have also taken away effort and capacity to do the usual work, including advocacy, policy work and standard-setting through strategic litigation.

Access to justice, registration, and other legal processes

The crisis impacted legal, judicial, and administrative processes that secure the rights of LGBTI people and rainbow families. They include problems with family and relationship registration, legal gender recognition processes and asylum.

LGBTI people in Poland reported that residency permits for same-sex partners were significantly slower than the usual process. In Italy, an NGO reported the sensation that the federal government had "forgotten" about LGBTI people, with all State measures focusing on a heteronormative family model. Rainbow Families are unable to register in Italy, so there was no access

THE LOSS OF FUNDS! TOGETHER WITH THE LIKELIHOOD OF INCOME NOT BEING REPLACED, IS LIKELY TO CAUSE SIGNIFICANT SUSTAINABILITY ISSUES

WHILE MANY MEMBERS OF LGBTI COMMUNITIES WERE UNABLE TO HAVE THEIR BASIC NEEDS MET, ORGANISATIONS PROMOTING THEIR HUMAN RIGHTS WERE ALSO BLOCKED FROM ADVOCACY SPACES

to parental leave within same-sex-headed households. In Ireland, NGOs reported delays in the processing of guardianship and parentage declarations for rainbow families.

ILGA-Europe received reports about problems with accessing legal gender recognition from 8 countries. In many cases, not accessing legal gender recognition has led to further problems, such as impacting individuals' ability to access goods and services and even to travel safely outside of the home in contexts of increased policing.

THE IMPACT OF COVID-19 ON LGBTI ORGANISATIONS

As described above, this crisis has put an extraordinary burden on LGBTI organisations. They had to find new ways to remain in touch with the community, began documenting and reporting on the impact of the crisis and, on top of that, in many places played a role in providing support to those community members most in need. All of this happened in a context of restricted access to policy-making and against a backdrop of stagnating progress on LGBTI rights overall.

Decreased ability of LGBTI organisations to do advocacy and engage with policymakers

Reports of decreased access to policymakers and advocacy opportunities were reported in 19 countries. This is particularly concerning given the gaps in service provision and the human rights violations documented by community members. LGBTI people and organisations were caught in a closed-loop: while many members of LGBTI communities were unable to have their basic needs met, organisations promoting their human rights were also blocked from advocacy



THE AUTHORS

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spaces which are vital to ensuring that those basic needs are met or that government representatives heard voices of LGBTI people. In addition, many LGBTI organisations shifted their focus from advocacy and policy work to direct service provision and humanitarian aid for the community to address gaps discussed in the previous sections; this shift further impacted the ability of those organisations to engage with policymakers.

Public actions, demonstrations, protests, and Pride events were also impossible to hold in some countries. Organisations reported not having the resources to move their advocacy work online or struggling to adapt to online work, or being forced to close or

MANY LGBTI ORGANISATIONS SHIFTED THEIR FOCUS FROM ADVOCACY AND POLICY WORK TO DIRECT SERVICE PROVISION AND HUMANITARIAN AID

terminate segments of their work. In the circumstances with already challenging advocacy contexts, the pandemic worsened these problems.

Nevertheless, despite this additional pressure put on organisations, the work to address the backlash against LGBTI rights has not decreased. Policymakers found time to work on anti-LGBTI specific initiatives whilst organisations were also filling the governments' gaps in the provision of services. In April, ILGA-Europe and Transgender Europe, the two largest networks of LGBTI and trans organisations in Europe and Central Asia, launched the #Drop33 Campaign, calling on the Hungarian

Parliament and the Justice Committee of the Parliament to drop Article 33 of a legislative omnibus bill, which would deny access to legal gender recognition in the country.¹¹ Recently, ILGA-Europe, together with Campaign Against Homophobia (Kampania Przeciw Homofobii) and activists on the ground, raised awareness about the hostile climate against the LGBTI community in Poland, triggered by the adoption of "LGBTI free zones declarations" and "Family Charters", and illustrated by the recent arrest of LGBTI activists who were ill-treated in detention.¹² In June, a new law has been approved in Romania banning gender identity studies in schools and universities¹³. Together with the immense work needed to tackle the challenges deriving from COVID-19, this leaves very little space for LGBTI activists.

Financial impact of COVID-19 on LGBTI organisation

LGBTI organisations in Europe report having very limited reserves, meaning that their bandwidth to absorb losses and deal with unexpected cuts is minimal. The loss of funds, together with the likelihood of income not being replaced, is likely to cause significant sustainability issues for many organisations. The way in which LGBTI organisations are funded or financed is very diverse across the region, and organisations with a stable and diverse funding structure, based on committed core funders constitute a minority. We know from the report "Funding for LGBTI activism in Europe and Central Asia"¹⁴

that the majority of groups are entirely or mostly dependent on project funding or small, incidental community crowdfunding initiatives, local foundations and local governments. A significant portion of the income of LGBTI organisations derives from project funding. At this point, most funders - private foundations as well as governments and institutions



THE AUTHORS

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¹¹ Find out more: <https://www.ilga-europe.org/resources/news/latest-news/drop33-europes-two-largest-networks-lgbt-and-transgender-organisations>

¹² Find out more : <https://www.ilga-europe.org/resources/news/latest-news/poland-international-institutions-must-protect-lgbt-citizens-and-ensure>; <https://ilga-europe.org/sites/default/files/Poland-Anti-LGBT-Timeline.pdf>

¹³ <http://civicspacewatch.eu/romania-law-prohibiting-the-notion-of-gender-and-gender-identity-theory-in-romania/>

¹⁴ <https://ilga-europe.org/resources/ilga-europe-reports-and-other-materials/funding-lgbt-activism-europe-and-central-asia-comparing>

CONCERNS ON DECREASING RESOURCES WILL LIMIT THE ABILITY OF ORGANISATIONS TO FOCUS ON THE ALREADY ONGOING ROLL-BACK OF RIGHTS

- have yet to make announcements on policy and funding changes that come as the consequence of this crisis. LGBTI organisations expect funding cuts materialise later this year and next year when funders are taking decisions in their new budget cycles.

Activists carry out work and incur costs which are not covered from their existing sources of funding, especially emergency support, re-programming, staff costs and overhead costs. Some report feeling the necessity to let go of staff or long-term consultants and contractors. The loss of community centres and offices is also a possibility if rent waivers don't apply in a given country. The long-term impact is likely to be that many groups with significantly decreased capacity, temporary or permanent closing of groups and initiatives, and considerable delays in returning to regular operations and activities. Even with some organisations reporting that they can mobilise funds for a community crisis response, these would barely cover basic needs of some individuals, and in no way contribute to the survival or re-establishment of an organisation.

The potential further decrease of resources will put vulnerable communities at greater risk as organisations will not be able to address emerging needs that concern these communities, and thus inequalities will deepen. In addition, concerns on decreasing resources will

limit the ability of organisations to focus on the already ongoing roll-back of rights¹⁵.

GOOD PRACTICES

LGBTI organisations during the pandemic worked to fill in the gaps left by the States: organising support programmes, fund-raising for private relief programmes, increasing access to housing through networks and building solidarity and support to each other and the community. Moving forward in the response to COVID-19, as well in thinking of future preparedness for crises, ILGA-Europe also collected good practice examples.

Organisations in many countries managed to maintain a high, yet adapted, level of activity, through active adoption by civil society of online services, support programmes, and event planning. In particularly difficult contexts, online events can be even more secure than in-person ones and ensure all LGBTI people in rural and remote areas can participate. A trans organisation in Spain ran an online empowerment campaign for trans youth. An NGO in Bulgaria started an online psychological support programme focused on the crisis and dealing with lockdown facilitated by a friendly mental health provider and moved existing support groups online, which also allowed LGBTI people living outside the capital city to participate. In Sweden, an organisation in one city organised safe outdoor activities for older LGBTI people on a weekly basis.

In some cases, good practices also came from service providers and governments directly. In Spain, doctors working with people living with HIV proactively reached out to their patients online to continue health services. In Malta, the government made HIV self-testing kits available due to closure of the local

clinic. In Portugal, some health services contacted LGBTI NGOs for guidance on working with LGBTI people or asked to share their contacts. The National Health Line added psychologists to their providers, in addition to nurses and other doctors previously involved, and asked LGBTI organisations to be on the referrals list for the service. In the United Kingdom and Italy, the pandemic also served to bring attention to the issue of homelessness among LGBTI people, including LGBTI youth; municipal housing was made available to LGBTI people during the pandemic in Italy. Additionally, the government prepared targeted online resources for

ACTIVISTS CARRY OUT WORK AND INCUR COSTS WHICH ARE NOT COVERED FROM THEIR EXISTING SOURCES OF FUNDING, ESPECIALLY EMERGENCY SUPPORT, RE-PROGRAMMING, STAFF COSTS AND OVERHEAD COSTS

LGBTI people during the COVID-19 crisis in Spain. Some domestic violence safe houses in Italy were opened to LGBTI people as well. In Sweden and France, NGOs reported that their governments allocated special funds to support organisations providing support services to LGBTI victims of domestic violence, to meet increased or changing needs for support amid COVID-19 measures.

CONCLUSION

As this analysis documents, LGBTI people are particularly vulnerable to a variety

¹⁵ See ILGA-Europe's Rainbow Map 2020: <https://ilga-europe.org/resources/news/latest-news/rainbow-map-2020-points-make-or-break-moment-lgbt-rights-europe>

of impacts of the COVID-19 crisis and responses to it. What follows are recommendations for States and funders to address these impacts, alleviate inequalities, and ensure full and equal access to fundamental human rights and civic space for LGBTI people and communities, during and moving out of the crisis.

First and foremost, States must respect core human rights principles applying in times of emergency, whether they derogated *de jure* or not, and guarantee full protection for non-derogable rights in a non-discriminatory manner to all. Regarding the right to health, they must ensure equal and non-discriminatory access to testing, treatment, and care. Ongoing hormone treatments for

PRESSURE ON LGBTI ORGANISATIONS NOT ONLY IS MOUNTING AS A RESULT OF POPULISM BUT IS ALSO EXACERBATED BY GROWING INEQUALITIES

trans people and other vital care like access to HIV-related medications must remain consistent and uninterrupted also in times of emergency. The principle of legality and the rule of law must be guaranteed at all times, and effective domestic remedies must allow alleged LGBTI victims of discriminatory measures vindicate their rights before independent and impartial domestic courts.¹⁶

Secondly, States must proactively ensure full respect of human rights of all

¹⁶ ILGA-Europe (2020). Obligations of states in the field of human rights in the context of COVID-19. Available from: <http://www.ilga-europe.org/sites/default/files/COVID19%20-%20STATES%20OBLIGATIONS%20IN%20THE%20FIELD%20OF%20LGBTI%20HUMAN%20RIGHTS.pdf>

when returning to a state of normalcy, including by taking specific protective measures concerning vulnerable populations. They must ensure emergency support and compensation, and socioeconomic support measures leave no one behind, but take the particular vulnerability of the most marginalised in society into account, including the LGBTI community.

Lastly, governments and funders should consult organisations on the changing nature of their work and provide support when possible. In places where the State does not protect LGBTI people, this outreach should happen through the international community. Economic recovery packages should take into consideration the needs of marginalised communities, including LGBTI people, who might for various reasons experience precarity and have difficulties accessing the labour market. At times when pressure on LGBTI organisations not only is mounting as a result of populism but is also exacerbated by growing inequalities, funding support to LGBTI rights organisations must continue, or it will severely affect the way LGBTI activists are able to organise against populism and in response to COVID-19. ■

GOVERNMENTS AND FUNDERS SHOULD CONSULT ORGANISATIONS ON THE CHANGING NATURE OF THEIR WORK

THE POTENTIAL FURTHER DECREASE OF RESOURCES WILL PUT VULNERABLE COMMUNITIES AT GREATER RISK



CZECHIA

Civic space in Czechia is rated "Open" on the CiViCUS Monitor.

CSOs helped Czech democracy to grow amidst the post-communist transition but, as in other Eastern European countries, they are still facing low trust by the public, weak government recognition and insufficient media attention. In recent years, and especially since the 2017 elections, the public perception of NGOs has been characterised by a steady decline, mirroring similar developments across Central and Eastern Europe. This distrust reflects societal fears and suspicions that opportunistic political forces are sometimes exploiting to limit democracy¹. They have repeatedly attacked voices that are critical of their actions by labelling them as “political”, threatening cuts of state funding and closing their access to the policy-making. Nevertheless, these worrying developments do not affect the overall sustainability and resilience of the Czech CSOs. In this context, the COVID-19 crisis magnified these trends: on the one hand, democratic voices have been targeted by smear campaign of politicians; on the other hand, civic actors have been on the frontlines to respond to the socio-economic and democratic challenges raised by the pandemic.

¹ Activizenship #3 - Democracy under stress - rebuilding trust - rights for all (2019).

THE SECTOR IN NUMBERS

Population of the country (2020)

10.69 million

Number of CSOs registered in the country (2020)

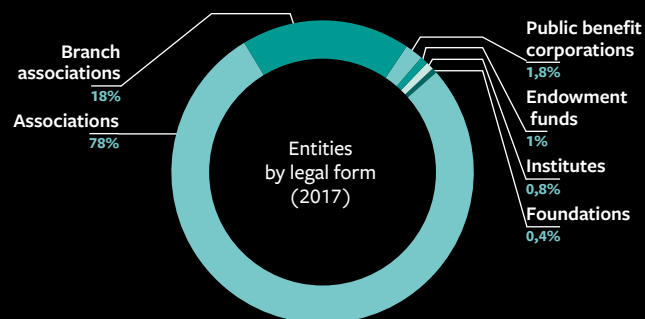
130.000 (-0,43% compared to 2019)

Number of people employed by the sector (2017)

105.292

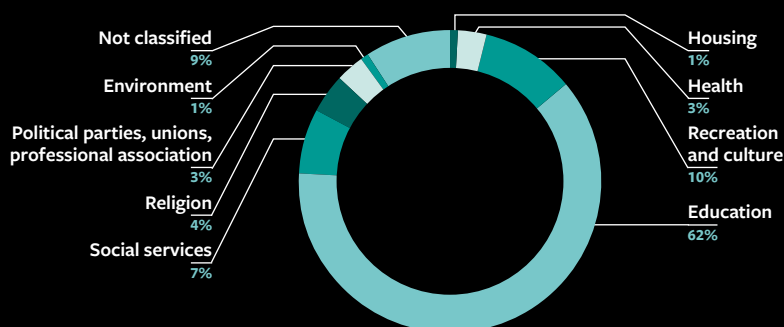
Number of volunteers (2017)

26,964 (0,24% of the total population)



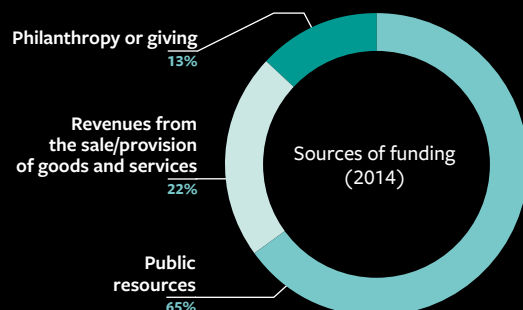
SOURCE: 2019 CIVIL SOCIETY ORGANIZATION SUSTAINABILITY INDEX, BY UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT BUREAU FOR DEMOCRACY, CONFLICT AND HUMANITARIAN ASSISTANCE CENTER OF EXCELLENCE ON DEMOCRACY, HUMAN RIGHTS AND GOVERNANCE (2020)

DISTRIBUTION OF CSOS BY FIELD OF ACTIVITY (2013)



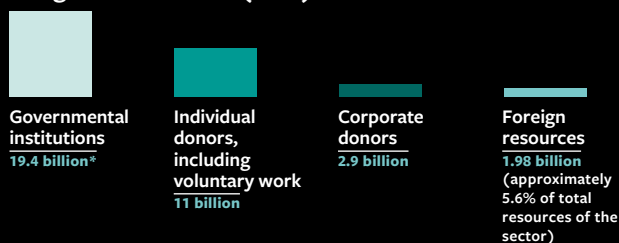
SOURCE: CIVIL SOCIETY IN CENTRAL AND EASTERN EUROPE: CHALLENGES AND OPPORTUNITIES, ERSTE STIFTUNG STUDIES (2017)

THE ECONOMIC WEIGHT OF THE SECTOR



SOURCE: CIVIL SOCIETY IN CENTRAL AND EASTERN EUROPE: CHALLENGES AND OPPORTUNITIES, ERSTE STIFTUNG STUDIES (2017)

Budget of the sector (2016):



*THE MAJORITY OF THE FUNDING GOES TO SPORT AND SPORT ACTIVITIES: IN 2017, IT REACHED ONE-THIRD OF THE OVERALL AMOUNT

SOURCE: 2018 CIVIL SOCIETY ORGANIZATION SUSTAINABILITY INDEX, BY UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT BUREAU FOR DEMOCRACY, CONFLICT AND HUMANITARIAN ASSISTANCE CENTER OF EXCELLENCE ON DEMOCRACY, HUMAN RIGHTS AND GOVERNANCE (2019); 2018 REPORT ON THE STATE OF CIVIL SOCIETY IN THE EU AND RUSSIA, EU-RUSSIA CIVIL SOCIETY FORUM (2019)

Level of trust towards the sector (2019)

Autumn 2019:

33% trust NGOs (-5% compared to spring 2019)

58% do not trust (+6% compared to spring 2019)

SOURCE: PUBLIC OPINION RESEARCH CENTER (CENTRUM PRO VÝZKUM VEŘEJNÉHO MÍNĚNÍ)

CIVIL SOCIETY IN TIMES OF PANDEMIC

Victim of the virus, or more resilient than ever?

By Pavel Havlicek, Association for International Affairs

In the past months, the Czech Republic has been no exception in being hit hard by the COVID-19 pandemic. The Czechs, including their civil society, have gone through turbulent times and moments of sudden lockdown. After the gradual release of measures, they are again getting ready for a potential second wave.

Despite the initial shock and the economic struggle, as the crisis has unfolded, civil society has shown remarkable resilience by substituting - to a large degree - the state in taking immediate action and providing protection and public benefits to the most vulnerable groups in society.¹

Fortunately, Czechia has so far not become one of the countries in which the elites systematically abused their power at the expense of the citizens, as

we have seen - for example - in Hungary or Poland. And even if some representatives of the Government made these attempts, the Czech society, independent media and civil society as well as the political opposition, courts and legal experts pushed them back to strike a balance between the protection of public health and democratic norms and values.

But it is still necessary to carefully watch measures taken by the Czech as well as other European governments and monitor their implementation—and, if necessary, to oppose these changes. Civil society, as an essential pillar of checks and balances, is going to play a crucial role in this and, if given sufficient resources, it will call on the Czech institutions to restore the normal state of play and democratic order in Czechia once the crisis is over. But for that, EU institutions should also play their part by empowering civil society to act and

to reclaim citizens' rights and freedoms back to a full extent.²

CZECH DOMESTIC LANDSCAPE

In recent years, the whole of EU has suffered from democratic backsliding and the erosion of the rule of law as well as from a weakening of other fundamental values, particularly in the Central and Eastern European member states. In that sense, Czechia fits the regional pattern even if the state of its civil society is barely comparable with Hungary or even Poland, where the state authorities have been pressuring the “unlike-minded” groups into isolation using financial, administrative and other means for the last couple of years.

Despite this, Czech civil society lies - and its representatives perceive

¹ <https://www.gmfus.org/blog/2020/04/17/eu-must-learn-its-work-abroad-support-civil-society-home>

² <https://www.euractiv.com/section/freedom-of-thought/opinion/does-the-eu-care-about-democracy-at-home/>

CZECH CIVIL SOCIETY LIES – AND ITS REPRESENTATIVES PERCEIVE THEMSELVES AS – SOMEWHERE IN BETWEEN FACING REAL ISSUES AND HAVING GOOD CONDITIONS FOR THEIR WORK

themselves as – somewhere in between facing real issues and having good conditions for their work.³ Most significantly, it is the unpredictable political, legal and financial environment that makes the life of civil society organisations (CSOs) in Czechia more complicated. Czech CSOs now have to pay more attention to civic space developments, which might limit their work and scope of activities, especially in the context of the COVID-19 related restrictions.

Nevertheless, the overall state of Czech civil society is – despite some negative trends – far from being hopeless, rather the opposite. On the one hand, the polarisation of the Czech society – increased after the 2017 parliamentary elections which strengthened the political extremes and weakened pro-liberal democracy circles⁴ – generally confirms the negative trends. On the other hand, it generally leads to the promotion of activism and stronger engagement in support of civil society, including by financial contributions from citizens.⁵ The Czech civil society seems to realise the potential challenges that it is facing and reflects them in its work and flexibly

reacts to the new political environment as well as, most recently, to the COVID-19 pandemic. As a good example of this effort, the Million Moments for Democracy (*Milion chviliek pro demokracii*) movement has been actively opposing the negative changes and acting as a watchdog to the Czech Government and national authorities by – for example – organising some of the biggest demonstrations over the last thirty years bringing together hundreds of thousands of pro-democratically minded Czech citizens.

STATE RESPONSE TO THE COVID-19 EMERGENCY

Since the beginning of the pandemic, the Czech government-imposed limitations on most civic rights and fundamental freedoms to protect public health.⁶ Even if the communication of these limitations was rather chaotic, not systematic or well-coordinated, the measures never got out of control or substantially differed from other European countries and their response to the pandemic. One specific element was the mandatory rule to wear face masks since day one of the crisis. This was a shock for the society since the state did not provide the means and tools for all citizens to follow its new regulations and, in the first place, the Czechs had to rely on their own resources. Apart from that, Czech authorities also introduced a strict limit to the freedom of movement, travelling or commuting abroad. They also restricted public gatherings, demonstrations and public forms of protests.

Despite the severity of these measures, the Government remained somehow accountable and open to criticism for their enforcement. However, there were two concrete issues related to the Czech legislative response that the civil society, as well as political opposition and others in the society, criticised. First, the State of emergency and related

restrictions were adopted by the Ministry of Health under the Law No. 258/2000 on Protection of Public Health⁷ rather than by the Government under the Crisis Act powers. This was challenged in Court⁸ because it raised issues of separation of powers and accountability of the Government to the Parliament. The Government finally decided to only amend the Law on Protection of Public Health instead of introducing a special emergency law related to COVID-19 pandemic, as encouraged by the pro-transparency groups in the Czech civil society.⁹

Second, access to information on public procurement was effectively put on hold under the emergency regime. The Ministry of Health and Ministry of Interior responsible for purchases of most of the personal protective equipment (PPE) claimed they would announce any information after the state of emergency. However, this involved suspicion of corruption, clientelism and ill-governance. It was questioned by the

⁷ http://ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=72639&p_country=CZE&p_count=261

⁸ <https://www.ceska-justice.cz/2020/04/mestska-soud-praze-omezovat-prava-mela-vlada-svymi-narizenimi-nikoliv-ministerstvo/>

⁹ <https://www.rekonstrukcestatu.cz/archiv-novinek/nezhasinat-opozice-navrhla-reseni-jak-na-rychle-nakupy-ochrannych-pomucek-bez-korupcnich-rizik>

Association for international Affairs

(AMO) is a non-governmental not-for-profit Prague-based organization founded in 1997. Its main aim is to promote research and education in the field of international relations. AMO facilitates expression and realization of ideas, thoughts, and projects in order to increase education, mutual understanding, and tolerance among people. AMO represents a unique and transparent platform where academics, business people, policymakers, diplomats, media, and NGOs can interact in an open and impartial environment. During COVID-19, the organisations carried out a series of workshops and information sessions about impacts of COVID-19 on different regions of the world; debunking and fact-checking information related to COVID-19 pandemic, especially related to third parties, such as Russia, China and others.

³ https://eu-russia-csf.org/wp-content/uploads/2019/04/190327_RU-EU_Report2018_allpages.pdf

⁴ <https://www.milionchviliek.cz/>

⁵ https://eu-russia-csf.org/wp-content/uploads/2019/04/190327_RU-EU_Report2018_allpages.pdf

⁶ <https://www.rekonstrukcestatu.cz/archiv-novinek/nezhasinat-7-vlada-musi-i-v-krizove-dobe-respektovat-pravidla-pravniho-statu>



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HUNDREDS OF NEW PROJECTS AND INITIATIVES WERE DRIVEN BY BOTH LOCAL AND NEIGHBOUR COMMUNITIES AND TRADITIONAL, WELL-ESTABLISHED CSOS

political opposition, independent media, CSOs as well as the law enforcement bodies.¹⁰ The public tenders of PPE, including from China and other proxies, were of particular concern due to the low quality and excessive price.

As far as the freedom of association, expression and assembly were concerned, the governmental measures rather substantially restricted them. This was the case when applying the concept of social distancing, wearing of masks or limitations on public gatherings and physical contacts to a maximum of 2 people (except for relatives) at the time of the highest spike in the number of cases. This, logically, had severe limitations for the citizens as well as the work of civil society, including when providing help and services and working with beneficiaries or engaging in educational activities, conducting advocacy and having their voice heard. Freedom of assembly was mostly affected due to the lockdown. And even though some associations remained active, they had to move their activities to the online space and look for new opportunities of how to work and stay engaged. Freedom of expression remained relatively open even if most of the public space was occupied with COVID-19 related news, and it was

difficult to pass other messages across. However, even in this domain, there were individual cases of authorities pressuring civil society,¹¹ independent media and individual activists¹² critical of their actions. This was, for example, the case when the Czech Prime Minister claimed that, since the beginning of the pandemic, he missed the help and support from civil society, which was resolutely refuted by the third sector and consequently led to an apology from Andrej Babiš.¹³

Nevertheless, during the whole COVID-19 period, the system of checks and balances composed of the parliamentary control, independent courts as well as citizens oversight worked and remained in place for the whole time. And the Government had to pay attention to all three main components of the public control. For example, when the ministry of interior decided to postpone the by-elections for the Czech Senate due to the complicated situation of public health, the Czech courts quickly reacted and ordered to remedy the situation.¹⁴ The same was true for exceeding competences of the Ministry of Health, unregulated public tendering or potential conflict of interests of the Prime Minister.

CIVIL SOCIETY'S RESILIENCE

While the COVID-19 pandemic meant a shock and danger, it also provided a good opportunity for civil society, neighbour and local communities to get engaged and help each other during the difficult but shared moment. Hundreds of new projects and initiatives were driven by both local and neighbour communities

¹¹ <https://osf.cz/2020/04/03/vyjadreni-neziskove-organizace-sehravaji-zasadni-rolu-v-dobe-koronaviru/>

¹² <https://www.seznamzpravy.cz/clanek/jermanova-skutecne-poslala-policii-na-zachranarku-a-pak-psala-at-ji-nechaji-byt-108822>

¹³ <https://denikn.cz/333552/neziskovky-v-krizi-nepomahaji-napsal-babis-od-prvniho-dne-zachranujeme-nejslabsi-bouri-se-organizace/>

¹⁴ https://www.irozhlas.cz/zpravy-domov/nejvys-si-spravni-soud-doplnovaci-volby-do-senatu-jaroslav-kubera-teplce_2004011559_aur

¹⁰ https://drive.google.com/file/d/11C_zyt1XlIzDJcJUzDgHrSKOizJLont/view

and traditional, well-established CSOs, to a large degree supplementing the role of the state in providing help to the vulnerable and those in need.¹⁵¹⁶

Among them, the Czech scout movement cooperated with ELPIDA,¹⁷ an organisation working with the elderly, to deliver help (e.g. groceries or medicine) and all necessary PPE. Over the last couple of months, thousands of scouts have joined the call and volunteered to help those in need with different services and provide support. On top of that, the Czech scouting created over 120 volunteer teams, to also engage and help locally, including by printing protective shields on 3D printers or distributing disinfection and organising phone calls to lonely people and seniors in particular.¹⁸

The social programme of one of the biggest Czech NGOs People in Need (*Člověk v tísni*) has been widely praised for its work on the topic of public indebtedness¹⁹, raising public awareness of the issue and increasing financial literacy as well as providing a response to executions and financial problems of citizens.

A group of Czech CSOs “Reconstruction of the State” (*Rekonstrukce státu*) has recently launched a campaign “Nezhasínat!”²⁰ (*Do Not Turn Off the Light!*) that aims at positively influencing the public decision-making process and making it more transparent and based on clear rules and values. The initiative has offered its recommendations on the legislative response to the COVID-19 pandemic, making the public procurement more transparent or on the state’s

approach to the issue of economic compensation and recovery. Its expertise and know-how were often taken on board by the political opposition and, in several instances, also by the coalition government when preparing its materials and legislative response.

Finally, the COVID19CZ²¹ informal group brought together a diverse group of IT professionals and technology companies that worked with the state on the creation of a system of online tracing of infected citizens, the so-called Smart Quarantine (“Chytrá karanténa”), or on

THE TRADITIONALLY PROBLEMATIC AREA OF FINANCIAL SUSTAINABILITY HAS FURTHER DETERIORATED AS A CONSEQUENCE OF THE PANDEMIC

the localisation of public authorities’ response towards COVID-19 pandemic by developing and implementing technological solutions. The platform also launched a project e-Facemask (“e-Rouška”) that helped to monitor the risk cases and decrease the danger for other citizens, even if the state then struggled to run both concepts on the national level. In addition, the group put together a new production line for respirators, sophisticated face masks and protective shields. COVID19CZ was also involved in developing smart and technological solutions for the communication of the Czech authorities, including an online dashboard, or working on the data-driven strategic communication to the citizens too.

It was important that civic activism – and organised CSOs at the heart of it

– got quickly mobilised and put resources together to provide PPE, additional financial means or medical and psychological help to those most in need. It was almost a euphoric period of social cohesion in the Czech Republic, so much unlike the previous years of societal polarisation, when people came together to help each other during such a challenging moment. Thanks to this engagement, the public credit of Czech civil society that was previously rather low (based on data from CVVM)²² increased, and many initiatives and informal groups emerged. Even if the attacks from right and left extremes, including among the political parties in the Czech Parliament related to the access to public funding and financial support from abroad continued, civil society was shielded thanks to its exhausting work for the public benefit and the lack of political consensus on these issues.²³

FINANCIALLY STABLE AND RESILIENT?

Financial sustainability and balanced financial management have traditionally been an issue in the Czech civil society sector, at least since the 2004 enlargement and the subsequent departure of many Western donors and CSOs. The data of Donors Forum²⁴ from 2018 confirm that private donations remain rather limited, which allows for only limited diversification of funding of NGOs. Most Czech CSOs are dependent on a single source of funding.²⁵

The traditionally problematic area of financial sustainability has further deteriorated as a consequence of the

¹⁵ <https://www.google.com/maps/d/u/o/viewer?mid=1Q-FosGdbkLSWlreiikoQHrI-tlw26w6168dl=49.9446771580517%2C15.095325044598887&z=9>

¹⁶ Some other are mentioned in the publication of the CSO European Values here: <https://www.europeanvalues.net/vyzkum/lessons-learned-and-best-practices-from-the-czech-republic-covid-19/>

¹⁷ <https://www.elpida.cz/skautskapomoc>

¹⁸ <https://www.skaut.cz/velkasrdce/>

¹⁹ <https://www.clovekvtisni.cz/co-delame/socialni-prace-v-cr/dluhove-poradenstvi>

²⁰ <https://www.rekonstrukcestatu.cz/archiv-novinek/rekonstrukce-statu-spousti-projekt-nezhasinat-pri-nese-politikum-plan-jak-resit-dusledky-pandemie-podle-zakona-a-transparentne>

²¹ <https://www.covid19cz.cz/>

²² https://cvvm.soc.cas.cz/media/com_form2content/documents/cz/a5011/f9/p0191008.pdf

²³ <http://civicspacewatch.eu/czech-republic-the-communist-party-of-bohemia-and-moravia-kscm-move-against-non-profits-attempting-to-cut-them-out-from-state-financial-support/>

²⁴ <https://www.donorsforum.cz/o-dacovstvi/darcovstvi-v-cesku.html>

²⁵ <https://www.avpo.cz/2017/neziskovsky-sektor-v-roce-2016-darilo-se-mu-je-ale-potreba-dbat-na-zvy-seni-duveryhodnosti/>

pandemic.²⁶ The Czech Government – with few exceptions, e.g. in the social sector – did not introduce special financial tools or aid programmes to help the civil society sector, which would go beyond the concessions offered to businesses, e.g. partial financial compensations, postponement of tax declarations, or other forms of tax relief etc. A part of CSOs could not even qualify for the standard state's aid of such kind. Additionally, the economic struggle was caused partially by the limitation of regular activities²⁷, reduction of social entrepreneurship or other forms of engagement with the public, including in educational, advocacy or service-related activities due to social distancing. This also meant a reduction of public donations, reshaping of priorities in the donor community or redirection of granting schemes.²⁸

According to data from the beginning of the crisis provided by the Open

THE STATE HAS PURSUED A PRAGMATIC POLICY OF COOPERATION WITH CIVIL SOCIETY, WHILE OFTEN CRITICISING NGOS FOR THEIR ENGAGEMENT IN PUBLIC LIFE AT THE NATIONAL LEVEL

Society Fund Czech Republic,²⁹ nearly half (47%) of the 346 interviewed CSOs reported significant cuts in their income, possibly leading to inability to pay salaries or insolvency. Around 60% were afraid of sustaining the levels of employment and keeping all their staff (up to 79% among ecological CSOs). In addition, more than 70% of the Czech CSOs reported that the crisis would have a significant impact on their activities and operations. Besides, more than 80% of organisations expected that they would not be able to meet their contractual obligations and/or deliver services to beneficiaries. The latter was even higher (95%) among organisations working with children

and youth, which reported high levels of instability and inability to plan and engage in a meaningful way with their respective beneficiaries.

Also, already at the beginning of the lockdown, 24% of organisations had substantially limited their traditional services and support to their communities.³⁰ This was particularly true for social CSOs engaging in palliative and hospice care (40%) and more than half (54%) of organisations working with excluded and disadvantaged communities. This clearly illustrates the extent of the problem in social care and services and further underscores the inability of the state to take care of the vulnerable parts of the society, including the elderly, the ill, the homeless or other disadvantaged communities, e.g. on the socio-economic basis.

At the same time, as a result of this state's inability to provide help and support to the most vulnerable parts of the society, 20% of CSOs claimed they had to restructure and expand their services and provide additional means and capacity to accommodate people's needs. Again, in social care working, this figure was even higher, rising to 45%. Therefore, it is possible to conclude that almost half of CSOs working in social work and services had to switch and/or update their regular projects and activities and start providing *de facto* humanitarian aid to citizens. While the state's capacity to do so remained rather limited, civil society continued to substitute its functions in this area, and even extend them. The state has pursued a pragmatic policy of cooperation with civil society, while often criticising NGOs for their engagement in public life at the national level. However, both the practical-qualitative and quantitative research showed that Czech CSOs were somehow successful in adapting to the new situation and looking for new ways

²⁶ https://www.vlada.cz/assets/ppov/rnno/legislative-a-financovani/2008/zapis_VLF-11_6_2020.pdf

²⁷ https://www.vlada.cz/assets/ppov/rnno/legislative-a-financovani/2008/zapis_VLF-11_6_2020.pdf

²⁸ In this regard, Czechia is no exception among the countries of Central and Eastern Europe and similar trends and challenges were reported in Poland, Slovenia and Croatia or Bulgaria and other countries in the CEE and elsewhere around Europe: More-Hollerweger, E., Bogorin, F.-E., Litofcenko, J. & Meyer, M. (2020). Civil Society in Central and Eastern Europe: Monitoring 2019, Vienna: ERSTE Stiftung.

²⁹ It is necessary to acknowledge that this research was not fully representative and served only as a selective insight into the situation of civil society sector: https://osf.cz/wp-content/uploads/2020/05/Nadace-OSF_prizkum_COVID-2020.pdf

THE IMPACT OF THE COVID-19 CRISIS:

A survey by Open Society Fund Czech Republic carried out between 27 March and 8 April 2020 found:

- ▶ **47%** of the 346 interviewed CSOs reported significant cuts in their income
- ▶ **60%** were afraid of sustaining the levels of employment and keeping all their staff
- ▶ **over 70%** reported that the crisis would have a significant impact on their activities and operations
- ▶ **24%** had substantially limited their traditional services and support to their communities
- ▶ **20%** had to restructure and expand their services and provide additional means and capacity to accommodate people's needs

Source: Dopady pandemie COVID-19 na neziskové organizace, Nadace OSF (2020), https://osf.cz/wp-content/uploads/2020/05/Nadace-OSF_prizkum_COVID-2020.pdf

³⁰ Ibid.

and solutions for their situations and/or beneficiaries.

Nevertheless, the negative trend of declining financial contributions from citizens and private donors, as well as limited support from the state, will most likely affect the financial sustainability of the Czech civil society in the future.

CIVIC PARTICIPATION ALLOWED?

Civic participation of CSOs in the Czech decision-making processes on the national, regional and local levels are normally facilitated by the respective bodies of the state. The practice, however, shows that there are no clear rules and guidance on the nomination process of CSOs to advisory and consultation councils on any level. The composition of these bodies (if formally existing at all) has sometimes been problematic due to civil society's limited capacity, as well as the state's willingness to listen.

At the national level, it is the Government's advisory body Council of Non-State Non-profit Organisations (RVNNO) that operates under the leadership of the Czech Prime Minister and brings together 33 representatives of Czech CSOs (16) and the representatives of the ministries and other state's stakeholders. This

is the formal communication channel between the state and the civil society, but its working groups are also devoted to monitoring and assessing the EU and Czech legislation, following the financial matters. They also facilitate the dialogue between individual ministries and representative of various parts of the Czech civil society. In 2019, this format of cooperation was reformed, which meant that civil society representatives lost the majority, although they are still successful in submitting topics of public interest to the highest places of the Czech decision-making process. Despite that, there is still a substantial space for improvement in terms of efficiency of its work and leadership on reform issues, which are often stuck due to the lack of political will and interest.³¹ Additionally, the meetings of this body formally did not take place during the lockdown and its activities were moved online.

Also, the Czech state is not following the principles of the Open Governance Partnership (OGP) by having a strong and transparent dialogue with the civil society or allowing its involvement in the decision-making at a systematic level. Even if there are some examples of good practice, e.g. related to the Ministry of Foreign affairs or Health, this is not a general trend, and the establishment of a long-term, stable and productive cooperation has proved to be troublesome. The state authorities often seem not interested in cooperation with civil society or CSOs' advocacy and, sometimes, even close the access and/or counter the efforts in this field. Such cooperation often works better on the local and regional level due to the lower level of bureaucracy.

In the past, the Office of the Czech Government together with RVNNO prepared a strategic document "*State Policy with Respect to NGOs for the Years*

THE CONDITIONS OF ADVOCACY-DRIVEN NGOS HAVE WORSENEDED OVER THE LAST COUPLE OF YEARS

2015 – 2020"³² on the development of relations between the state and civil society, including the area of civic participation by civil society. Even though this was a well-balanced guiding document, it mostly remained on the paper and did not transfer into reality with concrete policy changes. Currently, its new version is being elaborated for the period 2021–30.

These issues have been amplified by COVID-19 due to lack of physical contact. Since the beginning of the pandemic, access to decision-makers has been rather limited. The advocacy work has been made more complicated by the additional limitations to access to information as well as the closing of the whole decision-making process at some levels. These challenges have particularly affected some advocacy oriented CSOs that already had conflicts with the representatives of the ruling elite in the past.

The conditions of advocacy-driven NGOs have worsened over the last couple of years. These organisations are often labelled as "political NGOs" or "eco-terrorists" when they engage in the public debate, to some degree sidelined from the decision-making process or refused funding from the public authorities³³. This has been the case for environmental NGOs as well as watchdogs and others. For example, even before COVID-19, anti-corruption organisations and activists, including Transparency International Czech Republic and its head David

THE STATE AUTHORITIES OFTEN SEEM NOT INTERESTED IN COOPERATION WITH CIVIL SOCIETY OR CSOS' ADVOCACY AND, SOMETIMES, EVEN CLOSE THE ACCESS AND/OR COUNTER THE EFFORTS IN THIS FIELD

³¹ https://eu-russia-csf.org/wp-content/uploads/2019/04/190327_RU-EU_Report2018_allpages.pdf

³² https://www.vlada.cz/assets/ppov/rnno/dokumenty/statni_politika_EN.pdf

³³ <https://arnika.org/ods-top-09-a-ano-trestaji-sve-kritiky-ztratou-grantu-podporu-ztratily-arnika-a-auto-mat>

Ondráčka, had *de facto* been targeted by the smear campaign of the Prime Minister. These tensions are linked to the CSO's consistent criticism for conflict of interests of the Prime Minister³⁴ and the Minister of Agriculture both at the Czech and European levels. During the last couple of months, tensions with anti-corruption organisations were exacerbated when the European Parliament passed a resolution³⁵ on the conflict of interests of the Czech Prime Minister's engagement in the future Multi-Annual Financial Framework of the EU for 2021-27. Moreover, during the pandemic, the Czech Government took advantage of the limited public oversight to proceed with the largest public tender in Czech history to construct additional blocks of the nuclear power plant Dukovany. This issue had previously been heavily debated in the public³⁶ and the move was criticised by the political opposition, independent media and civil society groups. Even if these issues never reached a systemic level, the COVID-19

pandemic made this situation even more complicated.

CONCLUSION

Over the past months, the Czech civil society demonstrated a high level of resilience and adaptation to the new conditions and challenging environment created by the COVID-19 pandemic and the public lockdown imposed by the Czech Government. Despite the economic challenges, the Czech civil society proved capable of delivering help and support to the citizens, collected money and provided services for the elderly, the ill and other disadvantaged and excluded people. As a consequence, the public credit of the civil society increased and citizens in general recognised the added value of civic activism for the public good and well-being as well as management of public affairs, including by delivering ready-made solutions (e.g. in the IT and data sphere) to the state.

During the recovery from coronavirus pandemic and its forthcoming socio-economic consequences, civil society and independent media will play a crucial role in increasing societal resilience and restoring the public trust in the state and its institutions. Civil society will also be instrumental for the full restoration of democracy, human rights, or the rule of law to pre-pandemic times. For the EU, it is therefore of critical importance to make the right choices regarding EU future instruments for upholding European values and supporting civil society in its member states, including in Czechia.

Therefore, this is the right moment to support civil society in Czechia and across the whole EU and in this sense deliver on the EU's ambitious priorities set by European Commission President Ursula von der Leyen and put in the portfolio of Czech Commissioner Věra Jourová covering the democratic consolidation, restoration of the rule of law, and rebuilding the trust and confidence

**CITIZENS IN GENERAL
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in the EU values. The agreement of the European Council on the MFF serves as a solid basis for that—if it is soon translated into concrete projects and policies to serve the interests of Czech and other European citizens.³⁷ In this regard, the newly agreed Rights and Values Programme offers a good (although limited) opportunity for additional funding and help to the civil society sector as well as upholding the common European values, especially when put together with the EU Democracy Action Plan, the rule of law monitoring or the media action plan. ■

The analysis is updated to 5 October 2020.

³⁷ <https://www.gmfus.org/blog/2020/07/23/mffs-half-empty-glass-supporting-eu-rights-and-values>

³⁴ <https://www.transparency.cz/firmy-ze-sveren-skych-fondu-dostaly-v-navrhu-zakona-zasadni-vyjimku/>
³⁵ <https://www.europarl.europa.eu/news/cs/press-room/20200615IPR81227/parlament-zada-vysetreni-mozneho-stretu-zajmu-ceskeho-premiera>
³⁶ <https://www.rekonstrukcestatu.cz/archiv-novinek/pruhlednejši-dukovany-diky-registru-smluv-chybi-ale-dohled-nku>

**THE CZECH CIVIL
SOCIETY DEMONSTRATED
A HIGH LEVEL OF
RESILIENCE AND
ADAPTATION TO THE
NEW CONDITIONS
AND CHALLENGING
ENVIRONMENT
CREATED BY THE
COVID-19 PANDEMIC**

*Being separated from the person you love, each in a different country, thousands of miles apart, and not knowing when you will see each other again, sounds like a nightmare. However, during the lockdown, it was a reality for many couples. There were exceptions for government regulations that prohibited foreigners from entering and leaving the Czech Republic, but these only apply to spouses and family members. Therefore, gay and lesbian couples found themselves divided by yet another curtain. This situation showed once again how equal marriage would make life easier for many couples. Marriage equality is the main goal of the **We are fair** initiative. **We are fair** immediately noticed the discrepancy and pointed out that the government had reprehensibly forgotten couples in the registered partnership. Thanks to their actions, the government updated its policies and registered couples were able to rejoin.*

Dr. Ladislav Jackson

LOVE BEYOND BORDERS

LGBTI activists advocate for couple reunification

Interview with Czesław Walek and Filip Milde, We are fair

Can you tell us about the We are fair initiative? When was it founded, who are its members and goals?

CZESŁAW WALEK: The *We are fair* initiative is a coalition of six non-profits that came together with one single goal: to pass the marriage equality bill in our country. The initiative formally started in April 2017, and it is a mixture of public awareness campaigns and public advocacy. We work a lot with the public to explain why we believe that marriage equality is simply fair. We work across the country; we travel a lot for discussions and debates. We also work with decision-makers, mostly with Members of Parliament because they are the ones that will eventually make the decision, but also with civil servants. We gather as much support as possible. We work with the business sector; I believe more than 70 businesses put their logo on our initiative supporting marriage equality. We also have around 60 mayors

who signed a pledge for marriage equality. We work with believers, people that are religious and are supporting marriage equality, giving the religious argument for marriage equality. We work with other non-profits that are not specifically LGBTI but that support marriage equality, with youth groups. One of our biggest activity was collecting physical signature for a petition on marriage equality and, in five months, we gathered over 70 000 signatures, which for the Czech Republic is a huge number because we are a fairly small country. This shows that there is huge public support. The data from a public opinion poll from 2019 show that 67% of the Czechs supports marriage equality.

Legally, from 2006, we have a law on registered partnerships which is not the same as marriage equality; there is quite a huge number of differences between rights and obligations. Since 2009, we have an anti-discrimination

law that protects us from discrimination. When we talk about the situation for Czech LGBTI, there are not many physical attacks, but there are quite a few verbal abuses. But 91% of those are not reported by LGBTI people because they are afraid the police will not investigate them, or they believe

ACTIVISTS, IN GENERAL, ARE IN A DANGEROUS POSITION, AND WE SEE THAT PEOPLE ACTING FOR WOMEN'S OR MIGRANTS' RIGHTS ARE OFTEN ATTACKED ON SOCIAL MEDIA OR BY EMAIL



Czesław Walek

they are not important enough. When you look at the region, I would say that the Czech Republic is still a beacon of hope for LGBTI people, if you compare with what is happening in Poland or Hungary. Having said that, our politicians are pretty inactive when it comes to enacting laws or policies that would improve the quality of life for LGBTI people. Since the registered partnerships law, not much has happened in terms of public policies. That is why when you look at the ILGA Europe rainbow map, the Czech Republic scores pretty low.

How is it to be an LGBTI activist in the country? Do you face any specific challenge, or do you tend to feel safe?

CZESLAW: Of course, there are some challenges. We always have to be aware that you could become the target of some attacks either online or offline, especially around the Prague Pride festival, when the media are writing a lot about us. But I would say that, generally we feel safe. Activists, in general, are in a dangerous position, and we see that people acting for women's or migrants' rights are often attacked on social media or by email. From times to times that happens to LGBTI activists as well. But I would say that still, the majority of us feels safe.

FILIP MILDE: there is a small conservative organisations scene. They are new organisations been established, but they are learning fast, even from us. They are changing the words they are using when campaigning. But it is very different from Slovakia, Hungary, Poland... where those organisations have a really strong impact. Here, the general media and the public started to label them as 'extremists', so it is a very different landscape. Although there a few Parties in the Parliament supporting them. The situation in

**THEY WERE MAKING
DECISIONS THINKING
THAT THEY WOULD
APPLY TO ALL, BUT IT
WAS NOT THE CASE**

the Parliament is more conservative than the reality in the society, where 67% of the Czech population supports marriage equality

How has the pandemic impacted the LGBTI community in the country?

CZESLAW: I would say that when it comes to the LGBTI community, it impacted us quite tremendously, similarly to other countries. First, let's talk about mental health: we provide a peer mentoring crisis prevention portal, and we could see that there was an increase in the number of our clients during the pandemic. Young people mainly contacted us: they were suddenly closed with families that are often not sympathetic to their situation. They are either homophobic or transphobic and do not accept different sexual orientations or gender identities; they do not want to talk about it. For those kids, it was very stressful; they had to face the coming out issue much more

than in normal circumstances when they could be themselves in their other circles. Here those other circles disappeared. We did some quick survey on Facebook to learn what people were missing, and the first thing was being in touch with their friends.

The other thing is people with HIV because their immune system is in danger, but also because the organisation that provides them with free tests had to close down. During the lockdown, there was no testing, and there is fear that this will increase the spreading of HIV.

There were also challenges in the decision-making of the Government. Of course, the Government was making decisions on a daily basis and was not thinking of every minority. They were making decisions thinking that they would apply to all, but it was not the case. For example, when the Government slowly opened the borders, they opened them only to family members and married couples, they did not think of registered partners or partners that live together but are not institutionally together. We were pointing out those things, and the Minister of Interior corrected it.

How was the work of the organisation affected?

CZESLAW: The work of the organisation was affected quite a bit. When the pandemic broke out, the only discussion that was happening concerned the pandemic; nothing else was going on. The first vote in Parliament on the marriage equality bill that we hoped would happen in March, was postponed to – probably – the fall.

**WE OFFERED HELP
NOT ONLY TO LGBTI
PEOPLE BUT TO ANYBODY
WHO WANTED TO
USE OUR SUPPORT**



Filip Milde

Our work was also affected by the fear of losing some of the funding – which we did actually. „We are fair“ coalition is informal, and the administration and organisation are going through the Prague Pride organisation. So, I would rather talk about their funding. Part of it comes from public grants, mainly from the European Commission and the city of Prague. 1/3 comes from corporations and the rest from individual donations or from activities. For example, during the Prague Pride festival, we do some activities that generate income. What was affected was the last part: because we cannot organise the festival physically, we lost some of the funding from there. That is a big blow. We lost some funding from corporations that were linked to the festival, and then we lost some individual donations. When it comes to public funding, everything was already signed, so they did not take it back. But the question is what will happen next year when the economic crisis will hit. There is a risk that the states will reshuffle EU funds based on their needs. In the Czech Republic, this will mean that they will be cutting some of the grants that we would be applying to. So, we start to count less on public funding.

We also had to postpone some events and to create a pandemic group that was meeting every week to prepare some crisis scenario for our organisation.

At the beginning we did not know how long it was going to last so, I have to say, the first months were pretty stressful. But we dealt with it – I think- pretty well. We created three or four crisis scenarios, and we followed them.

What initiatives did the organisation carry out to support people during the pandemic?

CZESLAW: We have been running many different initiatives. First, we did some legal counselling. Our lawyer prepared some documents where she explained how LGBT people, especially rainbow families, could be affected by the governmental decisions, especially around the lockdown. She also ran some Facebook

WE ALSO HELPED TO ENLARGE THE GROUP OF PEOPLE VOLUNTEERING TO SEW MASKS AND DELIVER THEM TO PEOPLE IN NEED: THE ELDERLY, THE HOSPITALS...

live streaming answering questions. Throughout the lockdown, we had an email address where people could ask us questions about legal issues.

PHILIP: When the country went in lockdown, we immediately understood that probably marriage equality was not going to be the main priority for the society and so we had to act differently. We offered all our social media and all our database of addresses – tens of thousands of addresses: people could reach us if they needed help or if they could provide support or services. We did this already the day after the lockdown. We offered help not only to

LGBTI people but to anybody who wanted to use our support. The second step was providing support to organisations and people that were affected the most. We create a fundraiser event, a broadcast of an online theatre play called “Homo40”. It was very successful: we collected almost 3000 euros, which is amazing considering that people were really concerned about money and it was very difficult. All the funding collected during the streaming for two weeks was donated to three affected groups: actors, single parents, and students. Concerning the last group, we cooperated with a group of medical students who launched an initiative of sewing masks. As an organisation, we helped them to spread the word about their activity, to use social media better and with the graphic design of their project. We also helped to enlarge the group of people volunteering to sew masks and deliver them to people in need: the elderly, the hospitals... This was the third group to which the resources from fundraising went. We continued helping people for almost two months: from March to end of April, besides helping couples and lobbying to include more categories in the law, to allow couples separated to cross borders.

Can you tell more about this initiative?

CZESLAW: There were several ways in which we tackled this issue. Our advocacy officer wrote a blog post to explain this issue. The blog post was shared on social media by politicians, and this started a chain reaction. Then we called on the registered partners affected to contact us and share their stories. We wrote several articles to share these stories. These stories were picked up by the mainstream media; they appeared on the most-read tabloid Blesk.cz. I think it was a combination of our community engagement with our followers and our advocacy and media outreach.

ONE THING WE IDENTIFIED ACROSS THE REGION IS FEAR OF SCAPEGOATING BY POPULIST POLITICIANS (BUT NOT ONLY) AS THE ECONOMIC CRISIS IS COMING AND PEOPLE WILL BE ANGRY

FILIP: On the contrary, I think it is interesting to notice that those organisations that stand to keep the family between man and woman were not very active during the pandemic if not to advocate against trans' rights. On social media, people were commenting how they should be ashamed for this. Even their supporters said that this is not what they should have been doing at that time.

Is the initiative organised also transnationally in Europe? If yes, how?

CZESLAW: "We are fair" is a solely national initiative: we lobby to change the law in the Czech Republic. However, we are in touch with other initiatives of this kind, and we share the experiences and lessons, especially in the area of communication and messaging. When it comes to COVID-19 crisis, again, those initiatives were solely domestic. We did not cooperate with others transnationally, but we were in communication with organisations in other countries. There were tons of webinars organised to share experiences and knowledge.

Do you think that the European Union can be an ally in your struggle? In what way?

CZESLAW: I was personally on a webinar with Commissioner Reynders and

vice-President Jourova, where we discussed the situation of LGBTI people in COVID-19 times. One thing we identified across the region (Czech Republic, Hungary, Poland, Slovenia...) is fear of scapegoating by populist politicians (but not only) as the economic crisis is coming and people will be angry. You can see it already in Hungary and Poland. What the EU should do is pushing for proper legislation on hate speech and hate crime.

What lessons can be learned from this initiative that can potentially inform a post-COVID-19 institutional and societal response?

Czeslaw: The lesson I take away from COVID-19 is that despite the initial nervousness and confusion, we all came together and started discussing how to help not LGBTI people but all people in need, and that is what we did. That was great, and I am happy that we all agreed with this approach.

FILIP: We cooperated with groups and organisations that we never cooperated with before, and this enriched us with new connections, experiences and inputs. We were also able to reach new audiences. The situation showed what is most important for people: to be together,

to be with the people we love, that there is no real difference between us and people who can go and marry tomorrow if they decide so. This is a big lesson learned for the public, I think.

CZESLAW: Yes, I think that we all learned that in those times of crisis, governments do not think about everyone. They think about this general population, what they understand as 'normal' and whoever comes a little bit away from this normal is just left behind. Of course, they had to make decisions in a matter of hours; they had to think about the entire nation. But this shows how important it is to be part of this big structured protection system – which in this case is marriage – because, in times of crisis, the Government does not think about you. It gave us more arguments and urgency to push for marriage equality. I just hope that this situation will not mean a further delay in the adoption of the marriage equality bill. ■

The interview was carried out on 13 July 2020.

THIS SHOWS HOW IMPORTANT IT IS TO BE PART OF THIS BIG STRUCTURED PROTECTION SYSTEM – WHICH IN THIS CASE IS MARRIAGE – BECAUSE, IN TIMES OF CRISIS, THE GOVERNMENT DOES NOT THINK ABOUT YOU



GERMANY

Civic space in Germany is rated “Open” on the CiViCUS Monitor.

The legal, fiscal, and administrative frameworks for civil society in Germany are reasonably good. The civil society contains an important “*corporatist*” sub-sector that works closely with and is predominantly funded by the State and plays an essential role in the welfare system, as well as a sub-sector which engages in advocacy, watchdog, and deliberative democracy functions. In recent years, a trend emerged towards limiting the space of civil society dealing with “political” issues. Public benefit associations that regularly express themselves politically are at risk of losing their non-profit status, thus, their tax incentives. A surge in far-right movements has also created worries amidst democratic civil society. While the COVID-19 measures were largely met with citizens’ approval, they reduced the opportunities for civil society to participate to the policy-making, creating a feeling of neglect.

THE SECTOR IN NUMBERS

Population of the country (2020)

83.1 Million

SOURCE: STATISTISCHES BUNDESAMT (DESTATIS), 2020

Number of CSOs registered in the country (2016)

658,451 (+0,76% compared to 2015)

SOURCE: P. 10, HOLGER KRIMMER (HRSG.): DATENREPORT ZIVILGESELLSCHAFT, VS VERLAG FÜR SOZIALWISSENSCHAFTEN 2019

Number of people employed by the sector (2016)

3,7 Million (9,9% of the total german workforce)

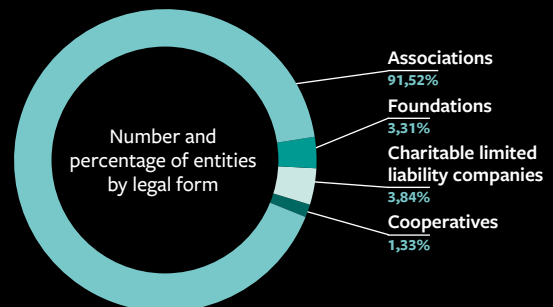
SOURCE: HOLGER KRIMMER (HRSG.): DATENREPORT ZIVILGESELLSCHAFT, VS VERLAG FÜR SOZIALWISSENSCHAFTEN, P. 94, (2019)

Number of volunteers (2017)

32% of Germany are engaged in voluntary work

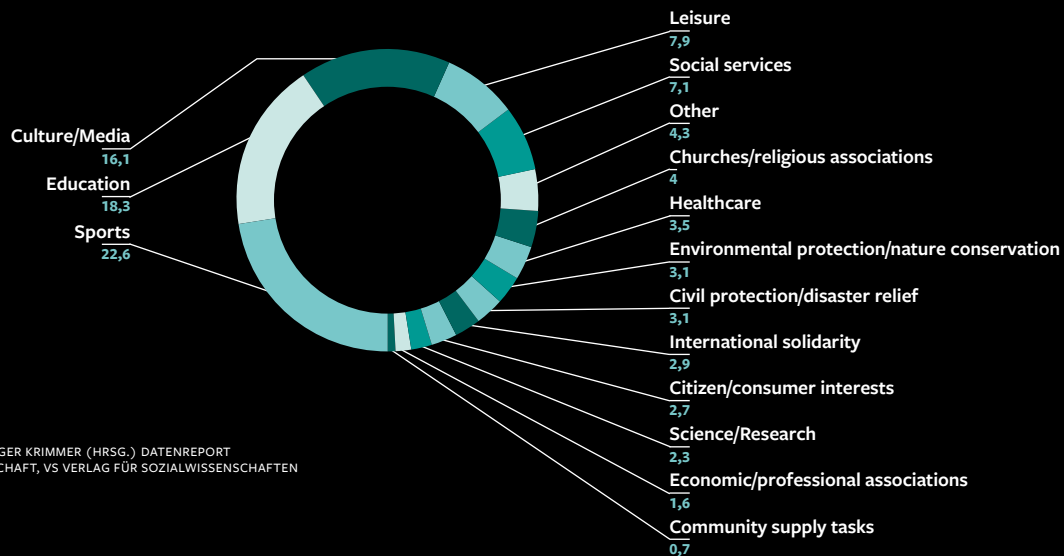
SOURCES: SIMONSON, JULIA, VOGEL, CLAUDIA, TESCH-RÖMER, CLEMENS (HRSG.) 2017: FREIWILLIGES ENGAGEMENT IN DEUTSCHLAND: DER DEUTSCHE FREIWILLIGENSURVEY 2014

SOZIOÖKONOMISCHE PANEL : [HTTPS://WWW.DIW.DE/EN/DIW_01.C.618351.EN/1984_2017_V34.HTML](https://www.diw.de/EN/DIW_01.C.618351.EN/1984_2017_V34.HTML)



SOURCE: HOLGER KRIMMER (HRSG.): DATENREPORT ZIVILGESELLSCHAFT, VS VERLAG FÜR SOZIALWISSENSCHAFTEN, P. 94, (2019)

DISTRIBUTION OF ASSOCIATIONS BY FIELD OF ACTIVITY (2015)



SOURCE: HOLGER KRIMMER (HRSG.) DATENREPORT ZIVILGESELLSCHAFT, VS VERLAG FÜR SOZIALWISSENSCHAFTEN (2019), P. 17

THE ECONOMIC WEIGHT OF THE SECTOR

The sector accounts for around

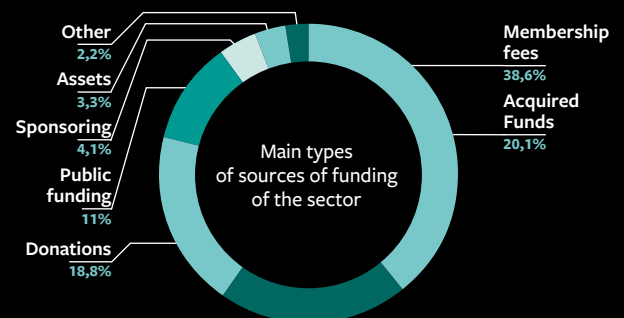
4.1% of the gross value added in the economy, approximately **90 billion Euro**

SOURCE: BERTELSMANN STIFTUNG, CIVIL SOCIETY IN NUMBERS: "WE MEASURE CIVIL SOCIETY", [HTTPS://WWW.BERTELSMANN-STIFTUNG.DE/EN/ABOUT-US/WHAT-WEVE-ACHIEVED/ZIVIZ-PLACING-CIVIL-SOCIETY-ON-THE-ECONOMIC-MAP](https://www.bertelsmann-stiftung.de/en/about-us/what-weve-achieved/ziviz-placing-civil-society-on-the-economic-map)

Level of trust towards the sector (2020)

43 %, (-1 % compared to 2019)

SOURCE: EDELMAN TRUST BAROMETER 2020, VERTRAUEN BLEIBT IN SCHIEFLAGE



SOURCE: SOURCE: HOLGER KRIMMER (HRSG.): DATENREPORT ZIVILGESELLSCHAFT, VS VERLAG FÜR SOZIALWISSENSCHAFTEN, P. 115, (2019)

CONDITIONS FOR CIVIL SOCIETY ARE GOOD

But civic actors were neglected during the emergency

By Siri Hummel und Rupert Graf Strachwitz, Maecenata Institute for Philanthropy and Civil Society

While, overall, the legal, fiscal, and administrative frameworks for civil society in Germany are reasonably good, civil society was strained by the COVID-19 pandemic and the following rights restrictions in its advocacy and watchdog functions, as well as in its role as service provider and promoter of the social cohesion. But it also became evident that an active civil society is of outstanding importance in all functions for overcoming the crisis.

THE CONTEXT

The German civil society contains an important “*corporatist*” sub-sector that works closely with and is predominantly funded by the State (including contracts with the National Social Security System), providing services, and performing self-help functions. Traditionally, civil society organisations (CSOs) have played an essential role in the German welfare

system, including by providing crucial health care services and disaster care. However, as part of the Government’s neglect of precautionary measures against the repeated appeals from civil society and academia, funding for disaster care units has been significantly scaled down since the 1990s.

There is also an “*independent*” sub-sector which is funded predominantly through voluntary donations, fees for services, and foundation grants and engages in advocacy, watchdog, and deliberative democracy functions. Additionally, CSOs are active as intermediaries, in community building, and as catalysts of personal growth.

Civil society has been growing and changing over the past 30 years, recently becoming more digital, more diverse, more informal and less hierarchical. Citizens’ involvement and engagement have shifted from large, established and traditional organisations to small, new

movements, and from a permanent or long-term commitment to short-term activity and spontaneous unorganised engagement. Civic engagement in times of needs (disaster care, refugee crisis...) has proved to be strong, while a commitment to leadership roles is diminishing.¹

¹ Strachwitz, R., Priller, E., & Triebe, B. (2020). Handbuch Zivilgesellschaft. Berlin, Boston: De Gruyter Oldenbourg.

CITIZENS’ INVOLVEMENT AND ENGAGEMENT HAVE SHIFTED FROM LARGE, ESTABLISHED AND TRADITIONAL ORGANISATIONS TO SMALL, NEW MOVEMENTS

The legal, fiscal, and administrative frameworks for civil society in Germany are reasonably good. There is an ongoing debate about the political role that CSOs could or should have in society. German non-profit law determines non-profits as rather unpolitical and civil society organisations that regularly express themselves politically are at risk of losing their non-profit status, as it happened in the case of ATTAC or Campact.²

COVID-19: THE STATE RESPONSE

On 27 January 2020, the first COVID-19 infected person in Germany was identified. Shutdown measures were introduced by the federal and state governments and applied by government agencies, CSOs and businesses alike in early March. On 25 March, the federal parliament declared

² <https://www.zivilgesellschaft-ist-gemeinnuetzig.de/attac/>

The Maecenata Foundation is an independent think tank in the field of civil society, civic engagement, philanthropy and foundations. It has the legal form of a non-profit foundation under civil law and is based in Munich. It was established in 2010 and since 2011 has been uniting all Maecenata activities under its roof. The foundation manages and bundles the activities of its programs and represents the positions it has developed externally. It sees itself as an idealistic service provider for civil society and advocates its transnational strengthening and the development of an open society in Europe and beyond.

The Maecenata Foundation realizes its statutory purposes through six main programs and other projects.

- MAECENATA INSTITUT (MI) - Research and Teaching
- TRANSNATIONAL GIVING (TG) - International Donation Transfer Program
- EUROPE BOTTOM-UP (EBU) - European Action Programme
- TOCQUEVILLE FORUM (TF) - Support and Network
- MENA STUDY CENTRE - Research and debate
- CENTRE FOR HUMANITARIAN ACTION (CHA) - Analysis and debate

an epidemic situation of national scope. Stretching constitutional powers to the utmost, federal Chancellor Angela Merkel took on the leadership and coordinating role.

No overall state of emergency was inflicted, despite a nearly complete social lockdown. "Emergency laws" did not come into effect, these being applicable only in the case of an external attack or internal emergencies, such as civil unrest and a natural disaster.³ All measures to contain the epidemic were taken on the basis of general administrative powers accorded to the States, and the federal Infection Protection Act (IfSG).⁴ The IfSG regulates which diseases/pandemic are notifiable and, thus, belong to the diseases that the State can take special measures to combat. In the event of infections, the authorities are authorised to take all necessary protective measures to the extent and for as long as necessary to prevent the spread of communicable diseases.

In accordance with the constitution, health-related regulations were directed and enforced by the State and local authorities and, as a result, differed substantially.⁵ Besides the possibility to impose quarantine and a ban on work for infected or possibly infected persons, the federal States enacted extensive contact restrictions and the closure of schools, day-care centres, retail outlets (with the exception of grocery stores), leisure activities, and other locations of public life. Associative life came to a complete standstill. Some states, e.g. Bavaria and the Sarre, went beyond these regulations.⁶ The Government of Saxony prohibited people from leaving

³ <https://netzpolitik.org/2020/warum-ausgangssperre-und-notstandsgesetze-nichts-miteinander-zu-tun-haben-corona-grundrechtseingriffe/>

⁴ <https://www.gesetze-im-internet.de/ifsg/>

⁵ Overview of all regulations in all federal states (in German language): <https://kripoz.de/2020/03/25/straf-und-ordnungswidrigkeitenrechtliche-massnahmen-des-bundes-und-der-laender-im-zusammenhang-mit-der-corona-pandemie/>

⁶ <https://freiheitsrechte.org/corona-und-grundrechte>

GERMAN NON-PROFIT LAW DETERMINES NON-PROFITS AS RATHER UNPOLITICAL AND CIVIL SOCIETY ORGANISATIONS THAT REGULARLY EXPRESS THEMSELVES POLITICALLY ARE AT RISK OF LOSING THEIR NON-PROFIT STATUS

their homes without good reason and allowed fewer exceptions than had been agreed between the federal and States' governments.⁷ Contact restrictions extended to protest and demonstrations as well as to meetings in places of worship, bordering on infringements on the right of assembly and of exercising the freedom of religion. By and large, the emergency measures met with citizens' approval, while concerns were voiced at an early stage that these measures might stay in force beyond their necessity.⁸

From 15 April, the federal and state governments enabled a step by step withdrawal of the restrictions imposed on the citizens. They put the decision of further gradual reopening of public life mainly in the hands of the States, given the fact that some were merely affected (e.g. Mecklenburg – Western Pomerania), while others had very high rates of infections (e.g. North-Rhine – Westphalia and Bavaria). To date, it seems that generally speaking, Germany has coped with the virus moderately effectively.

⁷ <https://freiheitsrechte.org/corona-und-grundrechte>

⁸ <https://www.forschungsgruppe.de/Aktuelles/Politbarometer/>

THE IMPACT ON FUNDAMENTAL FREEDOMS

In Germany, political rights and civil liberties are largely ensured both in law and practice.⁹

The COVID-19 pandemic restricted rights on several grounds:

- ▶ restrictions on the right of assembly made demonstrations and expressions of opinion difficult,
- ▶ new surveillance technologies and registration formalities posed risks for civil society actors,
- ▶ accelerated legislative procedures significantly limited the opportunities for civil society to participate.

Freedom of assembly

As in several other matters, each State enacted its own regulation regarding the ban of demonstration and the freedom of assembly and the regulations varied in terms of allowed sizes and preparations.¹⁰

By 8 May 2020, approximately 1,000 urgent applications had been submitted to German constitutional and administrative courts in connection with the restrictions on the right of assembly.¹¹

Some courts predominantly understood the coronavirus containment measures of the federal States as a general ban on assemblies - even if applicable contact restrictions could have been provided.

⁹ See eg. the Freedom house or V-dem democracy indices.

¹⁰ <https://freiheitsrechte.org/corona-und-grundrechte>

¹¹ <https://www.etl-rechtsanwaelte.de/aktuelles/erste-gerichtsentscheidungen-zum-coronavirus>

**ACCELERATED
LEGISLATIVE
PROCEDURES
SIGNIFICANTLY LIMITED
THE OPPORTUNITIES
FOR CIVIL SOCIETY
TO PARTICIPATE**

The Administrative Court of Neustadt, for example, considered it lawful to prohibit a demonstration of two people wearing protective masks and observing the social distancing requirements.¹² On 5 April, demonstrations of the alliance LeaveNoOneBehind, which were to be carried out in the form of “individual walks”, got dispersed by the police in several places.¹³ In Muenster, permission to hold a vigil against an imminent uranium waste trans-

**GERMANY DOES NOT
ENJOY A COMPACT
OR AN OVERALL
FRAMEWORK FOR
CONSULTATION AND
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THE FEDERAL AND
STATE GOVERNMENTS
AND CIVIL SOCIETY**

port from Gronau to Russia was granted – under conditions – after filing an emergency petition in court.¹⁴

Data protection and surveillance

The development of an app for tracking COVID-19 infection chains and the issue of transmitting data of infected persons, e.g. to the police for a forced quarantine, were highly disputed. Heavy protest and advocacy for data protection from civil society organisations, like the Chaos Computer Club (CCC), delayed the development of the app and resulted in improvements regarding tracing methods and data storage. The app, originally planned for April, was launched in

¹² <https://freiheitsrechte.org/corona-und-grundrechte>

¹³ <https://www.neues-deutschland.de/artikel/1135186.seebruecke-und-unteilbar-aktionstag-fuer-aufnahme-von-fluechtlingen.html>

¹⁴ <https://freiheitsrechte.org/corona-und-grundrechte>

June. The developers also published the app’s infrastructure on the open-source platform Github, which makes it possible



THE AUTHORS

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Ph. D., born in 1947, has been involved with not-for-profit organisations for well over 30 years – as a volunteer, staff member, board member, consultant, and researcher, and lecturer. Since 1989, he has been managing director of Maecenata Management, a consultancy that specializes in foundations and associations, corporate citizenship and philanthropy, and since 1997, he has also been the director of the Maecenata Institute for Philanthropy and Civil Society, Berlin. Furthermore, he is Executive Director of the Maecenata Foundation, Munich, Deputy Chairman of the German-British Society, Berlin, Chairman of the Board of the Fliege Foundation, Feldafing, Deputy Chairman of the Board of the ADAC Foundation, Munich, and Deputy Chairman of the Board of the Wilhelm Kempff Cultural Foundation, Munich/Positano. His approx. 700 publications, in German as well as in English, Italian, French, Chinese, Turkish, Japanese, and Polish, include books and articles on foundation issues as well as cultural policy, the third sector, and civil society.

to see the source code. By July, the app had been downloaded over 15 Million times.

The police were also contested for using the mandatory filing of personal details when entering public places for other purposes than tracking down infections.¹⁵ Additionally, CSOs have voiced concerns of violation of quarantine orders. The association *Hilfe für Menschen in Abschiebehaft Büren e.V.* (deportation aid) in North Rhine-Westphalia reported cases of enforced quarantine in a deportation prison without sufficient medical staff.¹⁶ Many advocacy organisations made a point to carefully monitor the balance between the necessary emergency measures and the duty to uphold citizens' constitutional rights.

The dialogue between CSOs and governmental agencies

Germany does not enjoy a compact or an overall framework for consultation and dialogue between the federal and state governments and civil society, nor there is a strong overall representation. The network of umbrella organisations (Bündnis für Gemeinnützigkeit) is weak and does not encompass all areas of civil society activity. In particular, human rights and other movements are not represented. This network was not able to agree on a formal reaction to the Government's emergency policies. Individual umbrella organisations were in touch with their government counterparts, most often with limited success. Organisations not aligned to an umbrella organisation, e.g. protest movements and civil rights organisations, usually had no access to decision-makers. A notable exception is Fridays for Future: Federal Chancellor Angela Merkel received a delegation that included Greta Thunberg and the German spokeswoman Luisa Neubauer on 20 August 2020. Arguably, however,

this was more an example of civic activism exploited for political ends rather than an exercise of the Government listening to civil society.

An example of fruitful dialogue and joint action from civic organisations and governing bodies was a hackathon which was organised by the Federal Government together with several digital initiatives and CSOs. A hackathon is a design and programming competition in which participants try to develop applications within a few days. Under “#WirvsVirus” (#WEvsVirus) over 42,000 people registered and programmed innovative designs to solve problems created by the pandemic, e.g. for coordinating volunteers online.

During the crisis, the neglect of civil society participation in the adoption of coronavirus regulations was overly apparent. Parliamentary fast-track procedures contained less (or no) possibilities for consultation and public hearings. Also, virtually, no support from the media was received. Recommendations from academia, e.g. the German National

e.g. from child protection, human, civil, or gender rights, were heard.

FINANCIAL VIABILITY AND SUSTAINABILITY OF THE SECTOR

The financial effects of COVID-19 for civil society are not foreseeable yet. First projections indicate that waves of redundancies and insolvencies are not apparent (yet), but there are no sufficient data. Surveys conducted by CSOs indicate, on the one hand, a decline in corporate donations, on the other hand, a significant increase of small sum individual



THE AUTHORS

Dr. Siri Hummel is Deputy Director of the Maecenata Institute for Philanthropy and Civil Society and is a political and communication scientist. Her research focuses on democracy and civil society, gender equality in civil society, as well as research about foundations. She is also a lecturer in the Nonprofit Management and Public Governance program at the Berlin University of Applied Sciences (HWR). Before joining Maecenata, Siri was a research assistant at the Alfred Krupp Wissenschaftskolleg Greifswald from 2011-2017. In 2018 she received her PhD at the University of Greifswald on the topic of democracy promotion through foundations.

**PROTEST MOVEMENTS
AND CIVIL RIGHTS
ORGANISATIONS,
USUALLY HAD
NO ACCESS TO
DECISION-MAKERS**

Academy of Sciences Leopoldina, did not include the needs of civil society and habitually failed to consider perspectives from different social groups in society. The working group was contested on this ground as the average age of the members of the Leopoldina working group was over 60, and the group of 26 comprised only two women. No CSOs,

¹⁵ <https://freiheitsrechte.org/corona-und-grundrechte>

¹⁶ <http://www.gegenabschiebehaft.de/hfmia/pressealias/pressemitteilungen/corona-fluechtlingshaftanstalt-bueren.html>

THE NEGLECT OF CIVIL SOCIETY PARTICIPATION IN THE ADOPTION OF CORONAVIRUS REGULATIONS WAS OVERLY APPARENT

giving, especially in the neighbourhoods.¹⁷ What does appear is that independent CSOs continue to refuse any government funding, relying exclusively on their supporters to fund their activities. But again, there are no valid data yet.

The impact on contracts with governments and the public social security system depends on the field of activity. The halt on non-essential

¹⁷ Phineo (2020): Corona-Krise: Die Zivilgesellschaft braucht staatliche Unterstützung. Aufruf an die Bundesregierung: Wir fordern staatliche Unterstützung für alle, ohne Ausnahme! Berlin. Online abrufbar: <https://www.phineo.org/magazin/aufruf-corona-bedroht-die-zivilgesellschaft-zuletzt-abgerufen-08.09.2020>. Phineo (2020): RISIKEN abwenden, STRUKTUREN erhalten, CHANCEN nutzen. Umfrage unter PHINEO-Wirkt-Sigel-Organisationen zu den Auswirkungen der Corona-Krise auf die Zivilgesellschaft. Berlin. PDF online abrufbar: <https://www.phineo.org/magazin/risiken-abwenden-strukturen-erhalten-chancen-nutzen>, zuletzt abgerufen 27.08.2020. Verband Entwicklungspolitik und Humanitäre Hilfe deutscher Nichtregierungsorganisationen e. V. (VENRO) (2020): Organisationen brauchen mehr Flexibilität. Ergebnisse einer Befragung der Mitglieder von VENRO zur Corona-Krise. Greenpeace & Gesellschaft für Freiheitsrechte (2020): Demokratische Teilhabe der Zivilgesellschaft in der Corona-Pandemie Monitoring "Coronavirus und Civic Space in Deutschland".

surgery and medical care to make hospital space available for COVID-19 patients to a larger degree than what was needed may affect the income situation of civil society hospitals, which manage approximately 50% of German hospital beds. CSOs fear that contracts will be revised, and funding will be reduced on a large scale. There are already some indications that government grants for CSOs will be slashed in 2021, or even in 2020. For example, the Federal Government decided to cut a 220-million-euro funding programme for socio-cultural projects to 60 million euros in June.¹⁸ This programme was launched in January 2019 and due to start in 2020. Similar cuts are expected to follow.

Foundations are also reassessing their grant programmes, both in order to streamline them in favour of COVID-19 related causes and in terms of declining income. Approximately 500 large foundations are sole or majority shareholders in business corporations and are dependent on the financial success of this particular business, which may often be suffering or will suffer from a decline in profits.

Civic arts and educational institutions are suffering from losses in the income they normally generate from fees for services, ranging from concerts and other artistic performances to educational programmes, training courses etc.,

¹⁸ <https://www.mdr.de/nachrichten/politik/gesellschaft/theater-k-foerderprogramm-start-sachsen-antisemitismus-100.html>

due to massive cancellations. Civil society operated youth hostels and guest houses (e.g. Friends of Nature House - Naturfreundehaus, which operates around 400 guest houses) were massively affected by the ban on tourist overnight stays and the closure of restaurants.¹⁹ Youth hostels, in particular, are affected by school trips being cancelled for an indefinite period. Furthermore, CSOs that depend on wide-scale fundraising through events are reporting massive problems.

Overall, it has taken a great deal of campaigning and petitions to get the Government react at all. Support and state assistance for CSOs came late, after implementing protective shields for business corporations on a large scale at the very beginning of the lockdown. CSOs may participate in general govern-

THE IMPACT ON CONTRACTS WITH GOVERNMENTS AND THE PUBLIC SOCIAL SECURITY SYSTEM DEPENDS ON THE FIELD OF ACTIVITY

ment relief programmes at federal, State, and local level, but virtually no specific CSO relief programmes exist. Also, programmes are administered by a plethora of different government agencies at the federal and state level, applying is complicated and carries a number of clauses and restrictions that many CSOs find difficult to meet. Overall, these funds are much smaller than those granted to ailing business corporations.

¹⁹ <https://www.tagesspiegel.de/berlin/corona-rettungsschirm-hat-luecken-gemeinnuetzige-betriebe-in-not/25705576.html>

THE IMPACT OF THE COVID-19 CRISIS

A survey by PHINEO carried out at the end of April 2020 found that:

- ▶ **97.5%** of the organizations were or will be affected by negative consequences of the Corona crisis in terms of content, economy and operations
- ▶ **2/3** assumes that the criteria of government support programs do not apply to them
- ▶ Only **34.8%** had requested or planned to request funds for emergency aid
- ▶ Around **30%** expect to make redundancies for operational reasons
- ▶ More than **50%** was able to digitise their services

Source: Phineo (2020): RISIKEN abwenden, STRUKTUREN erhalten, CHANCEN nutzen. Umfrage unter PHINEO-Wirkt-Sigel-Organisationen zu den Auswirkungen der Corona-Krise auf die Zivilgesellschaft. Berlin. PDF online abrufbar: <https://www.phineo.org/magazin/risiken-abwenden-strukturen-erhalten-chancen-nutzen>.

**WHILE POLICE
OFFICERS AND
OTHER GOVERNMENT
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VOLUNTEERS REGULARLY
WENT UNMENTIONED**

On 8 July, the Federal Government provided around 25 billion euros for small and medium-sized enterprises, including CSOs. However, application procedures continue to be complicated and do not meet the specific needs of CSOs, and in many cases, CSOs do not qualify for some reason. In Berlin, for example, CSOs can only apply for financial aid to bridge the gap if they are a limited liability company, but not as a registered association.²⁰

Finally, CSOs face a fiscal financial problem. Not being permitted to build up reserves beyond a very limited extent, their risk of insolvency is considerable. Also, they do not usually qualify for any of the loan programmes the Government has launched.

A recent study on what CSOs can offer, what they need, and what assistance they are given, undertaken and published by the Maecenata Institute, revealed that non-financial support was seen as equally important and equally lacking.²¹ E.g., while police officers and other government employees received profuse thanks for the extra workload

they had to take on, CSO staff and volunteers regularly went unmentioned.

**CONCLUSION: CIVIL
SOCIETY UNLOCKS ITS
POTENTIAL**

CSOs active in health and disaster care (e.g. the German Red Cross, the Order of Malta, and others) were able to engage their volunteers and provide help and services, e.g. in mass testing, against heavy odds.

Civic solidarity at the neighbourhood and local level was strong. Due to the contact restrictions, most of the initiatives were organised online. Grocery-Services for elderly or quarantined people were organised via platforms like Facebook or nebenan.de (a platform especially for neighbourhood communities, founded some years ago) or WhatsApp groups. Initiatives like “giving fences” with bags of necessities for people in need were created and supported in many towns, and many people started crowdfunding campaigns for small businesses or culture places in their neighbourhood areas, e.g. ‘ich bin ein Lieblingsort’ (I’m a favourite place) or Rettet die Clubs! (save the clubs!). Data about sustainability and the range of these actions are unavailable.

Attempts were made, e.g. by Fridays for Future, to put their protest online. Public visibility was naturally much reduced. Public demonstrations that respected security measures were very rare. More recently, however, a complex paradox has arisen in that demonstrations that did not respect those measures

were staged by opponents of the Government’s action. Anti-coronavirus demonstrations began to take place in July 2020 all over Germany in defiance of police regulations, with hotspots in Berlin, Hannover and Stuttgart²². They assembled a strange melange of conspiracy theorists, critiques of capitalism, and xenophobic, right-wing extremist and esoteric and alternative-medical groups. During these events, attacks on journalists and police were reported and triggered an ongoing public debate over the peril of radicalisation of the anti-lockdown protests. Civic activists found themselves in the strange situation of witnessing their very own causes, e.g. protesting infringements on civil liberties including freedom of assembly, being voiced in public by assemblies they would wish to disassociate themselves from by all means.

Over the next few months, an intense discussion over principles of civil society action and the role of civil society in defending and reforming a democracy based on the rule of law, human and civil rights, and ideals of an open, cosmopolitan, liberal, and participative society devoted to social change and justice will be required in order to fend off forces that have shown their ability to assemble sizeable numbers of citizens for very different ends. ■

The analysis is updated to 17 September 2020.

**IT HAS TAKEN A GREAT
DEAL OF CAMPAIGNING
AND PETITIONS TO
GET THE GOVERNMENT
REACT AT ALL**

²⁰ <https://www.tagesspiegel.de/berlin/corona-rettungsschirm-hat-luecken-gemeinnuetzige-betriebe-in-not/25705576.html>

²¹ Will be published in October 2020

²² <https://www.spiegel.de/international/germany/the-corona-conspiracy-theorists-protests-in-germany-see-fringe-mix-with-the-mainstream-a-8a9d5822-8944-407a-980a-d58e9d6b4aec> <https://www.dw.com/en/how-are-germanys-coronavirus-protests-different/a-53443502>

The genius of #Unteilbar was to shift the narrative towards a genuinely positive and hopeful vision of solidarity in diversity in Germany. Its story shows that it is not just enough to be reactive to the far-right infused public discourse that too often leads to normalising hate and violence towards minorities in Germany. In order to make equity and social justice common sense, the activists behind #Unteilbar seized the opportunity to weave the narratives of the increasingly intersectional grassroots initiatives and CSOs in Berlin and beyond into one powerful message of solidarity beyond borders – in the public space and in the minds. Not only did they manage to do that in Berlin, but also in cities in East Germany where civic initiatives are in need of support in the face of increasingly powerful far-right movements. Solidarity practices require that each of us listen to one another and look not for differences, but for points of overlapping interest or concern. The solidarity approach of #Unteilbar did lead to a common assessment among civil society that all forms of discrimination and hate are divisive tactics that needs to be overcome altogether, for social and climate justice to become reality. The pride and euphoria the demonstrators experienced during the demonstration of the 13th of October 2018 and the subsequent actions of “#SoGehtSolidarisch” showed so clearly how important narratives shape our worldviews and bring us the courage to speak up for our values and for the rule of law..

Martin Pairet,
European Alternatives

SOLIDARITY IS MORE THAN A PRACTICE

We need to ask who is paying for the crisis

Interview with Rebecca Rahe and Corinna Genschel, #Unteilbar

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Can you tell us about the #Unteilbar? When was it founded, who are its member and goals?

CORINNA GENSCHEL: #Unteilbar, which means “Indivisible”, was founded two years ago, in the summer of 2018. The Minister of Interior from the rather conservative Party CSU (ed.: Christian Social Union in Bavaria) was pushing against taking in refugees coming from Greece. This was just the last step after a long process shifting the government towards the right. The stand against refugees’ rights was a symbol. Back then, a small civil liberties organisation brought together other civic organisations and social movements to do something; not just another march or small initiative; we needed a larger response from the civil society and social movements. Throughout the summer, we sat down and reflected on what could be a response that would bring along the

progressive civil society in its broadness, together. We wrote a short but decisive call and started gathering signatories.

Then, we had a major fascist incident in Chemnitz in Saxony, in South-East Germany. Following a murder, the far-right mobilised in mass, while the police did not step in. We were already out with our initiative, but this mobilisation really pushed the civil society in Germany to act and gave momentum to our call. We needed a response in that town, but we also needed a federal response. We called for a demonstration on 13

October 2018 in Berlin. In the end, 240 thousand people showed up; it was one of the largest marches in Germany in the last decades. And it was very mixed: young people, older people, families, people in wheelchairs, people from social movements and people who had never been in demonstrations before. We did not organise thinking of a huge federal mobilisation, but people came in from other cities and picked up the message “Unteilbar”, “Indivisible”. The meaning is that we do not let the welfare state be pitted against the rights of migrants, against climate change, against other rights. Human rights are indivisible, and we are in solidarity with each other.

The other very important element is that we are an organised civil society response, and we want to give voice to those people who are unheard. However, we do not want to just add all these voices and specific demands; we want

WE NEEDED A LARGER RESPONSE FROM THE CIVIL SOCIETY AND SOCIAL MOVEMENTS



Rebecca Rahe

to create a synergy that makes all of us stronger. The right-wing is dominating the public discourse: they are loud; they are aggressive. We felt we needed a way to fill the public space with all those people who are there but are not as loud. After this huge far-right mobilisation, activists, musicians, and people from the civic and public space organised a huge free concert in Chemnitz in September under the slogan “*We are more*” which was also addressing the issue of who is in the public space, who is influencing the political discourse.

Initially, we as #Unteilbar only intended to have a march (in October), but it was so successful that we started to think that #Unteilbar had a bigger political responsibility.

REBECCA RAHE: What made #Unteilbar so successful was that it was not just a demonstration against the push of the far-right or racism; it was a march to be united in solidarity and to unite our struggles. The subtitle of the call was: “*Indivisible. In solidarity instead of exclusion. For an open and free society*”. There were the trade unions and big social welfare organisations being allies with small initiatives of self-organised refugees or feminist groups, climate justice groups, civil rights groups etc. Everyone could unite with their own struggle under the label “Unteilbar”. #Unteilbar became more than a

label: it was a way to do politics as a social movement, yet not a social movement independent from its parts. Inside #Unteilbar we can do things that we cannot do on our own.

How were you able to manage such a diverse coalition?

REBECCA: I think that one thing is the personal relations of people knowing each other and having built trust before. The movement was not born out of the blue. It was built by people willing to go a bit further than they usually would, because of the political situation. That was the time to build broader alliances. Since a couple of years, we had started understanding that we cannot do things on our own, and this created fertile ground for #Unteilbar.

CORINNA: I think that there was the feeling that there was a momentum to act. We also have an organising core group, like a coordinating committee that has the duty to build the alliance and organising the marches. But this is not like a traditional alliance where you are voted into this core group. We work together because we trust each other on a personal level. We also always try to avoid merely adding our individual demands to the alliance; we try

to think of those that march without us or those that are marginalised and might not be in the core group organising. We try to be representative and inclusive of more and giving voice to more, and that way bringing people into the alliance and the movement.

We keep the call rather short: we do not provide a long list of specific demands. Instead, we try to be abstract in a comprehensive way. The “indivisible” label tries to build bridges beyond our individual specificities, and we try to give voice to those who have specific concerns. We are trying to give another picture of the society. To give another example, last year we had a big demonstration in Saxony before the State elections. In the general public, there is an image of Saxony as a very white and racist state. We organised with various local anti-racist civil society organisations, migrants’ groups. For us, it was very important to have speakers to the press that made the “other Saxony” visible. This is a long process, so we usually do not organise a protest quickly. In the end, the march in Dresden was against racism not only for its messages but also for the visibility of persons of colour and an open and diverse society. In Saxony,





Corinna Genschel

there are a lot of groups of migrants or people working with migrants who struggle every day. They picked up the march as an opportunity to come out together and be strong in their togetherness. That was the beauty of it.

Why did you decide to organise the demonstration #SoGehtSolidarisch? What messages did you want to spread?

REBECCA: In Germany, the shutdown of public life came in mid-March. From that moment on, we were meeting every Wednesday in virtual space asking ourselves what we could do to address the consequences of the pandemic, but also how we could do it in the context of the pandemic and the limits to assemblies. Our main tool to protest and bring our claims into the public is through demonstrations, so we needed to think anew. There were some initiatives, for example under the slogan “*Leave no one behind*” that organised actions, rallies etc. for refugees to be evacuated from the Greek islands. We tried to broaden the attention of these initiatives. At the same time, the issue of migration as a civil rights question came back to the table given the hard stance our government (and the EU) took on evacuating the refugees from the Mediterranean. It found a small space in the press,

but still, nothing happened. The people were creative in finding ways to protest during the pandemic. Yet, people were not evacuated from Moria. It was frustrating. At the same time, the social inequalities that existed before the pandemic were getting even more drastic. We know this from all countries and regions – there is so much written about this now. However, in this crucial moment bringing the voice of civil society on how the situation should be dealt with was still not possible. And when the lockdown was gradually eased, the streets were taken over, again, by right-wing demonstrations with wild conspiracy theories, spreading anti-Semitic ideologies etc. It was not just about the “streets”: the public discourse seemed to be dominated [Ed.: by the far-right] again. And that was the point in which we decided to act very quickly and organise a “ribbon of solidarity” in many cities in about three weeks. We thought that was the time to address the government but also the society differently. We wanted to communicate that solidarity is not just the practice of supporting one another in the neighbourhood but it is also about asking how the money is being distributed, who is going to profit from it, who is going to come out of the crisis worse or better.

CORINNA: I think we can see very clearly in this mobilisation that #Unteilbar wants to be more than just “*against the right-wing*”. We want to work for a society in

solidarity. We want to bring a different imagination to the streets. In that regard, we also had to engage with the issue of the pandemic. Masses of people rallying together are the life of social movements, but we could not do that, and not only because of the government’s restrictions. We also wanted people to feel safe going out in the streets. #SoGehtSolidarisch was both a political message with all these demands and connecting struggles, but it was also an experiment of demonstrating differently, in a safe way during the pandemic. This is how we came up with the ribbon of solidarity. It was very colourful; it was very nice. There were long lines of people, keeping the distance but being connected through the ribbon. And it worked. The beauty of it was that in the very small timeframe we had, ten cities decided to take that on and initiate small alliances and formed their ribbon of solidarity. Climate action groups, with anti-racist groups, with feminist groups... **REBECCA:** As Corinna said, we wanted everyone to be safe - that is also why we put so much effort into the live streaming, which we also published on YouTube afterwards to reach people even in the aftermath. That day, on 14 June, we had more than 20’000 clicks on the live stream, and many thousands watched it throughout. On the streets across Germany, we were also more than 20’000 people. If you add everything together, we reached more than 50’000 people on the day itself, but even more in the aftermath through Youtube.

Is the protest connected with other strategies in different fora to obtain change?

REBECCA: #Unteilbar is a way to do things together that we cannot do alone. Individual organisations do so much political action, and it is important that it is that way. #Unteilbar does not take on specific challenges that can be done by the organisations themselves or other alliances. Of course, we network with others, we

IT WAS NOT JUST A DEMONSTRATION AGAINST THE PUSH OF THE FAR-RIGHT OR RACISM; IT WAS A MARCH TO BE UNITED IN SOLIDARITY AND TO UNITE OUR STRUGGLES



represent the idea of #Unteilbar in other circles, but our political strength lies in organising protests as an alliance, this is how we work for change.

CORINNA: To give an example, after we cooperated with civil society in Saxony last year before the state election there, in the upcoming year, we will try to initiate a similar process in five States in the East. The “East” is a specific region and next year three State elections will be held, and we run the danger to have a big right-wing shift. The solidarity structure is struggling hard there; there is a difference between the East and the West because of the

different history of civil society. This is one reason we started networking with several initiatives there to think whether it is feasible, and it makes sense to build up a campaign in solidarity with the East – to build special fora – to answer your question – in a way that does not say “*the people from Berlin come there to protest the right-wing elections*”, but to start a campaign of those initiatives and act as a magnifying glass to make it stronger. We might not be “*more*”, but the structure is there. Part of the society in the East is not voting right-wing, that is protesting and trying to build an alternative of solidarity.

What impact is this initiative having?

REBECCA: In February, in Thuringia, a parliamentarian from the FDP (ed.: Free Democratic Party) was voted as Minister-President with votes from the AfD (ed.: Alternative for Germany). There were spontaneous rallies all over the place and the next morning we received several calls to ask what #Unteilbar was going to do. #Unteilbar had positioned itself before, claiming that if AfD becomes the ruling party in one of the States, civil society is called to action. Of course, this was not exactly the case, but it prompted us

to intervene. There was a local alliance in Erfurt/Thuringia that we joined and worked together with. It was clear that something had to be done and who was going to do it. For me, this was an important moment to measure what role #Unteilbar can have in society. I also think that the announcement of our demonstration provoked a change in parliamentary politics¹: civil society was putting pressure on them, and that was going to be big. Then, I tend to measure the impact more in terms of the state of civil society rather than in terms of changes in the law or parliamentary politics. For example, now the *Fridays for future* movement is supporting workers’ struggle around higher wages for the public transport sector. I think that these kind of alliances are so crucial for social change. #Unteilbar does have some role and some impact in that people see it as possible to link up with movements and people that are not the closest to them.

CORINNA: I totally agree with Rebecca. At the same time, I think the question of impact on power balances is fundamental, and there is a real need for reflection inside civil society in Germany and Europe. As #Unteilbar, and more broadly as civil society and movements, we have been on the streets in large numbers for years. We might manage to shift the public discourse, and that is important. But in the long-run the question for organised civil society and social movements is how to influence changes also legally, institutionally and structurally – and this is not just a question for #Unteilbar. I think that in the last five years at least, there has been a gap between the very strong public outcomes of social movements and the impact at the policy level. We see it for example with *Fridays for Future* and *Ende Gelände*: we have a very strong, continuous pressure on the politics of climate change, but the effects are really limited.

¹ The elected Minister-President announced his resignation and a new vote was held.

I THINK THAT IN THE LAST FIVE YEARS AT LEAST, THERE HAS BEEN A GAP BETWEEN THE VERY STRONG PUBLIC OUTCOMES OF SOCIAL MOVEMENTS AND THE IMPACT AT THE POLICY LEVEL

To connect to this, there has been a push to keep civil society outside of the realm of politics. Is this issue addressed inside of your movement?

REBECCA: Last year in Germany we had a big debate about “*gemeinnütziger Verein*”². It is about tax laws, a bit boring but important, because it allows organisations registered as organisations working for the “*good of the public*” and, therefore, to be tax exempt (especially important for donations). When eventually also the *Association of Persecutees of the Nazi Regime/Federation of Antifascists* (VVN-BdA) lost its “*gemeinnütziger Verein*” status (ed.: “*public benefit*” status), #Unteilbar addressed the issue head on by writing an open letter and collecting signatories. We had not done that before, but for us, this was a big issue for the state of civil society: how organisations can act politically or are structurally enabled to do so. We were concerned about what could happen from now on if such State decisions would become legitimate: What can organisation say or do if they are always threatened with losing their “*public benefit*” status? We stood in support of the organisation, also stating that civil society deals with issues that are political.

Is there a desire to get organised also transnationally in Europe?

CORINNA: Well, #Unteilbar is always thinking globally or transnationally, but it is not organised that way – we act “locally”. Although we have strong ties, we do not organise for this issue across Europe. Within Europe, and I like to stress Europe rather than the European Union, we are in a different position compared to ten years ago when, with the financial crisis, all civil society and social movements

came together and strategised together. We are in a different stage now, that does not mean that there are no networks organising in a pan-European way, but just saying it seems to be a different context right now. For us, getting this award is a way to be in companionship with these other groups.

IT WAS ALSO AN
EXPERIMENT OF
DEMONSTRATING
DIFFERENTLY, IN A
SAFE WAY DURING
THE PANDEMIC

Do you think that the European Union can be an ally in your struggle? In what way?

CORINNA: No, not really. This is a state organisation, not an alliance partner, plus for us it is important to think Europe not just the EU. We are companions or allies of civil society in the EU and Europe but also beyond: there are other spaces or terrains of struggles that we look at, like the Balkans, the Mediterranean... #Unteilbar understands itself as an agent of civil society or organised civil society. We are independent of parties and states.

What lessons can be learned from this initiative that can potentially inform a post-COVID-19 institutional and societal response?

REBECCA: I think that, especially at the beginning, there was a discourse even in big media institutions that this crisis was a window of opportunity for some profound societal change, to organise the economy differently, for more equality and more justice. I do not think that this is necessarily a lesson from the pandemic but has more to do with the ups and downs of the

political discourse and politics in general. We did see that there is a lot of money if governments decide that it is needed, and that politics can act together and solve problems in a crisis if they want to. Yet, we – civil society – need a balance between pushing, interacting, and interfering, and that was imbalanced or even out of balance before, particularly in COVID-19 times. Institutionalised politics can act, but we need to keep them accountable, transparent, responsive. For me, it is an open question: can we build up more pressure for them to act differently?

CORINNA: What I learned is that strong and accountable institutions might be very useful, but for a society in solidarity we also need them to be in relation with an organised progressive civil society that can have a say in these decisions. It was civil society that pointed to the issue of refugees in Moria or the homeless people that could not find a shelter or other societal issues. In these kinds of situation, we need a relationship between accountable institutions and a civil society that allows finding a solution to these questions, needs and demands much earlier on. We need people voluntarily standing in solidarity in their neighbourhoods, but we also need organised solidarity, and it needs to be supported by “the State”. Linking to what Rebecca was saying about the “*public benefit*” status, this context makes that boring textbook question so crucial because for civil society to be organised, for solidarity to be functioning, it needs to have resources. We can learn this all the time, but these last months made it really clear that civil society needs to be much more cherished, not just by clapping on the balconies. ■

The interview was carried out on 20 July 2020.

² The definitions of legal categories such as “charitable”, “philanthropical” and “benevolent” associations differ considerably between jurisdictions. “*Gemeinnütziger Verein*” can be roughly translated as “public-benefit”.



GREECE

Civic space in Greece is rated "Narrowed" on the CiViCUS Monitor.

Organised civil society in Greece has been historically weak, especially in comparison to other European countries. Nevertheless, the pauperisation of the population produced by the harsh austerity policies during and after the bailout period – with over one third of the population at risk of poverty or social exclusion in 2017¹ and the highest unemployment rate in the European Union² – and the migration crisis that exploded in 2016 has led to the emergence of many informal initiatives that are not captured by the data of the infographics. The bitterness towards EU-imposed measures as well as the outrage at perceived EU neglect on migration issues explain the electoral victory of a Party campaigning for “law and order”. Since its coming to power in summer 2019, the right-wing New Democracy Government has restricted civil society space, especially for groups acting for migrants’ rights, in a context that was already challenging for civic groups. The coronavirus outbreak in 2020 became the third major crisis of the country in the last 12 years providing the Greek government with an additional justification to crack down violently on civil society.

¹ Eurostat January 2019.

² Eurostat October 2020.

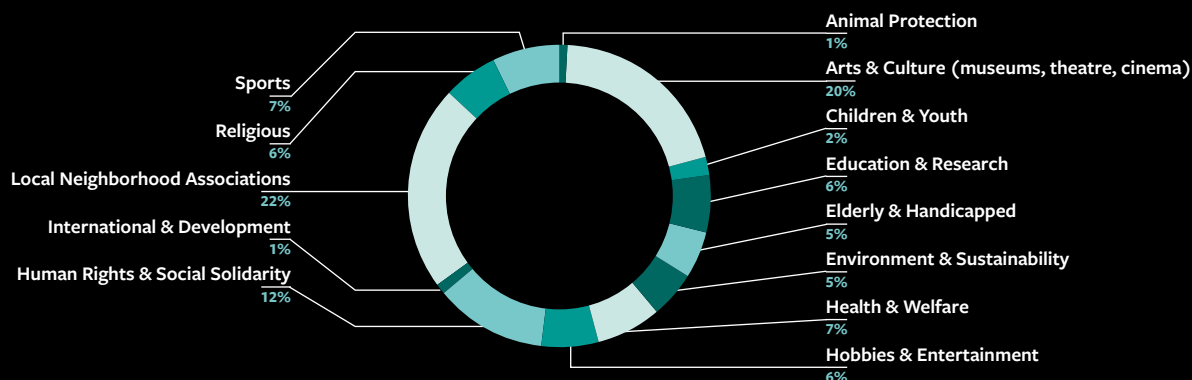
THE SECTOR IN NUMBERS

Population of the country (2020):
10.4 Million

Number of CSOs (2018):
7,190

DISTRIBUTION OF CSOS BY FIELD OF ACTIVITY (2015)*

*THIS DATA DOES NOT INCLUDE 983 LARGEST CSOS.

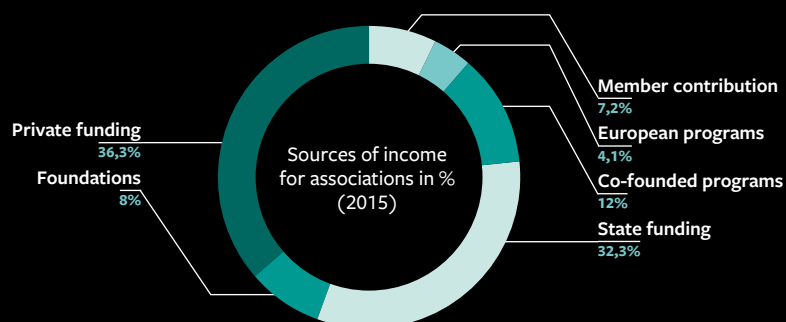


THE ECONOMIC WEIGHT OF THE SECTOR

Number of people employed by the sector (2018):
4,000 employees (16% of the CSO workforce)*

*THIS DATA REFERS TO FORMAL AND PROFESSIONAL CSOS.

Number of volunteers (2015):
7,100 regular volunteers
12,769 irregular volunteers
0.2% of the total population
+ 28% of volunteers compared to 2013



COVID-19 ADDS UP TO THE UNRESOLVED ECONOMIC AND MIGRANTS' CRISES

Government toughens stance against civil society

By Dominika Spyratou, SolidarityNow

The coronavirus outbreak started in Greece in March 2020 and became the third major crisis of the country in the last 12 years, succeeding a decade-long economic depression and a never-ending refugee emergency. In a context where the conditions for civil society and the safeguards of the human rights of the most vulnerable societal groups were already frail, the coronavirus has provided the Greek government with an additional justification to crack down violently on civil society. There is a fear that emergency measures will become permanent.

CIVIL SOCIETY'S CONTEXT

Civil Society in Greece has been historically weak, especially in comparison to other European countries. For various social, cultural and political reasons,¹ civil

society organisations have been few, with limited resources and marginal impact. In recent years, the landscape of organised civil society has been slowly changing. The country's economic crisis which started in 2008, created new needs and opportunities that mobilised the sector. High levels of unemployment, increased poverty, and reduced social services led to new initiatives and a spike in civic engagement, mostly spontaneous and informal. The social and solidarity economy grew organically, in an effort to replace existing economic and business models that were inefficient or dysfunctional. Private donations and funds from abroad replaced state funding which had the effect of changing the focus of many pre-existing organisations.

As Greece was still struggling to overcome the economic crisis, a second crisis put the country back in the international spotlight. In 2015, over 850,000 refugees came to Greece, mostly

attempting to reach western Europe. Greece and the EU's unpreparedness led to a deficient response to the influx of newcomers. In turn, civil society actors, both formal and informal, began working to fill the gaps, including covering basic needs, legal aid, conducting rescue missions, and beyond. The availability of large amounts of funding from the EU brought many new organisations to Greece, expanded international

**THE CORONAVIRUS
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¹ <https://www.uop.gr/images/files/huliaras.pdf>

organisations that were already present in the country and created the conditions for local NGOs to, once again, shift the focus of their work.

Between 2015-2017, at the peak of the migration flow into Europe, it is estimated that around \$803 million in aid came into Greece, which includes all significant bilateral funding and major private donations.² This funding was directed both to the government to shore up its asylum system and to CSOs working with refugees. It has been called the most expensive humanitarian aid effort in history. Five years on, the reality on the ground does not reflect the level of financial investment that was made in Greece's reception system, which still struggles to cope with new arrivals, even though they have significantly decreased. Greece's asylum-seekers and migrants rely on the support of CSOs in the absence of government programmes to apply to or support from the state. Despite the fact that needs are unchanged, funding for refugee support is decreasing, forcing organisations to scale down or close their operations.

² <https://www.newsdeeply.com/refugees/articles/2017/03/06/the-refugee-archipelago-the-inside-story-of-what-went-wrong-in-greece>

SolidarityNow (SN) is a

non-governmental organisation committed to improving the lives of vulnerable people in Greece and helping them pursue a better future with dignity and perspectives. SN implements programmes in several urban and rural areas across Greece, ranging from basic service provision, educational activities and accommodation programmes. During COVID-19 outbreak, SN had to adapt its programmes, ensuring that all needs of at-risk people were addressed. It also established new activities to respond to the pandemic that included awareness raising campaigns and community-based creative initiatives, such as the creation of home-made masks and sanitisers by female asylum seekers in refugee camps across the country. You can find out more about SN's activities here: <https://www.solidaritynow.org/en/>

The responsibility for the failure to adequately and humanely address the influx of migrants into Europe does not rest on Greece alone. The EU approach of relying on Turkey as a proxy to stave off migration whilst pumping money into Greece - among the economically weakest countries in the Union - in the hope that migrants who crossed into Europe will remain in Greece, has created a broader crisis that affects Greek and European civil society as a whole. Moreover, the EU has yet to implement a comprehensive programme of humanitarian assistance or to share the burden of support meaningfully.

In a context of suffering caused by the economic crisis and bitterness toward EU-imposed austerity measures that followed, the Greek public, which had exhibited relative compassion in its stance towards migrants, has begun to express its outrage at perceived EU neglect. It is thus no surprise that Greece elected a government - led by the established centre-right party New Democracy (ND) - whose campaign centred on taking a tough stance against migration and CSOs that work with migrants. In this regard, both Greece and the EU bear significant responsibility for the closing space for civil society and civic engagement that is taking place in the country.

Syriza, the left-wing coalition that ruled Greece between January 2015 and July 2019 was known for anti-austerity and anti-establishment positions which enabled its defeat of ND in 2015. After several years of failing to confront Greece's creditors, and to change the terms of Greece's post-crisis bailout measures fundamentally, Syriza lost the following elections, and ND returned to power. Since the change of government in July 2019, significant new challenges have emerged. One of the Prime Minister's earliest, symbolic actions was to close all squats in Exarcheia, the Athens neighbourhood that is home to self-managed spaces, migrants and anarchists.

GREECE'S ASYLUM-SEEKERS AND MIGRANTS RELY ON THE SUPPORT OF CSOS IN THE ABSENCE OF GOVERNMENT PROGRAMMES TO APPLY TO OR SUPPORT FROM THE STATE

ND's attempt to 'clean up' the area led to arrests and violent attacks against people in need and those who support them. Police presence on the streets of Athens and incidents of police violence also increased markedly.³

The relationship between government and NGOs was already problematic, characterised by a lack of cooperation and communication. This is a systemic problem that can be partially attributed to Greece's fragmented and inefficient public sector. When ND came to power, it immediately made clear that neither refugees nor CSOs assisting and defending them are welcome in the country. By restricting asylum procedures and increasing returns,⁴ neglecting asylum-seeker and refugee integration, and limiting the freedom of NGOs working on migration, the party created a profoundly hostile environment for civil society. It also created fertile ground for far-right groups to continue their xenophobic and racist acts, including violent attacks. In the first months of 2020, the situation escalated to the point where organisations operating on the Greek islands and the Evros land border were

³ <https://www.theguardian.com/world/2019/dec/31/greek-activists-warn-of-surge-in-police-brutality-and-rights-violations>

⁴ <https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/2020-09/wemove-oxfam-complaint-to-ec-asylum-greece-eu.pdf>



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attacked on numerous occasions and were forced to cease their activities.⁵ In September, Greek police filed a criminal case against 33 members of four NGOs running Search and Rescue (SAR) operations in the Aegean sea, accusing them for a series of illegal activities.⁶ This prosecution adds to a list of cases of criminalisation of solidarity that have taken place in Greece in the last years,⁷ a worrying trend with which the government is trying to intimidate organisations helping refugees and stop them from reporting pushbacks and other violations by authorities whilst minimising flows.

CHALLENGES FOR CIVIL SOCIETY IN GREECE IN THE COVID-19 ERA

State response and societal impact

The Greek government adopted very early measures in response to the coronavirus outbreak. A state of emergency was never declared, but urgent measures were taken in March for the prevention of the spread of the disease and against

**AUTHORITIES HAVE
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AND THREATENING
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ON THE ISLANDS**

its negative financial impact.⁸ Although a number of actions to protect businesses and employees were adopted, government assistance did not benefit all given that a significant portion of the country's population, especially younger people and marginalised groups, work in the black market. Temporary restrictions of movement for all residents were imposed for six weeks which prohibited all forms of movement without a special permit; violations could lead to fines by the police for breaching lockdown rules.

Whilst these measures were to be imposed only when strictly required, and with respect to the principle of proportionality and the rule of law, in

⁵ <http://ivrn.org/2020/03/racist-violence-recording-net-work-serious-concern-over-attacks-against-refugees-and-humanitarian-workers/>

⁶ <https://www.euronews.com/2020/09/29/greek-police-accuse-33-ngo-members-of-helping-migrant-smugglers>

⁷ For examples of other cases see: <https://www.solidaritynow.org/en/sarah/> and <https://www.dw.com/en/greek-court-clears-spanish-and-danish-aid-workers-on-migrant-smuggling-charges/a-43693777>

⁸ https://fra.europa.eu/sites/default/files/fra_uploads/greece-report-covid-19-april-2020_en.pdf

2008: Global Financial Crisis

2009: Socialist party wins the elections.

2010: 1st Rescue Package. Eurozone approves 110 billion euros rescue package. The deal opens the season of austerity measures, structural reforms and privatisation.

JANUARY 2015: Syriza, a left-wing coalition, wins the elections with anti-austerity agenda.

2015: European migrant crisis: 850.000 refugees arrive on the Greek coast that year.

APRIL 2013: Golden Dawn trial starts over alleged violence committed by the group since 2008.

JULY 2015: Government agrees on third bailout programme despite popular rejection in a referendum carried out in June.

FEBRUARY 2016: A new legislation provides for the control and close monitoring of NGOs and volunteers operating on the island of Lesbos. Some incidents of judicial harassment and criminalisation of civil society have been reported by international NGOs after the implementation of this law.

APRIL 2016: Greek police arrest and fine several NGO ships involved in search and rescue of immigrants in the Mediterranean.

AUGUST 2018: Greece exits bailout programme.

JULY 2019: New Democracy wins the elections.

AUGUST 2019: Police raid squats and arrest migrants and activists in Exarcheia, the self-governing community of Athens.

practice, this was not always the case. CSOs witnessed and reported incidents where the police were issuing on-the-spot fines to homeless people on the grounds of 'unnecessary movement'. In a country where the number of shelters for the homeless do not cover the needs of those sleeping rough and with almost no programmes geared toward their support and re-integration, such actions raised concerns over the police's real intentions.

Even more worrying were the measures that the government adopted in refugee reception centres and camps across the country. The already dire living conditions in overcrowded facilities on

Covid-19 outbreak in such conditions could have had catastrophic outcomes. In March 2020, the number of people in the hotspots, including children and vulnerable groups, was approximately 37,400 whilst their total capacity was less than 6,100. To prevent a surge of the virus in these facilities, the government put them on lockdown, potentially trapping thousands of healthy people with others carrying the virus. Lack of running water, toilets and isolation spaces; inadequate healthcare facilities inside the hotspots; and the inability of people to leave them, even to get necessary supplies when food distribution and other services are limited, risked lives. The EU Commission, INGOs and NGOs have repeatedly expressed their concerns and demanded decongestion.⁹ Despite attempts by the government to create a response plan to prevent a new wave of the disease, the conditions remain inadequate. Meanwhile, authorities have begun issuing fines and threatening criminal charges against CSOs working in reception centres, forcing them to cease their work on the islands.¹⁰ Luckily, no Covid-19 cases have been reported in the hotspots during the six-week lockdown period. The approach to camps on Greece's mainland has been similar. Three camps were put

ORGANISATIONS WORKED ROUND THE CLOCK DURING THE FIRST WEEKS OF THE LOCKDOWN TO MAP NEEDS AND TRANSFER THEIR WORK TO THE DIGITAL ENVIRONMENT

in quarantine when some refugees tested positive for the virus, and one went on isolation due to a Covid-19 outbreak in a nearby Roma settlement, arbitrarily restricting the movement of hundreds of people.

In March, the Greek government adopted an emergency legislative decree that suspended the registration of asylum applications for one month, placing all newcomers indiscriminately in detention; human rights groups decried the decree as a violation of international law.¹¹ Covid-19 emergency measures further affected access to asylum as the Greek Asylum Service suspended its operations for several weeks. The inability of recently arrived asylum seekers to submit

AN INCREASINGLY COMMON AND WORRISOME TACTIC IS THE USE OF TEAR GAS AND EXCESSIVE FORCE BY SECURITY SERVICES AT DEMONSTRATIONS AND PROTESTS

the East Aegean island hotspots - an issue that civil society has been raising and pressing authorities to address for years - became an even graver concern as a

⁹ For an example see https://www.solidaritynow.org/en/hotspot_corona/

¹⁰ <https://www.msf.org/msf-forced-close-covid-19-centre-lesbos-greece>

¹¹ https://rsaegrean.org/wp-content/uploads/2020/05/RSA_LN_AsylumSuspension.pdf

OCTOBER 2019: A new presidential decree allows the use of drones to support and enhance the activities of the Hellenic Police for crime prevention, traffic control and border surveillance. This legislation does not include any guarantees against data breaches nor does it refer to other data protection legislation.

NOVEMBER 2019: CSOs that work with refugees and migrants in Greece are given 10 days to register with the Citizen Protection Ministry, or risk being banned from operating in the country.

4 FEBRUARY 2020: A new law requires NGOs to register and certificate to work with migrants is passed accompanied with aggressive narrative of the Migration Minister.

9 FEBRUARY 2020: Far-right patrols attack refugees, volunteers, and locals in Lesbos, where over 20,000 refugees are hoping to be allowed to move to the mainland.

26 FEBRUARY 2020: The coronavirus reaches Greece: the first case is detected.

28 FEBRUARY 2020: Pushbacks and violence at borders: Greek security forces and unidentified armed men at the Greece-Turkey land border detain, assault and strip asylum seekers and migrants, then forced them back to Turkey.

1 MARCH 2020: Greece suspends asylum applications: The Government blocks any new asylum applications for the next month.

21 MARCH 2020: To prevent an outbreak of the virus in the migrant camps, the government put them on lockdown.

asylum applications also prevented them from accessing their right to healthcare¹² and had a negative impact on the lives of the most vulnerable. CSOs working in camps have been reporting increased

IN THE FIRST MONTHS OF 2020, THE SITUATION ESCALATED TO THE POINT WHERE ORGANISATIONS OPERATING ON THE GREEK ISLANDS AND THE EVROS LAND BORDER WERE ATTACKED ON NUMEROUS OCCASIONS

gender-based violence incidents and mental health-related problems - a direct outcome of the quarantine measures.

In June, the government started lifting lockdown restrictions and opening up to tourism. For most people and businesses life returned to normal whilst movement restrictions continued to apply to hotspots and camps. At the time, there had been no Covid-19 cases

in the islands' reception centres, and no cases were recorded in the camps on the mainland since April. The unjustified and discriminatory¹³ confinement measures imposed on migrants, which remain in place today, perpetuate an insidious and inaccurate narrative about the correlation between the spread of the virus and refugees and create a spurious justification for further restrictive measures which the government had already been considering prior to the pandemic.

The first Covid-19 case in a hotspot was recorded in Moria camp on the island of Lesbos in early September. The camp was immediately quarantined, and a couple of days later it burned to the ground following an arson attack that was allegedly a reaction to the new, harsher restrictive measures. More than 12,000 were left homeless and, once again, tensions rose between local communities and newcomers. It remains unclear whether the new temporary facility on Lesbos established by the government to host displaced people will function as an open or closed centre, raising alarm bells for civil society organisations which fear that the already inhumane policies that led to the tragedy will become more cruel.

Restrictions to public gatherings, freedom of assembly and association

Lockdown restrictions prevented people from gathering in groups of more than

ten individuals in open spaces. Despite government warnings against large gatherings, one large peaceful demonstration was held on May Day where participants took all necessary protection measures, and the police did not interfere.¹⁴ No major incidents took place during the six-week lockdown period. Yet, with the gradual lifting of the restrictions from 4 May, and as young people started gathering in public spaces in larger numbers, the police intervened to enforce public health measures and some such interventions turned disproportionately and unjustifiably violent.¹⁵

Since the election of the new government, which came into power with an agenda promising heightened security and the imposition of 'law-and-order', an increasingly common and worrisome tactic is the use of tear gas and excessive force by security services at demonstrations and protests. Police activity and violence has come as no surprise, including at student protests over the abolition of the university asylum law, which prohibited police from entering university campuses;¹⁶ during a march

¹⁴ https://www.thenationalherald.com/archive_general_news_greece/arthro/hundreds_of_protesters_gathered_in_greece_s_major_cities_to_mark_may_day-273820/

¹⁵ <https://balkaninsight.com/2020/05/14/in-pandemic-era-greece-fighting-for-control-of-the-square/>

¹⁶ <https://www.ekathimerini.com/246471/article/ekathimerini/news/greek-students-protest-higher-education-reforms>

¹² Access to public healthcare is directly linked to the completion of an asylum applications

¹³ <https://www.solidaritynow.org/en/restrictions/>

23 MARCH 2020: The government introduces a general lockdown to all the country.

MARCH-APRIL 2020: Civil society in Greece and across Europe calls to "leave nobody behind" and to evacuate overcrowded refugee camps.

4 MAY 2020: Extension of lockdown for refugees camps, where social distancing is impossible and tensions are rising as life is more restricted, while Greece's government prepares the country to welcome tourists.

MAY-JUNE 2020: Police violence intensified against the first social gatherings in the public squares.

29 JUNE 2020: The Greek Minister of Citizen Protection tables a bill that restricts the right to freedom of peaceful assembly.

30 JULY 2020: MSF isolation centre for refugees in Lesbos receives fines and potential criminal charges by local authorities related to urban planning regulations. The centre is forced to close.

9 SEPTEMBER 2020: Fires destroy Moria's migrant camp, leaving nearly 13,000 people without shelter.

28 SEPTEMBER 2020: Greek police accuse 33 NGO members of helping migrant smugglers.

7 OCTOBER 2020: Greece's neo-Nazi party Golden Dawn is branded a criminal organisation and leaders are sentenced to 13 years in prison.

over the death of George Floyd;¹⁷ and at an anti-fascist rally on the day that the leadership of Golden Dawn -Greece's neo-Nazi party- has been convicted of running a criminal organisation.¹⁸ It was during the same challenging times that the government passed legislation restricting the freedom of association and assembly. A new Law (No. 4662/2020) followed by a Ministerial Decision (3063/2020) regarding the registration and certification of organisations active in the field of migration, introduced unnecessary and disproportionate barriers on NGOs and was

THE CURRENT CRISIS PRESENTS CHALLENGES FOR CIVIL SOCIETY WHICH HAS AN IMPORTANT ROLE TO PLAY IN ITS RESOLUTION

adopted without adequate and timely public consultation. Part of the government's campaign to create a hostile environment for civil society organisations, the new legislation hinders organisations' ability to undertake their work and exercise their legal right to association.

Although Greece has maintained a "Greek and Foreign NGO Members Registry" since 2018, the latest legislation grants extraordinary powers to the Ministry of Migration and Asylum around the control of NGOs, including the discretion to reject applications for registration without a clear reason. The rules governing the registration and certification of organisations are arbitrary and

¹⁷ <https://www.ekathimerini.com/253383/article/ekathimerini/news/demonstrators-clash-with-police-outside-us-embassy-in-george-floyd-protest>

¹⁸ <https://www.ekathimerini.com/257783/article/ekathimerini/news/greek-court-rules-golden-dawn-party-criminal-organization>

have become stricter and more costly, while the reporting requirements place an unjustifiably heavy administrative burden on NGOs. All of this has had a chilling effect on civil society activity. According to the Council of Europe's Expert Council on NGO Law, Greece's "Ministerial Decision and related legislative provisions should be substantially revised so that they are brought in line with European standards".¹⁹ This opinion is endorsed by most organisations working with migrants and refugees in the country.²⁰ Following a legislative amendment, the Ministerial Decision was revised in September. The new decision did not take the Expert Council's recommendations into account, and it introduced even more cumbersome requirements by making the certification procedure - previously optional for certain organisations - mandatory for all migration NGOs.²¹

Another law (4370/2020) restricting the right to freedom of peaceful assembly was passed on 9 July, following a heated debate in the parliament and protests in

¹⁹ <https://rm.coe.int/expert-council-conf-exp-2020-4-opinion-ngo-registration-greece/16809ee91d>

²⁰ <https://www.solidaritynow.org/en/registration/>

²¹ <https://rtaeagan.org/en/greece-further-restricts-civil-society-supporting-refugees-and-migrants/>

NEW GRASSROOTS GROUPS EMERGED TO HELP THE HOMELESS, ELDERLY, UNEMPLOYED AND OTHER VULNERABLE GROUPS AFTER SHOPS, RESTAURANTS AND SERVICES CLOSED

which the police violently intervened.²² The consultation period was equally short and inadequate, the principles of necessity and proportionality were not followed, and some of the law's provisions are not in accordance with international human rights law endangering the public's right to demonstrate. For instance, organisers are required to notify the authorities about a public assembly, which enables their dissolution. Restrictions have been imposed on simultaneous assemblies, and organisers can be held liable for the actions of participants.²³

²² <https://www.dw.com/en/greece-protests/a-54119094>
²³ <https://www.amnesty.org/download/Documents/EUR2527062020ENGLISH.pdf>

BILL ON PUBLIC OUTDOOR ASSEMBLIES AND OTHER PROVISIONS

As tabled on 29 June 2020

Restrictions on the right of peaceful assembly

Notification Requirements - Article 9 para 1(d): Authorities have great discretion to dissolve assemblies where a notification is not made.

Regulation of Spontaneous Assemblies - Article 3 (3): Competent authorities can dissolve spontaneous assemblies if participants do not adhere to restrictions imposed on them, including identifying an organiser.

Limitation of Counter-Demonstrations - Article 7 (1) (c) and (2): Assemblies can be prohibited if another demonstration with an opposing aim takes place in the same or area and time.

Liability of the Organizers - Article 13 (2): Organisers can be held responsible for the compensation of those who have suffered harm to their life, physical integrity and property by the participants.

Source: Amnesty International, Greece: Amnesty International statement on bill of the Ministry of Citizens Protection: "Public outdoor assemblies and other provisions", <https://www.amnesty.org/download/Documents/EUR2527062020ENGLISH.pdf>, (2020).

Whilst it is likely that these laws would have been proposed regardless of the pandemic, their timing and the conditions under which they were passed call their legitimacy into question and expose the duplicitous nature of the government's agenda.

Further challenges

Civil society in Greece is facing significant limitations on its ability to operate during the pandemic. Once the country went into lockdown, organisations had to adapt quickly. Public services closed down or were reduced, leaving the burden of support on NGOs. Where feasible, CSOs had to promptly move their services online, usually with no additional resources. Organisations worked round the clock during the first weeks of the lockdown to map needs and transfer their work to the digital environment - from language and employability courses to legal aid and psycho-social support. Keeping people in need informed about Covid-19 developments and related measures was challenging - the Greek government does not have a robust system through which to disseminate information online, nor does it provide translations even of urgent announcements. For newcomers who do not speak Greek, this brought added stress, fines, and risk.

IT WAS DURING THE SAME CHALLENGING TIMES THAT THE GOVERNMENT PASSED LEGISLATION RESTRICTING THE FREEDOM OF ASSOCIATION AND ASSEMBLY

Online activities increased dramatically, but not everyone had access to them. Slow or lacking internet in camps and settlements and a dearth of digital equipment and literacy are just a few of the problems CSOs were scrambling to resolve. In-person services, which were in higher demand during the crisis, were even more difficult to carry out given the lockdown restrictions.

Government aggression, the paucity of funding and lockdown restrictions were already having an adverse effect on CSOs when the pandemic hit, and they were forced to adapt their services. Uncertainty surrounding the sustainability of existing funding schemes and severe delays in the agreement of the Multiannual Financial Framework (MFF) - the EU's long term budget - for 2021-2027, due to the pandemic among other reasons, make it difficult to plan ahead and allocate resources for new activities. The new MFF proposal which was finally agreed in July allocated funds to address the health crisis²⁴ and was welcomed by civil society. At the same time, there are concerns that these funds may not reach those groups that are suffering the most from the pandemic since civil society in Greece is not involved in the planning and monitoring of EU funded programmes according to the partnership principle.

Government and civil society have failed to open a constructive dialogue, resulting in a lack of action by the government to protect the sector from the pandemic's negative impacts. General measures to alleviate economic hardship such as an extension on tax deadlines and loan payments; flexible work arrangements; and the provision of special-purpose leave for workers were helpful. However, a targeted approach tailored for the third sector and its beneficiaries

THE POLICE INTERVENED TO ENFORCE PUBLIC HEALTH MEASURES AND SOME SUCH INTERVENTIONS TURNED DISPROPORTIONATELY AND UNJUSTIFIABLY VIOLENT

is necessary, especially in the face of a potential second coronavirus wave.

PATHWAYS TO RECOVERY

Despite the challenges, there have also been positive developments. Online civic engagement increased dramatically, especially dissemination of information about weathering the lockdown and how the government was confronting the crisis. Covid-19 also sparked a surge of volunteering and community organising at the local level; new grassroots groups emerged to help the homeless, elderly, unemployed and other vulnerable groups after shops, restaurants and services closed.

Positive initiatives to ensure the respect of fundamental rights were also adopted by public authorities. At the local level, new shelters opened their doors to the homeless, offering immediate help, free meals and support services. CSOs' role in establishing shelters and offering services, sharing know-how and providing personnel was crucial. At the national level, previously announced forced exits of thousands of recognised refugees from accommodation schemes were paused until the end of the lockdown;²⁵ tenants unable to work were offered reduced rents; banks were

²⁴ <https://www.consilium.europa.eu/en/infographics/recovery-plan-mff-2021-2027/>

²⁵ Unfortunately, the issue reoccurred after the lifting of the lockdown measures <https://www.solidaritynow.org/en/exits/>

instructed to freeze mortgage payments; and selected public services went online making social benefits and pharmaceutical services accessible. On their own, these initiatives are not sufficient to cover the requirements of people in need. Yet they are an entry point for further support work at the local, regional and national levels and more systematic collaboration between public authorities and CSOs.

CONCLUSION

The current crisis presents challenges for civil society which has an important role to play in its resolution. It had to find new and creative ways to assist the most vulnerable whilst making sure that fundamental rights are respected. Restrictions on movement and other extraordinary measures that governments are taking to stop the spread of Covid-19 limit these rights, making the work of civil society both more difficult and crucial.

Like with all crises, however, there are also new opportunities for civil society. With people more likely to mobilise around health issues, the time is ripe for building new alliances, gaining support and holding the government accountable for its actions. It is also time for civil society to seek opportunities to start building an effective, long-term dialogue with government, which is long overdue and the best path forward. ■

Case study updated to 28 October 2020.

*We are the refugee and migrant communities. We are on the field with the refugee population that resides in camps and other facilities. We are witnessing people suffering in the streets. The situation caused by COVID-19 is multidimensional and there are aspects of it that remain invisible to the wider society. Many of us, refugees and migrants, lost their job and cannot resume it because of the lockdown in many cases. Since the very beginning of this crisis we have mapped down the people's problems, in cooperation with refugee and migrant communities. We have bought hundreds of vouchers of and we gave the opportunity to families and individuals to buy what they need, prioritising their own needs. The **Greek Forum of Refugees** also supported self-advocacy and self-organising initiatives in order to support and stand by the most vulnerable and people affected by the lockdown. We empower their voices in order to raise awareness of the atrocious conditions they face, to the wider public and, especially, to the decision makers and CSOs.*

Greek Forum of Refugees

PROTECTING THE MOST VULNERABLE MEANS PROTECTING US ALL

Migrants and refugees' communities want to be part of the discussion on the solutions

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Interview with Moussa Sangaré, Ivorian Community of Greece, Greek Forum of Refugees

Can you tell us about the Ivorian Community of Greece and the Greek Forum of Refugees?

The Ivorian Community of Greece is a community organisation composed for the majority by people from the Ivory Coast - my country - but in the statute we are open to everyone; we welcome any nationality without discrimination. We have some members from European countries or from other countries in Africa. We are a diverse organisation, but the aim is to promote the Ivorian culture in Greece and to work for the integration of Ivorian people in Greece. We support our members with anything they need. We do not only work on problems, but

also on the solutions. We advocate for the rights of the Ivorian people and of our members on many issues: discrimination, employability, housing, integration, education... Because we are very diverse with different needs, we are working on many issues, not only on a specific one. I am a person of action rather than words, so it is difficult to list all the actions I did!

One day, I learned from one member of our community about the organisation called 'Greek Forum of Refugees' that works with migrants and refugees' communities, for the self-advocacy of these communities. Since I believe that when we are together, we are stronger and we can do anything, I want to have networks on every level: national,

European, international ... for that reason the Ivorian Community of Greece joined the Greek Forum of Refugees and, a few months later, I was elected to be a member of the Board at Greek Forum of Refugees. Now I am the Vice-president of the Forum. Inside the Greek Forum of Refugees, we have different communities, such as the communities from the Ivory Coast, from both Congo-Kinshasa (Ed.: the Democratic Republic

**ANYWHERE THERE
IS TO ADVOCATE FOR
RIGHTS, WE ARE THERE**



Moussa Sangaré

of the Congo) and Congo-Brazzaville (Ed.: the Republic of the Congo), from Afghanistan, Burundi.. We are involved in many issues: the rights of refugees, of migrants, of Greek people, of humans... Anywhere there is to advocate for rights, we are there. We communicate with the Greek Government because we believe it is key to finding solutions. It is true that there are problems in Greece. But we, migrants and refugees, do not want to be only beneficiaries of services of the government or NGOs. We also want to give our point of views and help to find solutions. We have to do things together.

What pushes you to be an activist in Greece and what is it like to be a refugee activist in the country?

I think I was born an activist. In reality, my activism did not start in Greece, it started when I was born. I never wanted to see injustice, poverty and human rights not being respected. I started from my family, from my neighbours. When I was given money to go to school, I used this money to help poor children, who did not have shoes or food for example, while I was also a child.

In my country (the Ivory Coast), there is also a problem of ethnic discrimination. I come from the North, I am a Muslim, and when I was little, the

governments there targeted Muslims of the Ivory Coast as rebels or foreigners. One of the reasons of the war in my country was ethnic discrimination. I lost a lot of people close to me during the war and I left my country. And it was another reason for me to remain an activist.

When I arrived in Greece in 2012, I was arrested by the police at the borders and I was sent with other people in a detention centre (in jail). I truly believe that the people who make the laws on the detention of refugees and immigrants do not respect human rights. They certainly do not have an education on the value of the human being; they sign some documents, but they do not know what happens outside of their offices. Maybe they even think it is the right thing to do. I was in detention for seven months; it was very difficult. Then, thanks to my phone, I found a lawyer online and I proved to her that I came to Greece because I was in danger in my country. She went to Court and the Court decided to release me. I came to Athens, and that was also difficult because at that time the Golden Dawn Party members were attacking and killing refugees and migrants¹. I was afraid to go out because

I felt that at any time I could be arrested [Ed.: by the police] or killed [Ed.: by the far-right squads]. That is then that my desire to be an activist started to grow more and more. I started to learn about how things were going in Greece. Back then, there was no organisation, no community for Ivorians. So, I decided to change this so that we can face all the difficulties here in Greece together as a community. I am still trying to learn how to change things, how to advocate for change.

WE, MIGRANTS AND REFUGEES, DO NOT WANT TO BE ONLY BENEFICIARIES OF SERVICES OF THE GOVERNMENT OR NGOS. WE ALSO WANT TO GIVE OUR POINT OF VIEWS AND HELP TO FIND SOLUTIONS

¹ "Since its establishment in 2011, the Racist violence recording network has repeatedly sounded the alarm over the dramatic increase in the number of racist attacks and how they were carried out. According to the victims' testimonies, the most common practice, especially between 2009 and 2013, was for "patrolling" of organized black-clad pedestrians or motorcyclists as self-appointed hit squads attacking refugees and migrants on the streets, squares, or at public transport stops. In several cases of particularly brutal attacks, the victims identified among the perpetrators, people associated with Golden Dawn, who were bearing its distinctive insignia." Racist violence recording network, 15 January 2020, <http://rvrn.org/2020/01/racist-violence-recording-network-justice-to-uphold-the-rule-of-law-in-greece/>. In 2013, several representatives and people associated with the Golden Dawn were arrested and tried in Court for the case of the murder of Pavlos Fyssas, the case of attempted murder and attacks on Egyptian fishermen, as well as the case of attempted murder against the trade unionists from PAME (Trade Union Front). Civil society reported that hate crimes and attacks have decreased around the time the Golden Dawn trial started. Read more: Racist violence recording network <http://rvrn.org/>; Golden Dawn Watch <https://goldendawnwatch.org/?lang=en>.

How has the pandemic impacted your community and your activism?

Since I founded the organisation in 2018, I have done many actions - as I said I am a man of action. So, when the pandemic started, I had many contacts and many people came to me asking how they could help. But, to support my community, I needed to learn what the needs of our members were.

When I learned that the first case of COVID-19 happened in Thessaloniki, I used our platform to quickly inform the members of the community about what the virus was, what we had to do and what we had to avoid doing. I shared the news from the Greek government

about what was happening in Greece and also in the world. Every week, I had video calls with members of my community to ask what I could do for them as the President and what we could do together as a community. A big issue was that many members had lost their jobs; this was the case for many people in Greece. Their first need was to survive inside the house, to find food. We had a meeting inside the Greek Forum of Refugees, and we decided to start fundraising online to collect money and provide vouchers so that people could buy food. We raised over 5000 Euro. We bought a lot of vouchers from the supermarket and distributed them to different communities and to homeless people without discrimination. Other organisations also helped. Some members of my community could not go out during the pandemic because they do not have documents, so I went with my car to buy groceries for them. I was going outside every day to find solutions for my community. I had a lot of positive feedback from them. The Greek Forum of Refugee did not keep these vouchers only inside community members, we helped anyone who needed help! We shared everything with other communities from Mali, Guinea... We also have an African solidarity group with communities from six countries now. We did not want to only focus on one community, we wanted to focus on all people in need. So we also helped homeless people regardless of their identity.

Are you and other migrants and refugees' communities also organised transnationally?

I am not in contact with other communities outside Greece, except for other Ivorian diaspora communities. But we are part of some big organisation in Brussels, for example I am a Board member of PICUM [Ed.: the Platform for International Cooperation on Undocumented Migrants].



i think that many people now understand that security of refugees and migrants means security for all

Do you think that the European Union can be an ally in your struggle? In what way?

Yes, the European Union can do much better. The problem is the willingness.

What lessons can be learned from this initiative that can potentially inform a

post-COVID-19 institutional and societal response?

Now we know that *'we are in the same boat'* - this is an expression that I like to use a lot! It means that the Coronavirus does not discriminate. In face of the virus, we are all the same. And I think that many people now understand that security of refugees and migrants means security for all. So, we should work all together for a better future. Through cooperation we can change things. In the past, there was a lot of violence but it decreased thanks to the work of civil society. What was happening in 2012 cannot happen now. I appreciate what civil society does in Europe and everywhere in the world. If we continue these actions, we will all have a better life. ■

The interview was carried out on 8 July 2020.



IRELAND

Civic space in Ireland is rated "Open" on the CiViCUS Monitor.

Civil society in Ireland is very diverse, ranging from informal local groups to formally-registered national charities or quasi-public bodies, like universities and hospitals. It was greatly affected by the decade of social and economic crisis following 2008. Due to the policies of austerity, the public support to the sector dropped by 41% between 2008 and 2014.¹ The state remains the primary funder for many organisations. While civic actors are active in the political life of the country, state funding has prioritised (and has sometimes been restricted to) service provision over advocacy work. In this context, as elsewhere in Europe, the Irish charity sector was hugely impacted by the COVID-19 crisis, with a drop in fundraised income amounting to 445 million Euro. While the Government is among the few in Europe to provide a special fund for charities, the situation for many organisations remains precarious. Despite the difficulties, civic actors continue playing a vital role whether delivering services to the population or advocating and keeping the Government accountable. The current crisis also opens opportunities to reinforce the partnership between the sector and authorities.

¹ EU FRA, Challenges facing civil society organisations working on human rights in the EU (January 2018): https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-challenges-facing-civil-society_en.pdf.

THE SECTOR IN NUMBERS

Population of the country (2019)

4,92 Million

Number of Non-Profits (2020):

32,841

At the end of 2019, the number of charities was

10,470 (+715 since 2018)

SOURCE: BENEFACTS, IRELAND'S NONPROFIT SECTOR 2020

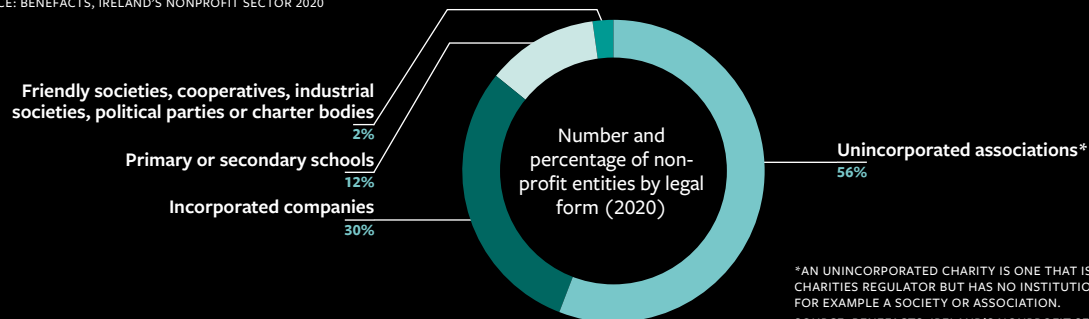
Number of people employed by charitable organisations (2018)

Over 190,000 Employees

Number of volunteers (2018)

Over 500,000 operational volunteers can be mobilised

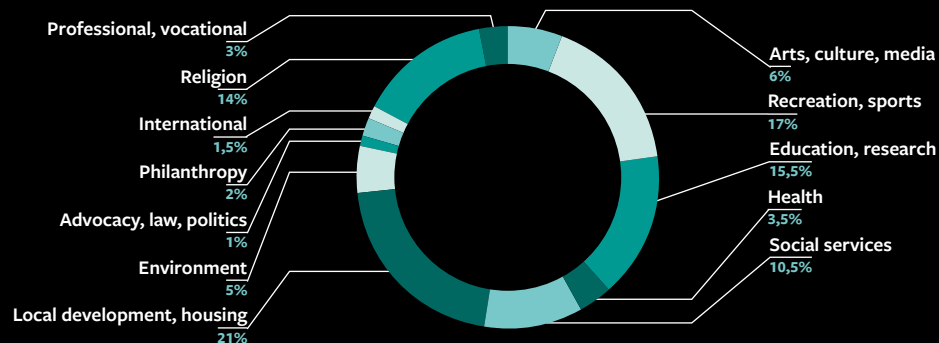
SOURCE: THE WHEEL



*AN UNINCORPORATED CHARITY IS ONE THAT IS REGULATED BY THE CHARITIES REGULATOR BUT HAS NO INSTITUTIONAL STATUS IN LAW – FOR EXAMPLE A SOCIETY OR ASSOCIATION.

SOURCE: BENEFACTS, IRELAND'S NONPROFIT SECTOR 2020

DISTRIBUTION OF NON-PROFITS BY FIELD OF ACTIVITY (2020)



SOURCE: BENEFACTS, IRELAND'S NONPROFIT SECTOR 2020

THE ECONOMIC WEIGHT OF THE SECTOR (2018)

Reported total income of charitable organisations

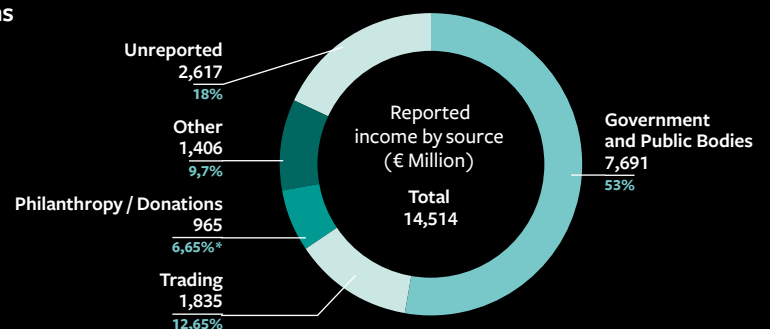
14.5 billion euros (8.3 Billion if health and education organisations are excluded;

16 billion euros estimated if account is taken of charitable organisations who did not report their financial data)

% of the national GDP (2018)

16 billion euros = 5.8% of GDP

SOURCE: INDECON, REGISTERED IRISH CHARITIES - SOCIAL AND ECONOMIC IMPACT REPORT (2018)



* THERE IS A TENDENCY TOWARDS CONTRACTION OF THE CONTRIBUTION OF PHILANTHROPY.

CIVIL LIBERTIES ARE CRASH-TESTED DURING THE PANDEMIC

The vital role of civic advocacy

By Deirdre Ní Cheallacháin, Irish Council for Civil Liberties

CIVIL SOCIETY IN IRELAND: AN OVERVIEW

The role that civil society plays in Irish life is significant; through service provision, through awareness campaigns and advocacy. Civil society has also contributed to public debate during recent referendum campaigns in Ireland¹. In the 2015 same-sex marriage referendum, three civil society organisations coordinated the Yes Equality: The Campaign for Civil Marriage Equality campaign² and a formal alliance of civil society formed during the referendum campaign on the constitutional ban on abortion in 2018, Together for Yes.³ Key developments in the civil society space in recent years include the establishment of The Charities' Regulator in

2014 to improve accountability and transparency in the non-profit sector under the Charities' Act 2009. Stronger governance practices and increased powers granted to the Charities' Regulator (to demand information, to investigate and to issue sanctions from organisations) have been introduced to increase public trust⁴ in the sector following a series of expenses scandals involving non-profit organisations⁵.

Human rights is a "signature" Irish foreign policy priority⁶ and Irish diplomats have also led the drafting and

negotiations on UN Human Rights Council resolutions on the creation of a safe and enabling environment for civil society in recent years.⁷ While this proactive engagement is viewed as positive by Irish civil society, there is a pressing need for the principles Ireland promotes internationally to be fully applied domestically as there are significant regulatory restrictions impacting civil society freedom in Ireland. Many Irish organisations receive state funding which can cause issues in terms of advocacy due to restrictions outlined in statutory service level agreements and grant agreements. It has been reported that state agencies increasingly

¹ The Citizens' Assembly model, were used as a deliberative forum as key steps towards the two referendums.

² <https://www.iccl.ie/archive/yes-equality-the-campaign-for-civil-marriage-equality-formally-launches/>

³ https://www.nwci.ie/discover/member_detail/coalition_to_repeal_the_8th

⁴ Charities Regulator Annual Report 2019 <https://www.charitiesregulator.ie/media/1947/charities-regulator-annual-report-2019.pdf> (July 2020).

⁵ Charities Institute Ireland, Charities 2037: A report from amárach research (December 2017) <https://static1.squarespace.com/static/57ff6b30bebafba9d10c7dcd/t/5b28ed2eaa4a996a288e8d9c/1529408815482/CII%20CHARITIES%202037%20B%281%29.pdf>

⁶ Global Ireland: Ireland's Global Footprint to 2025 (Government of Ireland): <https://www.gov.ie/en/campaigns/09371607-taoiseach-launches-global-ireland-irelands-global-footprint-to-2025/> 65

⁷ Human Rights Council Resolution 24/21: Civil society space: creating and maintaining, in law and in practice, a safe and enabling environment, A/HRC/RES/24/21 (2013); Human Rights Council Resolution 27/31: Civil Society Space, A/HRC/RES/27/31 (2014); Human Rights Council Resolution 38/12: Civil Society Space: Engagement with International and Regional Organisations" (2018).

CIVIL SOCIETY HAS ALSO CONTRIBUTED TO PUBLIC DEBATE DURING RECENT REFERENDUM CAMPAIGNS IN IRELAND

stipulate that state funds cannot be used for advocacy purposes.⁸

Section 22 of the Electoral Act 1997 (as amended) prohibits any “third party” from receiving donations from abroad and significantly restricts the use of domestic donations for “political purposes”. Due to the broad definition of “political purposes”, the Act’s third party provisions have been increasingly applied to human rights campaigns conducted by CSOs, including on reproductive rights and the right to education,

⁸ The Wheel, The Sector’s Lobbying role, (August 2018): <https://www.wheel.ie/policy-and-research/issues/sectors-lobbying-role>

The Irish Council for Civil Liberties (ICCL) is Ireland’s leading independent human rights non-governmental organisation, which monitors, educates and campaigns in order to secure the full enjoyment of human rights for everyone. The ICCL is an entirely independent organisation and does not rely on government support or funding. Since it became clear in mid-March 2020 that the Irish Government would introduce unprecedented emergency legislation in response to the public health crisis, ICCL has been working to ensure the public health response complied with human rights principles, including by assessing emergency measures and powers introduced and calling on the Government to avail of the avenues open in this regard to assess the potential human rights impact. ICCL has been at the centre of public discussion and political debate on the impact of these restrictions on human rights, most notably on the restrictions placed on the right to freedom of movement, the right to freedom of association and assembly, and the right to privacy.

even outside of the electoral and referendum context. In 2017, Amnesty International Ireland was compelled to initiate judicial review proceedings following an order by the Standards in Public Office Commission (SIPOC), the regulatory body tasked with overseeing compliance with the Electoral Act, to return a grant received from the Open Society Foundation for a reproductive health campaign. While SIPOC accepted that its process was “procedurally flawed”,⁹ the fact that Amnesty was compelled to launch proceedings illustrates the impact the Electoral Act’s current wording is having on CSOs seeking to engage in public policy discussions in Ireland. The Irish Council for Civil Liberties (ICCL) coordinates an alliance of organisations entitled The Coalition for Civil Society Freedom, which works to address regulatory restrictions impacting the civil society space in Ireland, and is actively campaigning for Electoral Act reform to address the impact of the Electoral Act’s third party provisions on freedom of association and freedom of expression.¹⁰

Additionally, the advancement of human rights is not listed as a charitable purpose under the Charities’ Act 2009 which means that human rights organisations which do not have another charitable purpose cannot avail of the advantages attached to charitable status. The position is anomalous among common law jurisdictions, with the equivalent Acts in England, Wales and Northern Ireland all containing specific references to human rights as a statutory charitable purpose. The reasons for this omission in the Act have never been made clear.

⁹ <https://www.amnesty.ie/amnesty-welcomes-quashing-of-sipos-decision-on-osf-grant/>

¹⁰ Coalition for civil society freedom, Statement on the electoral act, <https://www.iccl.ie/wp-content/uploads/2018/12/COALITION-STATEMENT-ELECTORAL-ACT.pdf>

COVID-19: THE STATE RESPONSE

Under the Irish Constitution, an official state of emergency can only be declared during times of war or armed rebellion. However, the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020, which came into effect on 20 March¹¹, confers power on the Minister of Health to introduce Regulations to introduce any measure that he deems necessary in response to the spread of COVID-19. The Act thereby gave express power to the Minister to restrict the right to liberty, freedom of movement, association and assembly. The first draft of the

DUE TO THE BROAD DEFINITION OF “POLITICAL PURPOSES”, THE ACT’S THIRD PARTY PROVISIONS HAVE BEEN INCREASINGLY APPLIED TO HUMAN RIGHTS CAMPAIGNS CONDUCTED BY CSOS

law would also have afforded the Government the power to determine how long the emergency lasted by giving the Ministers for Health and Public Expenditure the ability to extend the period.¹² However, the ICCL successfully campaigned for a sunset clause to be included, whereby any extension would need approval from the Oireachtas (the Irish legislature). The

¹¹ Note that a general election took place on 8 February 2020. Government formation talks culminated in the formation of a three-party coalition on 27 June. The caretaker government conducted the COVID-19 response since the first case was reported in Ireland on 29 February.

¹² <https://www.iccl.ie/wp-content/uploads/2020/03/ICCL-analysis-emergency-COVID19-legislation.pdf>

powers to introduce regulations under the Act will now expire on 9 November.

The sweeping nationwide restrictions on movement and gatherings announced on 27 March became legally enforceable on 8 April when Regulations signed by the then Health Minister came into effect, conferring extraordinary powers on gardaí (the Irish Police) to enforce the restrictions. The



THE AUTHOR

Deirdre is Policy Officer at the ICCL, co-ordinating a programme of work on democratic rights and civil society freedom. She is the ICCL's principal lead in the Coalition for Civil Society Freedom, a coalition of civil society organisations working on issues related to freedom of association. Deirdre has previously worked in various policy roles, at the Permanent Representation of Ireland to the Council of Europe, the Institute of International and European Affairs and the European Commission, as well as in the private sector. She has carried out advocacy work with various NGOs, such as Amnesty and Standing Voice, through organising seminars, fundraising and awareness campaigns. Deirdre holds an LLM in Human Rights Law from the Irish Centre for Human Rights (NUI Galway) and a BA Honours from Trinity College Dublin.

**THERE IS A
PRESSING NEED FOR
THE PRINCIPLES
IRELAND PROMOTES
INTERNATIONALLY TO
BE FULLY APPLIED
DOMESTICALLY AS
THERE ARE SIGNIFICANT
REGULATORY
RESTRICTIONS
IMPACTING CIVIL
SOCIETY FREEDOM
IN IRELAND**

regulations foresaw penalties of up to a €2,500 fine or/and up to 6 months in prison for breaching these restrictions. The new gardaí powers were retained in three subsequent sets of Regulations and were not ceased until 8 June.¹³ The ICCL had continuously questioned the necessity and proportionality of the use of criminal sanctions to enforce public health guidelines, especially given the high levels of public compliance, and the lack of evidence that criminalisation and prosecution are justified or likely to be effective.

Although the subsequent sets of Regulations (8-29 June, 29 June-20 July, 20 July-10 August and 10-31 August) have been less invasive, they still contained criminal penalties for the organiser of an event exceeding 50 people indoors and 200 people outdoors. The Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 also provides for the designation of affected areas of infection, and Regulations were in force restricting

movement and gatherings in three counties - Laois, Offaly and Kildare - for 2 weeks. These Regulations contained penal provisions in relation to gatherings (6 indoors and 15 outdoors) and certain business services.

A criminal investigation is reported to be underway on the basis of revelations on 20 August that senior State representatives attended an 80 person indoor event, in breach of the above-mentioned Regulations on indoor gatherings.¹⁴ These revelations have significantly undermined the public health messaging and public confidence in the Government, especially as these revelations emerged mere days after the announcement of the intention to introduce new Regulations providing additional policing powers of enforcement.¹⁵

In mid-September, the government unveiled a 5-level plan for living with COVID-19 for the next 6 to 9 months. Since 21 October, all 26 counties in the Irish Republic have been on level 5, until 1 December. People can be fined for being beyond a 5km radius of their home and for not wearing a facemask where required. The ICCL has opposed the fines system on the basis that it is not effective in ensuring compliance, disproportionately impacts the socio-economically disadvantaged and is expensive to administer.¹⁶

The approach of An Garda Síochána (the Gardaí – national police) has been to promote public health by a process of Engage, Educate, Encourage and Enforce. We at the ICCL are particularly encouraged by the Garda commitment to the “sparing use” of powers of enforcement.

The Emergency Measures In The Public Interest (Covid-19) Act 2020

¹⁴ <https://www.irishexaminer.com/news/arid-40035389.html>

¹⁵ The ICCL has issued a statement expressing opposition to their introduction and reiterating our position that public health advice should be consent and education-based: <https://www.iccl.ie/news/iccl-calls-on-government-not-to-reintroduce-garda-powers/>

¹⁶ <https://www.iccl.ie/wp-content/uploads/2020/10/ICCL-letter-to-Cabinet-subcommittee-re-covid-fines.pdf>

¹³ 12 April-5 May; 5-18 May; 18 May-8 June.

amended The Mental Health Act 2001, allowing medical officers to detain individuals whom they believe in ‘good faith’ to be a potential source of infection and was enacted on 27 March. Due to the significant impact these powers have on the right to liberty, the ICCL raised concerns that numerous safeguards were not included, namely that detention should be necessary (not just appropriate), a stronger review and appeals process and the right to an advocate for people who may not have full capacity to advocate for themselves.¹⁷ T

his Act initially contained a sunset clause of 9 November. A legal challenge against these laws, claiming that they were unconstitutional and disproportionate, was dismissed by the High Court in May.¹⁸ The powers under part 3 of this Act have since been extended until 9 June 2021, following parliamentary debates on 22/23 October. The ICCL raised concerns about the time allocated to this debate, given the wide-ranging powers part 3 affords the Minister for Health to restrict fundamental freedoms.¹⁹

¹⁷ <https://www.iccl.ie/wp-content/uploads/2020/03/ICCL-Explanatory-Note-on-Emergency-Measures-in-the-Public-Interest.pdf>

¹⁸ Judgment of the High Court of 13 May 2020, O’Doherty & Waters v. Minister for Health & Attorney General.

¹⁹ <https://www.iccl.ie/news/iccl-opposes-attempt-to-steamroll-emergency-legislation-through-dail/>

THE APPROACH OF AN GARDÁ SÍOCHÁNA HAS BEEN TO PROMOTE PUBLIC HEALTH BY A PROCESS OF ENGAGE, EDUCATE, ENCOURAGE AND ENFORCE

THE ICCL HAS ALSO CALLED FOR PROTEST TO BE PERMITTED DURING THE PANDEMIC WHERE PUBLIC HEALTH MEASURES ARE COMPLIED WITH

POLICING IN THE PANDEMIC

Historically, the ICCL has played a key role in monitoring policing in Ireland.²⁰ The emergency legislation significantly expanded police powers. It gave the police additional powers of arrest where a person refused to comply with the Regulations restricting movement and gatherings. There were numerous issues in relation to over-policing during the pandemic, including reports of stop and searches that went beyond lawful powers, ungrounded requests for IDs and the presence of armed gardaí (Irish police) at checkpoints. While An Garda Síochána is traditionally a largely unarmed community-based policing organisation, the pandemic in fact exposed what appears to be a growing trend in the use of armed officers around the country, despite the absence of rigorous democratic debate on this issue. The ICCL has questioned the use of armed Gardaí at checkpoints designed to support the public health effort.

Reports that the Gardaí had ordered 16,000 spit hoods for use during the pandemic also gave rise to alarm. A spit hood is a full hood that covers the head and face of individuals to prevent them

²⁰ The recognition of this role is evident in a letter sent by the Department of Justice to the Policing Authority advising consultation with civil society, including an express reference to the ICCL, on their assessment of the use of policing powers: http://www.justice.ie/en/JELR/Letter_from_the_Minister_for_Justice_and_Equality_to_the_Policing_Authority.pdf/Files/Letter_from_the_Minister_for_Justice_and_Equality_to_the_Policing_Authority.pdf

from spitting at Gardaí. However, they have been called “anti-spit guards” by the authorities and the media, which gives the false impression that a spit hood is a protective device worn by officers. Their use may constitute inhumane and degrading treatment. Additionally, their effectiveness in preventing the spread of the disease has been questioned, not least by the Police Service of Northern Ireland.²¹ Figures indicate that they were used 84 times between 8 April and 27 June 2020.²²

Between 8 April, when the first set of Regulations came into effect, and 11 July 2020, Gardaí had invoked powers under the Regulations 353 times (out of more than a million interactions with the public). These include both incidents without arrest where name and address details were taken (for consultation with the Director of Public Prosecutions on the decision to issue charges) and arrests.²³

THE EMERGENCY LEGISLATION SIGNIFICANTLY EXPANDED POLICE POWERS

THE RIGHT TO PROTEST IN THE PANDEMIC

With regards to Freedom of peaceful assembly, the government and An Garda Síochána are generally supportive of large protests but, when it comes to protesters living on the margins of society

²¹ <https://www.amnesty.ie/gardais-use-of-spit-hoods-may-increase-risks-of-spread-of-covid-19/>

²² <https://www.irishtimes.com/news/crime-and-law/coronavirus-garda%C3%AD-to-receive-controversial-spit-hoods-during-crisis-1.4212183>; http://www.justice.ie/en/JELR/Pages/Information_regarding_the_Justice_Sector_COVID-19_plans

²³ http://www.justice.ie/en/JELR/Pages/Information_regarding_the_Justice_Sector_COVID-19_plans

A GROUP OF CIVIL SOCIETY REPRESENTATIVES AND ACADEMICS HAS BEEN ADVOCATING FOR THE DEVELOPMENT AND DEPLOYMENT OF AN APP WITH HUMAN RIGHTS PRINCIPLES

or protesting outside of the media spotlight (for example, sit-ins against evictions), the garda and state response can be much more heavy-handed. The ICCL has recommended an expanded definition of what constitutes a protest to ensure the right to protest is fully enjoyed, including at protests which do not meet the “traditional” notions of a protest.²⁴

The ICCL has also called for protest to be permitted during the pandemic where public health measures are complied with.²⁵ The Regulations restricting freedom of movement contained a list of reasonable excuses for leaving one’s home, which did not include engaging in protest. However, this list was non-exhaustive, and gardaí were afforded a degree of discretion to decide who may or may not have the right to leave their homes. In some instances, protests were allowed to take place, while other groups of protesters, who were observing social distancing, were instructed to move on. The ICCL highlighted the inconsistency in approach and urged the Government to consider defining what form of protest may be acceptable to lend clarity to policing,

inspire confidence in citizens and protect a precious touchstone of our democracy.²⁶

The ICCL has voiced concern at reports that the organisers of the Black Lives Matter protest on 6 June were being investigated under the Regulations. An Garda Síochána has confirmed that a file was sent to the Director of Public Prosecutions in early October.

We have also been concerned by violent incidents at anti-mask protests in August and September in which counter-protesters were attacked. We wrote to the Garda (Police) Commissioner reiterating the Garda duty to facilitate peaceful protest and to protect peaceful protesters.

SURVEILLANCE ISSUES DURING THE PANDEMIC

Since the Health Service Executive’s announcement that a COVID-19 tracking app would be launched, a group of civil society representatives and academics has been advocating for the development and deployment of an app with human rights principles and robust privacy protections at its core.²⁷ CSOs have continued to constructively question and assess the legality and efficacy of the app.²⁸ Although many of our privacy concerns were taken on board, the ICCL has not been in a position to recommend downloading the app due to unaddressed issues. The Data Protection Commission ruled that the use of drones by a local authority to monitor compliance with the movement restrictions in April were unlawful as a data protection impact assessment had not been carried out, as required under the GDPR.

Regulations came into effect on 28 May making the refusal to complete a passenger locator form upon arrival in

Ireland a criminal offence and the State has given assurances that data collected will not be stored for longer than 28 days. These Regulations have been extended on numerous occasions. While self-isolation for 14 days upon arrival in Ireland is a public health guidance, it is not legally enforceable. The ICCL deems the State’s decision not to introduce a centralised mandatory system of quarantine to be prudent and believes that the Gardaí should have no role in enforcing public health guidance.

In late July, it also emerged that people had their Pandemic Unemployment Payment (PUP) cut off by the Department of Social Protection because they had taken holidays (in some instances, people had made travel reservations but had not travelled). The ICCL has questioned the lawfulness of the measures, how the information was obtained, and their discriminatory impact. The Data Protection Commission has also raised “serious doubts” regarding the lawfulness of the Department’s blanket surveillance of people travelling to certain destinations under the Social Welfare Acts 2005 and has sought further clarity from the Department.

On 17 August, it emerged through

CIVIL SOCIETY ORGANISATIONS HAVE REPEATEDLY CALLED FOR A HUMAN RIGHTS IMPACT ASSESSMENT

a Freedom of Information request submitted by a journalist that the Department of Justice has been carrying out extensive social media monitoring of commentary on issues concerning the Department during the crisis, such as on the impact of COVID-19 on those living in the direct provision system.

²⁴ <https://www.iccl.ie/wp-content/uploads/2019/06/190626-ICCL-National-Consultations-Preliminary-Report.pdf>

²⁵ <https://www.iccl.ie/wp-content/uploads/2020/04/ICCL-Protest-and-the-Emergency-Health-Regulations.pdf>

²⁶ <https://www.iccl.ie/wp-content/uploads/2020/04/ICCL-Protest-and-the-Emergency-Health-Regulations.pdf>

²⁷ <https://www.iccl.ie/wp-content/uploads/2020/06/Principles-for-legislators-on-the-implementation-of-new-technologies.pdf>

²⁸ <https://www.iccl.ie/2020/experts-issue-pre-release-report-card-on-the-hse-covid-19-tracker-app/>

This monitoring includes the logging of civil society representatives' names and their social media accounts. The Department has stated that it "started a new policy of monitoring social media during Covid-19 to improve its communications strategy".²⁹ An ICCL staff member has submitted a data access request to the Department of Justice under the GDPR in response to the inclusion of their name in the report.

THE IMPACT OF THE EMERGENCY ON VULNERABLE COMMUNITIES

CSOs have raised concern from the outset that the crisis could further disadvantage certain vulnerable groups, particularly those living in congregated settings and those already marginalised in society (whether socially, economically or in terms of their general health or housing situations).³⁰ While a National Public Health Emergency Team (NPHE) subgroup on vulnerable people was established in March to provide oversight and assurance with regard to the specific measures to be taken to protect vulnerable groups and individuals in society,³¹ the underrepresentation of civil society was noted by civil society organisations, with only 3 out of the 28 members in the subgroup from the sector.

Example of congregated settings: those living in the Direct Provision system

The pandemic has highlighted anew the serious human rights violations to which the direct provision system gives rise, where most individuals seeking asylum in

Ireland are housed. It was not announced until 11 August 2020 that weekly testing of residents in direct provision centres would take place, where cramped living facilities make adhering to public health advice extremely difficult and, in some cases, impossible. There is an urgent need for own door accommodation and self-contained units for families to mitigate against the risk of spread of the disease. 55% of respondents to a comprehensive survey conducted among the Direct Provision population by the Irish

CSOS HAVE RAISED CONCERN FROM THE OUTSET THAT THE CRISIS COULD FURTHER DISADVANTAGE CERTAIN VULNERABLE GROUPS, PARTICULARLY THOSE LIVING IN CONGREGATED SETTINGS AND THOSE ALREADY MARGINALISED

Refugee Council report that they felt unsafe during the pandemic and 50% have been unable to socially distance themselves from other residents.³²

In March, one centre in Caherciveen saw residents locked in the centre where COVID-19 cases had been confirmed. A group of civil society organisations and refugee law experts wrote to the then Minister of Justice voicing serious concerns at these reports and the issues faced by those living in the system.³³

Example of already marginalised groups: Traveller and Roma communities

The Traveller and Roma communities in Ireland are at a disproportionate risk of infection for numerous reasons, including on-going health inequalities; higher rates of chronic diseases; poor living circumstances including overcrowded living conditions which makes self-isolating challenging; as well as inadequate access to sanitation facilities; low educational attainment which impacts on the understanding of public health materials. The crisis has highlighted the poor living conditions experienced by Travellers & Roma, the lack of progress made in implementing Traveller accommodation programmes, and the general lack of national engagement with/knowledge of the Roma in Ireland.

THE IMPACT OF THE CRISIS ON CIVIL SOCIETY'S ADVOCACY

The ICCL, together with other civil society organisations, has repeatedly called for a Human Rights Impact Assessment to ensure the protection of those most vulnerable to the disease, as well as identifying those who are most impacted by restrictions and accompanying garda powers.³⁴ Such an assessment would also feed into a proper proportionality assessment as to any restrictions on rights and of the impact on particular groups. Concerns regarding the crisis having a disproportionate effect on vulnerable populations and in congregated settings were borne out in the nursing home sector, with over half of COVID-related deaths in Ireland occurring in this setting.³⁵

The crisis has underlined the vital importance of the advocacy role played by CSOs in ensuring the needs of the most vulnerable are highlighted and addressed.

²⁹ <https://www.independent.ie/irish-news/department-of-justice-officials-monitor-posts-criticising-direct-provision-on-social-media-39452868.html>

³⁰ <https://www.communityworkireland.ie/covid-19-ngo-group-marginalised-groups-and-promoting-equality-inclusion-and-human-rights-in-the-covid-crisis-a-joint-submission/>

³¹ <https://www.gov.ie/en/collection/301f5e-the-national-public-health-emergency-team-nphet-subgroup-vulnerable/>

³² <https://irishrefugeecouncil.eu.rit.org.uk/News/powerless-experiences-of-direct-provision-during-the-covid-19-pandemic>

³³ <https://www.iccl.ie/wp-content/uploads/2020/05/Letter-closure-of-Skellig-Star-Hotel-8-May-2020.pdf>

³⁴ <https://www.iccl.ie/wp-content/uploads/2020/04/CSOs-letter-to-Taoiseach-calling-for-HRIA.pdf>

³⁵ <https://www.gov.ie/en/publication/3af5a-covid-19-nursing-homes-expert-panel-final-report/>

DURING THE COVID-19 CRISIS, NUMEROUS CSOS WERE INVITED TO MAKE SUBMISSIONS TO THE SPECIAL OIREACHTAS COMMITTEE THEMATIC SESSIONS ON THE COVID-19 RESPONSE

The importance of working in partnership with the State while also holding them to account has been manifest in the work of organisations throughout the pandemic. The ICCL continues to take part in the COVID-19 NGO group, coordinated by Community Work Ireland, which has been meeting regularly online to share experiences and to coordinate collective advocacy initiatives.

Numerous CSOs have expressed frustration with regard to a lack of opportunity to consult with decision-makers and to input into policy decisions that impact their area of work. While some organisations report that their expertise and experience were not availed of by the authorities and experiencing a significantly shrunken space in which to advocate and to engage with authorities, others report positive experiences with the authorities during the crisis.

Access to information and transparency during the pandemic

The Department of Health initially held daily public health briefings by the National Public Health Emergency Team (NPHE) to inform the public of the latest infection and fatality figures. These briefings now occur twice weekly. There have also been awareness-raising campaigns on public health advice on national TV and radio stations. However, the decision-making process underpinning the

public health guidance, as well as the guidance itself, has become increasingly opaque. Difficulties in distinguishing between public health advice and enforceable statutory law have been experienced by the public throughout the crisis.

A worrying pattern has emerged from a rule of law perspective. The texts of the Regulations introduced under the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 have been consistently unavailable at the point of commencement on the Irish Statute Book and Department of Health websites. For a legal instrument to meet the standard of lawfulness, it must be accessible to those who are subject to that law. It is unacceptable that the public should learn about the content of laws of such far-reaching effect from media reports and after their purported commencement.

Formal civic engagement

There are numerous forms of formal civic engagement. Community and voluntary organisations take part in the National Economic Dialogue, established to enable their policy priorities to be discussed and to inform budgetary considerations. Public Participation Networks (PPNs) were established in 2014 to enable community groups to connect with local authorities, with the aim of “allowing diverse views and interests to be considered as part of the decision-making process of local government”.³⁶ A PPN is comprised of three pillars (community and voluntary, environment and social inclusion) and the PPN’s secretariat consists of three members from each pillar. While there are positive examples of PPNs enhancing civic participation in decision making, members of PPNs and local representatives report the need for a greater understanding of each other’s specific mandate and role.

³⁶ <https://www.gov.ie/en/policy-information/b59ee9-community-network-groups/>

CSOs regularly take part in public consultations, carried out as part of the departmental policy and legislation development process, and deliver presentations before Oireachtas Committees. During the COVID-19 crisis, numerous CSOs were invited to make submissions to the Special Oireachtas Committee thematic sessions on the COVID-19 response (the Special Oireachtas Committee was established to consider the State’s response to the pandemic and is comprised of members of the Irish parliament (TDs)). On 9 September, the ICCL took part in the session on human rights and civil liberties considerations upon the Committee’s invitation and set out 7 recommendations to improve human rights protections in the State response to the pandemic.³⁷ The impact of our engagement throughout the Oireachtas Special Committee’s remit is evidenced by the inclusion of some of our recommendations in its final report (e.g. that all legislation should be human rights proofed, the importance of broad Oireachtas pre-legislative consultation, and of clear and effective government communication).

Social Justice Ireland has called for the establishment of a robust social dialogue process that would enable all

³⁷ submission

THE CRISIS HAS UNDERLINED THE VITAL IMPORTANCE OF THE ADVOCACY ROLE PLAYED BY CSOS IN ENSURING THE NEEDS OF THE MOST VULNERABLE ARE HIGHLIGHTED AND ADDRESSED

sectors of society to engage with Government, emphasising the crucial role of civil society in building a sustainable recovery from the public health emergency.³⁸

CONCLUSION

The crisis has highlighted the vital advocacy role played by the sector; through campaigning for a human rights-based law and policy response, through monitoring the impact of State decisions on different groups in society, and through holding the State to account. The ICCL, together with civil society colleagues, is continuing to advocate for human rights considerations to be at the centre of the State's response to the pandemic and to campaign for retaining certain economic and social policy measures introduced in response to the crisis which have strengthened human rights protections. ■

The analysis is updated to 30 October 2020. On 21 October, the country placed on Level 5 of the Plan for Living with COVID. See: <https://www.gov.ie/en/press-release/66269-ireland-placed-on-level-5-of-the-plan-for-living-with-covid/>.

³⁸ <https://www.socialjustice.ie/content/policy-issues/robust-social-dialogue-process-could-drive-sustainable-recovery>

*“During the COVID-19 crisis, the civic sector worked alongside statutory bodies and agencies to deliver essential services to the most vulnerable in society, including older people, those with underlying medical conditions, homeless families and those requiring psychological, social and material supports. While there has been’ widespread public enthusiasm for volunteering, organisations across the community and voluntary sector have been struggling to deal with increased demand for their services coupled with a decline in fundraised and earned income. Furthermore, there is often a lack of understanding of the important role played by these existing organisations in supporting hard-to-reach populations. **The Wheel**, alongside 14 other organisations, secured a €40 million package of supports for community and voluntary organisations, charities and social enterprises in Ireland. This fund signifies important recognition by government of the vital work being done by organisations across civil society to support the most vulnerable during the Covid-19 crisis*

Lily Power,
The wheel

CIVIC ACTORS WERE CRUCIAL TO RESPOND TO THE CRISIS

Towards a partnership approach between the State and the civic sector

Interview with Ivan Cooper, The Wheel

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Can you tell us about The Wheel and your mission?

The Wheel is Ireland's representative and support organisation for civil society - we sometimes refer to the sector as the community and voluntary sector, but it also includes social enterprises and charities. The Wheel has 1800 members organisations to whom we provide information, advice and support. We also represent the sector's interests to build public support and to secure the optimum legislative, policy and regulatory environment. We estimate that 30'000 people in Ireland are employed by organisations that are members of the Wheel.

How has the civic sector been affected by the pandemic?

What challenges did it face in providing this crucial support?

In Ireland, the community and voluntary sector is a huge sector. The turnover of these organisations is about 14 billion Euro. About half of that, roughly 7 billion Euro comes from fundraising that these organisations do themselves or income they earn every year. Similarly to many countries in Europe, there are lots of essential services that the population depends on: health services, community services, social services... These types of services are provided by voluntary organisations in Ireland, partly funded by the State.

When social isolation began in March, civic organisations faced two significant challenges. First, how to

deliver essential services in the socially isolated world. Second, how to cope with the collapse in the fundraised and

CIVIL SOCIETY ORGANISATIONS IN IRELAND WERE WELL PLACED TO FORM PART OF THE INITIAL RESPONSE TO SUPPORT VULNERABLE PEOPLE IN COMMUNITIES AROUND THE COUNTRY



Ivan Cooper

earned income to cover the cost of their work. Indeed, all the activities that they would normally be able to do that made them able to raise these funds disappeared overnight. Gathering for events where people could make donations was no longer possible: they could not go for sponsored walks or run together, they could not do collections house to house, they could not gather for coffee mornings... there was a serious fear that there would be a major catastrophe, while the government was not fully aware of the extent of the crisis.

How has the Wheel supported the sector?

There are two aspects to what the Wheel worked on in relations to civil society in Ireland during the pandemic. Firstly, civil society organisations in Ireland were well placed to form part of the initial response to support vulnerable people in communities around the country. We in the Wheel collaborated with a few partner organisations and then worked with hundreds of organisations to ensure that people in communities, especially in rural Ireland, had access to a network of individuals, helpers and volunteers that could help them with their shopping and other urgent needs. Secondly, as I said, civil society organisations were hit very hard by the collapse in fundraised and earned

income. We pulled together a coalition of 15 Irish membership organisations to identify the scale of the problem and then to seek some governmental support for organisations so they could keep going with their activities. So, there were two dimensions to this work. I was centrally involved in the second one.

Concerning the collapse of income, we immediately opened up discussions with the lead department in Ireland, the Department for the Rural and Community Development. They told us that they would need more information on the extent of the loss for the sector. Clearly, this was going to be a challenge: how do you assemble information of the extent of an unfolding crisis in the middle of an unfolding crisis when all of these organ-

**MANY ORGANISATIONS
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CRISIS PERIOD**

isations are worried about how they are going to continue to support people in need?! We approached some holders of good quality information about the typical income of the Irish charity sector, broken down by sub-sector, over a typical year; we also conducted surveys of our members to identify the extent of the fundraising collapse they anticipated during that period. We did some mathematics to identify a fairly robust estimation of the collapse in fundraised and earned income. That number came to 400 million Euro for March, April and May.

Some organisations were going to be worse hit than others. As I indicated, some community and voluntary organisations get a significant amount

of their money from the State. One of the early things we were able to do was to communicate to the state funders the importance of signalling to the supported organisations that they were flexible: so the main government partners that provide grants to voluntary organisations sent out letters saying that they would honour the terms of their funding agreements even though the circumstances had changed and organisations might do different things with the money that had been agreed in advance.

That was good. However, those organisations that were not receiving significant funding from the State were going to be much more severely hit. We went again to the lead department with the research, backed with the results of the survey that the coalition had done, describing the impact on the work of charities as a result of the collapse of the income. The Department was happy to accept the legitimacy of the figure of 400 million Euro.

There was then a complicating factor: in Ireland, as in many other countries in Europe, there have been different schemes to support employers to continue paying their employees. In Ireland, this is referred to as the *Wage subsidy scheme*. The scheme applies to charities and civil society organisations if they can demonstrate two things: First, that they suffered a collapse of income above 25%; second, that they are delivering services deemed “essential” to local communities. This was not going to include all of the civil society organisations: some might not have been able to show that they were going to suffer 25% income drop and many are not providing what the State might regard as “essential services”. Advocacy, for example, is sometimes not considered to be an essential service. The government calculated that when the wage subsidy scheme was taken into account, the 400 million Euro income loss dropped to 125 million.

The Department for rural and community development accepted the case made by the coalition. Its job then was to go and talk with all other government departments that also fund civil society organisations: the Department of Health, the Department of children, the Department of education... After a two-week consideration period, the cabinet announced that there would be a special emergency fund for charities in Ireland to cover the period when the income was lost: the Stability fund for charities for the amount of 40 million. There was an acknowledgement by the government that the 40 million Euro was not the amount that was required. This was just an important start.

Civil society welcomed the scheme. It was quickly opened, and there were over 1200 organisations that applied for that funding, so the need was most definitely there. From the information we have from the government department, a total application of 180 million Euro was made.

This collapse in income is going to persist into the future. Many organisations are reorganising their services and have been doing so throughout the crisis period. So phase two of this work is in

**ALTHOUGH WE
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the context of the budget for the next twelve months that the government will be producing in October. We will be identifying with our members to what extent civil society will be impacted in the long-term and we will make the case with each government department to increase or change the nature of the funding that they provide to civic organisations. For example, to continue to provide services, some organisations have higher needs for personal protective equipment (PPE), or they need to provide employees and staff with additional technical equipment to enable them to work on-site, like laptops, computers, tablets and phones and so

on. That involves additional costs. We will need to look into how much any individual subsector will require, and the main lines of communication will be with each sectoral need departments.

Will the fund for civil society support advocacy work?

No - they must be delivering front line services. The primary aim of the Stability Fund is to assist the community and voluntary organisations, charities and social enterprises who are experiencing financial difficulties due to a reduction in their fundraising income and/or traded income as a direct result of the COVID-19 pandemic. Organisations must be delivering critical front-line services in the Republic of Ireland, before the 1st January 2019, to be eligible to apply.

What strategies has the Wheel put in place to leverage support for the sector?

One important aspect was the fact that, in Ireland, the Wheel as the lead organisation for the sector of civil society has very well-developed relationships with senior officials in key government departments.

A second part of the strategy was that we were not on our own as an organisation. Although we are a prominent organisation in Ireland, we formed an alliance with all the key organisations that work in civil society. We involved the main umbrella organisations working with volunteers, with children and family relations, with people with disabilities, in the area of good governance and charities... By getting all these organisations together into a coalition, we solved a problem for the government department: like any government department, when a crisis hits, it prefers to have one or two strong partners that it can communicate with without being inundated with communication from many different partners. We worked very hard with the members of the coalition to articulate a clear message and to give the

THE IMPACT OF THE COVID-19 CRISIS

A survey by The Wheel found that:

- ▶ **48%** of charities anticipate an income/funding loss of up to 75%
- ▶ **12%** anticipate an income/funding loss of up to 100% by the end of 2020
- ▶ **40%** of organisations with paid staff have reduced their staff's working hours
- ▶ **64%** reduction in volunteers as a result of COVID-19 restrictions

Paid staff:



- ▶ **50%** have experienced increased demand for their services
- ▶ **65%** reported that restrictions have reduced their abilities to deliver services

Source: The Wheel, The impact of the COVID-19 crisis, (2020), <https://www.wheel.ie/sites/default/files/media/file-uploads/2020-10/MemberSurvey2020Report.pdf>

government the confidence they needed to devise a solution. No solution will ever be perfect. So when the solution came back, as imperfect as it was – 40 million Euro against 125 million Euro – we were able to provide leadership in our coalition so to make sure that the reaction in civil society was not overly negative.

The other part of the strategy was to conduct a solid piece of research that could stand of the scrutiny of senior government officials – and this was very difficult in the time frame that we had at our disposal. People were working 12 to 15 hours days for weeks on end: on weekends, on Saint Patrick day, on Easter holidays... The research had to be suitable to senior officials in government to go themselves to bat in front of the Secretary-General of the central government funding departments. It had to be credible for the government cabinets who ultimately signed off on the provisions. Quality of arguments and solidity of evidence was critical.

How does dialogue work at the national level? Is there an institutional framework? And was it respected during the crisis?

There are several components of the framework; it changed over the last 15 years. In particular, it changed from the financial crisis onwards. Civil society has a number of mechanisms to engage with the central government. One of them is the community and voluntary pillar, of which the Wheel is one member. There are 17 civil society organisations in that coalition, and each of those organisations receives some funding from the central government to enable them to conduct research and engage in policy discussions with different departments of State. Amongst those organisations, you have organisations working on specific policy areas: children's rights organisations, organisations advocating for the needs of older people, organisations representing

people who are experiencing poverty, organisations representing people with disabilities and special needs... It is usually two organisations for each of those areas in the community and voluntary sector. There are also organisations like the Wheel that have pan-sectoral responsibilities that deal with the entire sector. Those organisations meet in Parliament about four times a year. Each of them engages with all government departments in bilateral meetings two to three times a year. There is good quality engagement between civil society and policy-making departments in Ireland.

In addition to that, every year, there is a wider dialogue that takes place between civil society and the government. In recent years, this has been called the "National economic dialogue". It is a two days event in which all of the members of the Community and volunteering pillar plus a dozen other civil society organisations are invited. That is an opportunity for civil society to engage with senior ministers of the government and talk about policy priorities for the year ahead, in particular in the context of formulation of the national budget. Ten years ago, that partnership was called "Social partnership" instead of "National economic dialogue". The shift in orientation occurred as a result of perception at that time, twelve years ago, that policy-making in Ireland had become too diversified from the national assembly and had become too corporatist. There

was a perception that civil society had too much of an influence. So the dialogue took a step back to be just connected to matters of economics. With the new government in Ireland – which was nominated only one month ago – the orientation is anticipated to shift back toward a social partnership on account of the challenges that the country now faces in the period ahead. Civil society stands in a good place because of the very clear perception by the government that civil society organisations nationally played a major role sustaining people during the crisis in a way that the government could not do on its own.

I think that during the crisis, the experience of the Wheel and other organisations that we cooperate with, the civil dialogue was like the coming together that can sometimes happen in the event of warfare or of major environmental calamity. Civil society was very well placed to provide evidence and information to the government and act as a communication channel and action partners for the government. Our experience was that there was a great willingness on the side of the government to listen within limits. Indeed, the government was faced with a challenge that required them and all of their civil servants to work 12 to 15 hours a day in the same way I just described in civil society. There was a real sense of everybody pulling together both within the government and in civil society to reduce the impact and reorient services.

The much more difficult period is what is coming ahead. The immediate crisis has been dealt with, but there are now going to be plenty of challenges and difficulties with lots of contending claims being made to the government, and the government simply will not be in the position to respond to all of those claims. The period ahead will test the extent to which the trusted relationship will continue between civil society and the State. Some of our members believe

**THE PERIOD AHEAD WILL
TEST THE EXTENT TO
WHICH THE TRUSTED
RELATIONSHIP WILL
CONTINUE BETWEEN
CIVIL SOCIETY
AND THE STATE**

that despite the government saying they do not intend to return to austerity, it is still very likely that, because of the political reality, there might be some tough decisions that the government will have to make and some that might result in reductions to the funding of the sector.

Looking at the positive side, we also think that there is scope for the civil society to respond creatively. One example is the collaborative work that members have been engaging with. There may be some organisations to look at more collaborative work and, perhaps, for some organisations, it might be worth to look into the potential for mergers.

Do you think that the European Union can be an ally for the civic sector? In what way?

Yes – absolutely. The European Union and the civic sector are natural partners in that they can facilitate mutually inclusive values and goals. The EU values of inclusion, tolerance, justice, solidarity and non-discrimination are aligned to the work of the community, voluntary and charitable organisations that put social-progress and the common-good on par with economic growth as indicators of a healthy society.

Public participation, active citizenship and strengthened democracy are key movers to empowering people and communities. With the support of the EU, the civic sector can be a means through which people engage with their European citizenship and participate more fully in democracy.

The EU can be a great ally to the civic sector by supporting and fostering partnerships with the people and organisations who work hard to ensure that equality, fairness, opportunity and participation are at the forefront of our European way of life.

What lessons can be learned from the outstanding

THE EU CAN BE A GREAT ALLY TO THE CIVIC SECTOR BY SUPPORTING AND FOSTERING PARTNERSHIPS WITH THE PEOPLE AND ORGANISATIONS WHO WORK HARD TO ENSURE THAT EQUALITY, FAIRNESS, OPPORTUNITY AND PARTICIPATION ARE AT THE FOREFRONT OF OUR EUROPEAN WAY OF LIFE

community and charity mobilisation that can potentially inform a post-COVID-19 institutional and societal response?

The COVID-19 brought about a host of unprecedented challenges. In response, the country put people's health and well-being first, and the needs of the economy were de-prioritised to bring the virus under control. The network of community and charity organisations played a key role in this response and were well placed, and well connected, in communities, to provide flexible and immediate support and services. The essentialness of these services was starkly evidenced in this crisis, and the vital role charities played throughout the period has been widely acknowledged by the government and the public.

However, this recognition of the role of the civic sector must be brought forward into statutory and wider societal consciousness in order to rebuild a better society based on this recent experience

of solidarity and putting the public good first.

Although the crisis has highlighted the reach and capabilities of the sector, there are pervasive obstacles that inhibit the work of community and voluntary organisations such as inadequate or uncertain funding, heavy compliance requirements without administrative supports, lack of communication and consultation with statutory funders.

These should be met with solutions such as multi-annual funding – sustained and strategic resourcing of the community, voluntary and charitable sector. Government departments should increase or change the nature of the funding that they provide to civic organisations. There should also be a shift towards a more partnership approach to working between State and the civic sector, and civil society should be engaged in social dialogue and consultation. ■

The interview was carried out on 20 July 2020. In September a research by The Wheel showed that the drop in funding for the sector reached €445 million. Read: <https://www.wheel.ie/sites/default/files/media/file-uploads/2020-10/MemberSurvey2020Report.pdf>. In October, the budget for the Covid-19 Stability Fund for Community and Voluntary Organisations was raised to €45 million. See: <https://www.charities-instituteireland.ie/our-blog/2020/10/15/cii-welcomes-additional-10m-for-covid-19-stability-fund>. The situation remains precarious here and The Wheel continues to lobby for further supports to sustain the sector through the crisis.



SLOVENIA

Civic space in Slovenia was downgraded from "Open" to "Narrowed" on the CiViCUS Monitor.

Slovenian civil society covers wide-ranging areas of action, with relatively high levels of volunteering. Yet, CSOs have long experienced problems of limited financial and human resources, especially for advocacy. While vilification by political figures occasionally targeted civic actors, particularly in the field of environment and migration, the legislative environment significantly improved in spring 2018 when an NGO Law - among other things - defined the term "NGO" and created an NGO fund¹ to strengthen the sector, including the long-term employment rate. Nevertheless, a rapid deterioration of civic space and rule of law has characterised 2020, after the formation of a new right-wing Government coinciding with the declaration of the pandemic in the country. Since mid-March, the Government has repeatedly attempted and often succeeded in changing democratic rules and limiting dialogue with the sector. These moves found the opposition of civil society and citizens protesting and revitalising Slovenian civic mobilisations.

¹ CIVICUS Monitor, New Ngos Law welcomed as challenges to civic space remain, <https://monitor.civicus.org/updates/2018/04/04/slovenia-new-NGO-law-welcomed-umbrella-group/>, (April 2018).

THE SECTOR IN NUMBERS / SLOVENIA

Population of the country (2020)

2.08 Million

Number of NGOs registered in the country (2020)

27,996 (+ 27% compared to 2019)

Number of people employed by the sector (2018)

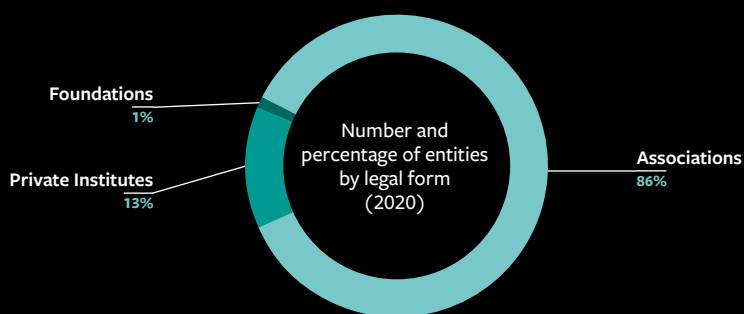
8,300 persons (11.92% of the total workforce)

*INSTITUTES EMPLOY MORE THAN A HALF

Number of volunteers (2018)

61,330 volunteers (2,98% of the total population of Slovenia)

*92,07% OF NGOS ARE ONLY COMPOSED OF VOLUNTEERS



THE ECONOMIC WEIGHT OF THE SECTOR

Availability of public funding for the sector (2018)

333,15 Million euros (The double compared to 2003, it represents 36,29% of the total revenue of the sector)

Total revenue of the sector (2018)

918 Million euros (4,9% increase compared to 2017)

1/3 is estimated to be generated by sales of services and products

67.37% was contributed by associations

17.36% of NGOs operated without profit

52.60% generated less than 50,000 euros in revenue

% of the national GDP (2018)

2%

SOURCE: CNVOS, NGO SECTOR: FACTS AND NUMBERS, [HTTPS://WWW.CNVOS.SI/EN/NGO-SECTOR-SLOVENIA/](https://www.cnvos.si/en/ngo-sector-slovenia/)

ILLIBERAL GOVERNMENT TAKES OVER THE COUNTRY

Core foundations of democracy are eroded

By Nika Kovač, Research Institute 8th of March

On 13 March, only one day after the announcement of the Covid-19 epidemic in Slovenia, a new government was formed. Four political parties, led by the right-wing Slovenian Democratic Party (SDS), had already agreed to form a coalition government on 25 February. The agreement followed the resignation of Prime Minister Marjan Šarec on 27 January, after a law – which has nationalised supplemental private health insurance – split his minority government coalition, made of five small parties. This coalition was formed after the 2018 elections: despite SDS being the largest parliamentary party, other parties refused to form a coalition with the party's leader Janez Janša due to his right-wing policies. Šarec wanted his resignation to open the way for early elections but, instead, two parties from his coalition decided to enter the alliance with SDS.

Janša had previously served as Prime Minister from 2004 to 2008 and again from 2012 to 2013. One of the most controversial figures in Slovenian politics since the country gained independence in the 1990s, he spent six months in prison after having been convicted of corruption in an armoured vehicle deal with the Finnish defence company Patria. The constitutional court later overturned his conviction due to insufficient evidence.

ON 13 MARCH, ONLY ONE DAY AFTER THE ANNOUNCEMENT OF THE COVID-19 EPIDEMIC IN SLOVENIA, A NEW GOVERNMENT WAS FORMED

In 2018, he was also given a three-month suspended sentence for insulting two journalists by calling them prostitutes.

During the last 30 years, the SDS party changed its ideology from social democracy to neoliberalism to far-right nationalism, and it is now known for its racism and WWII revisionism. It is also close to Hungary's Prime Minister Viktor Orbán. In the last few years, companies from Orbán's sphere of influence have poured millions of euros into SDS's media projects, including its publishing house Nova obzorja and *Fox news* alike television station Nova24 TV, that often smear or attack critical journalists and activists¹. At the end of September, Slovenia's third most-viewed TV station Planet TV was bought by one of the two biggest Hungarian media companies, T2².

¹ <https://monitor.civicus.org/updates/2018/04/04/slovenia-new-NGO-law-welcomed-umbrella-group/>
² <https://english.sta.si/2813616/telekom-recapitalises-planet-tv-and-completes-sale-to-hungarian-tv2-media>

RULING BY DECREES, EMERGENCY LEGISLATION AND LIMITING THE RIGHT TO REFERENDUM PERMANENTLY

A state of emergency was never proclaimed in Slovenia. All the measures were introduced on the basis of the COVID-19 epidemic, declared on 12 March. Soon after the epidemic was announced, the Parliament suspended its regular sessions for two months. The Government formed a task force that had no legal basis and whose powers were unclear. Government decrees that pushed the boundaries of legality became the Government's main tool of regulating life in society. The Constitutional Court is now evaluating many of them. Public life was virtually shut down; schools were closed on 16 March. On 19 March, the *Ordinance on the temporary prohibition of public gathering at public meetings and public events and other events in public places in the Republic of Slovenia* banned public gatherings and shut down the service sector of the economy.³

One of the most controversial decrees limited the movement of people to the boundaries of their municipality⁴. In the eyes of many, this was arbitrary as no argumentation or analysis existed for this decision. At first, the Constitutional Court deemed unconstitutional the articles of the decree that vaguely determined the timeframe for the measure, although it did not suspend the decree.

³ <https://www.gov.si/en/news/2020-03-19-ordinance-on-the-temporary-prohibition-of-public-gathering-at-public-meetings-and-public-events-and-other-events-in-public-places-in-the-republic-of-slovenia/>
⁴ <https://www.gov.si/en/news/2020-03-29-the-prohibition-of-movement-outside-the-municipality-of-permanent-or-temporary-residence-in-force-from-midnight/>

The Research Institute of 8th march

is an institute dealing with different forms of inequalities. It is organising the Slovenian #metoo campaign and organising theoretical roundtables about different topics. It is one of the leading Slovenian feminist organisations.

Nevertheless, Prime Minister Janša accused the court of being “politically biased”⁵. In September, long after the decree was waived, the Constitutional Court ruled that the decree is in accordance with the Constitution. In its argumentation, the Government is entitled

**DURING THE LAST
30 YEARS, THE SDS
PARTY CHANGED
ITS IDEOLOGY FROM
SOCIAL DEMOCRACY
TO NEOLIBERALISM TO
FAR-RIGHT NATIONALISM**

to broad powers and leeway in critical situations like the epidemic.⁶

In response to the social, economic and health crisis, the Government proposed a series of emergency legislations, later called the “Anti-corona packages”. However, the packages contained a number of other proposals that were not related to the emergency and that will affect the socio-economic and democratic life of Slovenia beyond the epidemic.

At the beginning of April, the Government proposed a fundamental change in the law regulating referendums (Referendum and Popular Initiative Act). This Act used to allow citizens to call for a legislative referendum and overturn laws adopted by the Parliament within seven days from their adoption. The approved amendments gave the majority in Parliament the possibility to exclude referenda on certain matters, with the aim to speed up the legislative

process. The change enacts Article 90 of the Constitution that regulates referendums, which had been changed during the financial crisis forbidding referendums on financial matters, international treaties, human rights and urgent matters of defence, safety and natural disasters. In the past, similar proposals by different governments failed to gain the two-thirds majority required to amend such law. Critics pointed out that such measures would be prone to abuse and take away the people's right to oppose by means of a referendum.

The Government has continued with the strategy of big emergency packages pushed through the Parliament with alarming pace, practically eliminating the space for a transparent and public debate. For all of them, the government coalition did not allow a referendum. The last of these emergency laws, the “Anti corona package 5”, was sent to Parliament on the 1 October and contained articles that could be aimed at privatising public healthcare.

TAKING OVER THE LEADERSHIP OF PUBLIC INSTITUTIONS

As one of its first acts, the new Government replaced the leadership of the Army, the police and the military's Intelligence and Security Service⁷. In the next weeks and months, it also changed the leadership of the National Institute of Public Health (a key institution in fighting the Coronavirus), the National Bureau of Investigations (part of the police investigating major crimes), the Slovenian Intelligence and Security Agency (the main civilian intelligence service), the Statistical Office (key institution of gathering and distributing key indicators and information) and the Financial administration (tax collecting and tax avoidance

⁵ <https://www.total-slovenia-news.com/politics/6120-jansa-calls-constitutional-court-politically-biased>

⁶ <https://www.us-rs.si/odlocba-ustavnega-sodisca-st-u-i-83-20-z-dne-27-8-2020/>

⁷ <https://www.gov.si/en/news/2020-03-14-1st-regular-session-of-the-government-of-the-republic-of-slovenia/>



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persecution) with officials loyal to the party of Prime Minister Janša.

These changes seem politically motivated. For example, the National Bureau of Investigations was conducting a criminal investigation regarding potential improprieties with the procurement process of masks and other Coronavirus protective gear. The same institution was also carrying out a criminal investigation into foreign financing of SDS-affiliated media. Also, the head of the national Statistical Office was replaced because he did not allow an informal government working group to access confidential and highly sensitive raw econometric data.

IMPACT OF THE PANDEMIC ON THE SOCIETY AND NGO SECTOR

The shutdown of public life and the service sector had immediate consequences on people's livelihoods and their ability to stay afloat. In the first emergency measures, the Government prioritised help for big and medium-sized business over the self-employed - whose work was already the most precarious -, the service sector, and civil society organisations. For example, out of the three laws in this first package approved on 19 March,

GOVERNMENT DECREES THAT PUSHED THE BOUNDARIES OF LEGALITY BECAME THE GOVERNMENT'S MAIN TOOL OF REGULATING LIFE IN SOCIETY

the first dealt with emergency measures for the farming sector; the second with administrative procedures and deadlines; the third and most important one with wages, social security contributions subsidies for employers and a monthly loan

payment moratorium. This package did not provide safeguards to the workers for which companies received subsidies against layoffs, nor for the self-employed. Additionally, civil society organisations and associations were not eligible for subsidies. Despite the loud dissatisfaction expressed by the civic sector through petitions and letters, the ruling coalition did not accept the amendments demanded.⁸⁹

Some of these issues were addressed on 2 April, when the Parliament confirmed the very first Government's all-encompassing emergency package laws to mitigate the consequences of the pandemic. This package was worth 3 billion euros and named the *Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy*, or the ‘Anti-corona Mega Law’. The act widened the range of supports for businesses but also included self-employed, CSOs and some vulnerable groups in society. However, this act also left out many or provided them insufficient support. For example, CSOs were also included in the help, under the same conditions as other employers, i.e. if their income in 2020 will be 10% lower than in 2019. Furthermore, humanitarian and

⁸⁸ <https://www.cnvos.si/novice/2466/dz-pozvali-da-naj-interventna-pomoc-velja-tudi-za-drustva-zavode-in-ustanove/>

⁸⁹ <https://www.rtvslslo.si/zdravje/novi-koronavirus/sircelj-za-podjetja-bo-omogocen-12-mesečni-odlog-placevanja-kreditov/517533>

2004 - 2008: First term of Janez Janša as Prime Minister and leader of Slovenska Demokratska Stranka (SDS).

2004: Slovenia joins the European Union.

JANUARY - JUNE 2008: Slovenia as first “new member state” presides the EU Council.

SEPTEMBER 2008: Borut Pahor, from the Social Democrats party, becomes Prime Minister.

2012-2013: Second term for Janez Janša as Prime Minister.

2012-2014: Massive protests against Government's corruption and the political elite.

FEBRUARY 2013: Janša's government falls after an investigation report reveals systematic violation of the law by failing to properly report his assets.

MARCH 2013: Social Democratic candidate Alenka Bratušek becomes Prime Minister.

2014: Janša is imprisoned after being convicted of corruption in an armoured vehicles deal with the Finnish defence company Patria. After 6 months he is released. The Constitutional Court overturns the ruling previously confirmed by three judiciary stages.

SUMMER 2017: Vilification campaign against environmental civil society organisations that take part in the impact assessment process for greater environmental protection in opening of car-painting plant in Maribor.

MARCH 2018: New NGO law is welcomed as “huge step forward” for relationship between the government and NGOs.

SPRING 2018: Heated electoral campaign leads to increased attacks against journalists and artists. SDS pledges to cut public support for NGOs.

disability organisations were excluded from this condition.

The initial conditions for self-employed to receive government aid were stricter than for businesses and seemed to have been designed in a way that discouraged eligible people from applying¹⁰. If all conditions were not met, the aid would have to be repaid. As a result, a lot of people were afraid to apply, since they could not know whether their earnings at the end of the year would meet the Government's conditions. Additionally, partially self-employed parents who entered into a government programme that allowed them to spend more time with their kids and receive full-time pension payments,

CONSIDERING PUBLIC FUNDING OF CSOS, 2020 HAS BEEN A TURBULENT YEAR

were excluded from any help. Several NGOs and humanitarian institutions, including our Institute, initiated fund-raising for the groups that were hit the hardest and found themselves in financial

distress and facing poverty, including cultural workers, self-employed and partly self-employed parents¹¹.

Considering public funding of CSOs, 2020 has been a turbulent year. One of the first moves under the new Government was a decision by its Communication Office to abolish project contracts with CSOs for 2020 dealing with migrants, media literacy, human trafficking, etc.¹². After a long fight, the Office succeeded with its intention as it found a legal basis in the contracts saying that all projects need to be implemented on time. Due to the national lockdown this was not possible, many projects were therefore in delay and hence, the abolishment. However, it must be emphasised that such actions by one of the public institutions were witnessed for the first time and may very well lead to similar actions. It also should be noted that the whole size of the programme is only 100.000 EUR. Also, in March, the Government passed a decision to amend the state budget, instructing ministries that all costs should be cut by 30%. This instruction again led to quite some advocacy efforts in order to secure the funding for CSOs. The changes were passed in September. With the exception of the Ministry of

Culture, who let go of €8 million and consequently abolished public tenders and other financial support for the sector, other ministries did not cut the funds for CSOs. Some, as the Ministry of Social Affairs, even published additional funds to support CSOs with their activities during the pandemic. At the last session of Government Council for development of NGOs, most ministries confirmed that there are also no cuts planned for 2021.

Militarisation of measures

The draft 'Anti-corona Mega Law' also contained constitutionally controversial extension of police powers in articles 103 and 104. Article 103 gave police wider repressive powers and access to people's personal health information. Article 104 made provision for the surveillance of citizens through their mobile phones. During the legislation process, the law was watered down, tracking through mobile phones was erased, but remained controversial. This led opposition parties to file an initiative for constitutional review of these articles.¹³

The Government also attempted to invoke Article 37a of the Defence Act which gives police powers to military personnel for protecting the wider border area. The leading government party is openly anti-migrants, and it tries to use

¹¹ For example the initiative Pomoč staršem v stiski (<https://www.petkazanasmeh.si/aktualno/pomoc-starsem-v-stiski>)

¹² <https://www.cnvos.si/novice/2496/nujno-obvestilo-za-izbrane-izvajalce-na-razpisu-ukom-2020/>

¹³ <https://www.rtvsllo.si/slovenija/sd-lms-sab-in-levica-v-ustavno-presojajo-posiljajo-tri-vladne-ukrepe/521258>

¹⁰ This was later unified.

JUNE 2018: SDS wins majority of votes in the elections but most parties in Parliament pledge against forming a coalition with Janša.

SEPTEMBER 2018: A five-party centre-left coalition, led by Prime Minister Marjan Sarec, forms a minority Government.

NOVEMBER 2018: Janša gets a three-month suspended sentence for insulting two journalists by calling them prostitutes.

27 JANUARY 2020: Prime Minister Marjan Sarec resigns.

3 MARCH 2020: Four political parties form a coalition. Janša becomes Prime Minister-designate.

12 MARCH 2020: Announcement of the COVID-19 epidemic in Slovenia.

13 MARCH 2020: Janša starts his third term as Prime Minister of Slovenia.

14 MARCH 2020: The new government replaces up to 7 heads of public institutions with leaders close to SDS. These changes seem politically motivated as some of these institutions are carrying out investigations against Janša's party.

19 MARCH 2020: Ordinance bans public gatherings, public meetings and public events and shuts down the service sector.

29 MARCH 2020: Decree prohibits freedom of movement outside the municipality.

2 APRIL 2020: The government launches "Anti-corona Mega Law" to help businesses, self-employed and CSOs. It contains several problematic articles for fundamental rights.

THE POLICE ALSO SYSTEMATICALLY ENFORCED "SOFT" ACTS OF REPRESSION LIKE ARBITRARY IDENTIFICATION AND CONTINUED TO BRANDISH FINES FOR ABSURD REASONS

the pandemic as a pretext to enforce harsher anti-refugee politics, presenting them as our country's enemies.

Considering that the Army is already assisting border police, the fear was that the use of this article would last for an unclear period of time and be abused by the Government. Furthermore, since the closure of the Balkan corridor in 2016, Slovenian police have reportedly pushed back more than 16,000 people into Croatia. From Croatia, they were most often violently returned to Bosnia where the number of migrants is steadily growing, and a humanitarian disaster is already taking place. If the Army were to be granted police powers, this would prevent more people from applying for international protection, a basic human right. In the end, the Government did not

gain the two-thirds majority needed to activate this article but has announced it will try again.

THE RIGHT TO PROTEST

The people's response to Government's (in)actions during the past months has been quite strong. However, the already mentioned *Ordinance on the temporary prohibition of public gathering at public meetings and public events and other events in public places in the Republic of Slovenia* prohibited all public gatherings, and restricted people's movement to work, farming, essential services (pharmacies, grocery stores, banks and post offices etc.) and walking. The public gathering restriction had only two exceptions: people living in the same household and a group of up to 5 co-workers driving to work. Consequently, people expressed their protest in unconventional ways.¹⁴

Had the restrictions not been in place, protests against the new Government would have started in the first weeks, as they already did in February when the first signs of the SDS-led coalition became visible. In the absence of opportunities for mass physical protests, people took to social media to express their discontent, displayed banners on their balconies, protested alone in front of Parliament and elsewhere respecting

¹⁴ The public gathering restriction had only two exceptions: people living in the same household and a group of up to 5 coworker driving to work.

the limitations, made noise from their windows every Friday afternoon, and more.

During one of these actions, on 22 April, the activist group Portestival started an initiative called *Footprints of resistance*¹⁵ in which solo protesters and families left paper cut-outs of their feet with messages written on them in front of Parliament. Police fined some of the participants 400 euros for breaking the public gathering Ordinance. This was perceived as an arbitrary act of oppression.

On 24 April, the protest went *From*

SDS AND AFFILIATED MEDIA SYSTEMATICALLY PORTRAY NON-GOVERNMENTAL ORGANISATIONS AS PARASITIC LEFTISTS WHO NEED TO BE CUT FROM PUBLIC FUNDING

the balconies to bicycles in the capital city of Ljubljana. A few thousand protesters came to "exercise and protest". The

¹⁵ <https://www.facebook.com/watch/?v=520042205329435>

3 APRIL 2020: People start to express their discontent, displaying banners on their balconies, protesting alone in front of Parliament and elsewhere respecting the limitations, making noise from their windows every Friday afternoon.

APRIL 2020: Government Communication Office starts a long process of pressure on NGOs in order to abolish project contracts for 2020, dealing with migrants, media literacy, human trafficking, etc.

22 APRIL 2020: The activist group Portestival starts an initiative called *Footprints of resistance*: solo protesters and families left paper cut outs of their feet with messages written on them in front of Parliament. Police fines them.

23 APRIL 2020: Opaque and corrupt practices involving the Government purchase of masks is unveiled by whistleblower on the Public TV.

24 APRIL 2020: Masks scandal triggers protests *From the balconies to bicycles* on the streets of the capital city of Ljubljana on Fridays.

26 APRIL 2020: Janša calls the Constitutional Court "politically biased".

28 APRIL 2020: Adoption of a new *Regulation Establishing a Monitoring Committee of the Operational Program for the Implementation of the European Cohesion Policy for the period 2014-2020* changes the membership of the Monitoring Committee. NGO representative - elected

protest became bigger - the largest exceeded 15 thousand people - and expanded to other Slovenian towns and cities in the following weeks. In different forms and scale, protests continued every Friday since (Ed.: for more information concerning the protest, read the interview).

All these protests do not have a formal organiser, and information are circulated on social media. The protests have been very peaceful. On the other hand, the authorities reacted quite heavily-handedly. The police systematically cordoned off the Square of the Republic in front of the National Assembly with an iron fence: first, just a part of the square and later, for the first time in history, the entire square which is synonymous with free speech and right to protest. In an act of defiance to this, on 19 June, protesters set on the ground of the square in the afternoon before it was cordoned off, reading article 42 of the Constitution: *"The right of peaceful assembly and public meeting shall be guaranteed. Everyone has the right to freedom of association with others."* The police dispersed the protesters, also using force carrying them out of the square.^{16,17} The Slovenian Ombudsman found that in the protest on 19 June, people were unjustifiably and

unlawfully identified. He discovered that the police exceeded their powers under the pressure of the Minister of Interior.¹⁸

The police also systematically enforced "soft" acts of repression like arbitrary identification and continued to brandish fines for absurd reasons like writing protest slogans on the streets with chalk. Additionally, Amnesty International Slovenia reported on the use of violence towards the protesters on a few occasions¹⁹.

TARGETING CRITICS

In the week after the first cases of Covid-19 were confirmed in Slovenia, Government's press conferences were a stage for experts to talk and for journalists to ask questions. As soon as the new Government came to power, official communication was reduced to a single public speaker and, allegedly due to health concerns, journalists were prevented from attending press conferences with no option to pose questions to the speakers directly.

At the same time, all the processes described above were widely criticised by the public, the civil society, the media and the opposition and any criticism was met with attacks and discreditation from the media network around SDS, as well

as by government officials. For example, a smear campaign targeted investigative journalist Blaž Zgaga. After Zgaga sent a (freedom of information) request to the Government's Secretary-General to obtain information on the functioning and structure of the newly founded Crisis Headquarters of the Republic of Slovenia

SDS SEEMS TO HAVE THE AMBITION TO DOMINATE THE SLOVENIAN MEDIA LANDSCAPE

charged with combating the pandemic, a tweet from the official account of the same Crisis Headquarters declared that Zgaga was part of a group of "four patients who escaped quarantine" and that he suffered from "the Covid-Marx/Lenin virus".

In a statement to the Council of Europe, the Government stated that "The majority of the main media in Slovenia have their origins in the communist regime" and attacked the Slovenian public broadcaster RTV Slovenija for being politically biased and having too many people employed.²⁰ Later,

¹⁶ <https://www.mladina.si/199288/fotogalerija-petkovi-protivladni-protesti/>

¹⁷ <https://www.vecer.com/slovenija/spremijamo-policija-pred-drzavnim-zborom-iz-ograjenega-dela-odstranila-protestnike-10185846>

¹⁸ <https://www.dnevnik.si/1042937430>

¹⁹ <https://www.amnesty.si/odziv-na-ravnanje-oblasti-protesti>; <https://www.amnesty.si/navedbe-o-prekoracitvi-policijskih-pooblastil-je-treba-preiskati.html>

²⁰ <https://necenzurirano.si/cdn/public/files/2020/04/08/5e8db4e636351.pdf>

by NGOs through inclusive and democratic procedure - is removed and replaced by Government-appointed NGO.

19 JUNE 2020: Protesters sit on the ground of a square in Ljubljana calling for freedom of assembly. The police disperse the protesters using force.

JUNE 2020: Government refuses the proposed list of candidates for the European Economic and Social Committee on the ground of lack of gender equality. Instead of asking the representative organisation to change their candidates, the Ministry of foreign affairs takes over the

process.

15 JULY 2020: Constitutional Court decides to suspend articles of the anti-corona mega law, passed in April, that changed conditions for NGOs participating in environmental impact assessment due to their public benefit status.

29 JULY 2020: Courts stop the SDS moves to take over the public radio-television (RTVS) supervisory board by illegal means.

9 JULY 2020: Government proposes extensive changes to the media law that will include a 13 million euro cut for RTVS.

4 AUGUST 2020: In a communique to the Council of Europe, Government states that "The majority of the main media in Slovenia have their origins in the communist regime"

8 OCTOBER 2020: Minister of Interior introduces new restrictive measures and blames on cyclist protesters for the rise in coronavirus cases.

19 OCTOBER 2020: NGOs face eviction from the self-governed compound Metelkova claim Janša wants them silenced.

Prime Minister Janša tweeted a similar message.²¹

Simultaneously SDS tried to take over RTV Slovenija supervisory board by illegal means. First, it dismissed three members despite the fact that their terms had not expired. This move was stopped by the courts.²² Then, it attempted to replace two more members but was aborted by a parliamentary committee.²³

²¹ <https://www.mladina.si/196896/jansevi-napadi-na-rtv-slovenija-so-nesprejemljivi>

²² <https://www.rtv-slo.si/slovenija/upravno-sodisce-zadrzalo-predcasno-razresitev-treh-nadzornikov-rtv-slovenija/532041>

²³ <https://rsf.org/en/news/slovenia-trumps-disciple-attacks-journalists-and-introduces-systemic-change>

SDS seems to have the ambition to dominate the Slovenian media landscape. As mentioned in the beginning, it is partly trying to do so with the help of Hungarian corporations close to Orban that are financing SDS' media network and making it bigger with acquisitions. The other part of SDS' strategy is to change the three main laws regulating the media field. With them, they are trying to change the current leadership of the Slovenian Press Agency (STA), reduce funding of RTV Slovenija²⁴ and change

²⁴ <https://www.total-slovenia-news.com/politics/6579-culture-ministry-releases-proposals-for-media-reform-major-funding-cut-for-rtv-slovenija>

THE GOVERNMENT ALSO SYSTEMATICALLY ACTED IN A WAY THAT EXCLUDED CSOS FROM INFLUENCING POLICY MAKING AND MADE PUBLIC DEBATE AND SOCIAL DIALOGUE MORE DIFFICULT,

the current leadership, put public money in SDS affiliated media and regulate the media market in the way they seem fit²⁵. This endeavour that would erode the basis of free expression and freedom of the press also ran into opposition from inside some of Janša's coalition partners and was at least temporarily put on hold.

RESTRICTIONS ON CIVIL SOCIETY AND CSOS ACTIVITY

We have already mentioned about the turbulent year for CSOs' public funding. This comes as no surprise given that SDS and affiliated media systematically portray non-governmental organisations as parasitic leftists who need to be cut from public funding.

The Government also systematically acted in a way that excluded CSOs from influencing policy making and made public debate and social dialogue more difficult, thus reducing the influence of CSOs. The first anti-corona package laws were practically written behind closed doors without social dialogue with trade unions - that is usually a condition *sine qua non* in Slovenia before passing such important measures – and without consultation with civil society.

²⁵ <https://ipi.media/new-administration-old-agenda-press-freedom-strained-again-in-slovenia-under-veteran-pm-jansa/>

TARGETING ENVIRONMENTAL ORGANISATIONS

By Tina Divjak, Head of advocacy at the Centre for Information Service, Cooperation and Development of NGOs (CNVOS)

Anti-corona measure affecting construction legislation

In Slovenia, according to Environmental Protection Act, non-governmental organisations that obtain the status of acting in the public interest in the field of environmental protection can be parties in the procedures and can go to court and challenge the decisions in environmental matters. So far, several major investments, which would severely affect the environment, have been successfully challenged by environmental organisations in the courts or within the administrative procedure for obtaining an environmental permit.¹

Some of the conditions for obtaining the status of acting in the public interest in Environmental protection law included:

- For associations: at least 3 members,
- For institutes: at least 1 expert co-worker,
- For foundations: at least 400 EUR of founding assets.

Changed conditions for NGOs included in the anti-corona law package (April 2020, prolonged in June 2020 until the end of 2021) and considered provisions aimed at deregulation of construction legislation and speeding up of infrastructure investments during the economic recovery:

¹ <https://www.liberties.eu/en/news/slovenia-new-government-restricts-access-to-public-participation-for-environmental-ngos/19290>

- For associations: at least 50 active members, which NGOs shall prove with regularly paid membership fees and participation at general assemblies,
- For institute: at least 3 fully employed staff with university education in the field,
- For foundations: at least 10,000 EUR of founding assets.

The most controversial is the condition to meet these requirements *retrospectively in the last two years*.

Data collected for 56 out of 77 NGOs currently meeting this criteria shows that only 9 of them (16%) fulfil the new conditions.

In May 2020, a coalition of NGOs submitted a constitutional review initiative. In July 2020, the Constitutional Court *temporary suspended the implementation of these articles*, meaning that until the final court's decision, the procedures should be carried out in accordance with the basic legislation.

Nature Conservation law

The same conditions were proposed also for the Nature Conservation Law in May 2020, which would be the first of the basic laws that would restrict NGO access to court and administrative procedures. At the end, the conditions were a bit changed, some exclusions were added and most importantly the law is not retrospective, NGOs that already have a status need to fulfil new conditions in 6 months after the law becomes valid.

Similarly, in the Parliament, a change in the internal rules foresees that one member per organisation can come to present their opinion on a given topic; however, in practice, almost no one was invited, and even this restrictive rule was not respected. For example, the 8th of March Institute requested an invitation to argue for partly self-employed parents left without help but was denied citing pandemic limitations.

Environmental CSOs were probably the biggest targets of the Government who see them as an obstacle to big investments. First, the Government pushed through a law that made it more difficult to obtain the status of acting in the public interest in the field of environmental protection. Then, the third Anti-corona package attempted to deregulate the building sector, including with the total exclusion of environmental civil society organisations and actors in environmental impact procedures in the construction of large facilities until the end of 2021. Fortunately, in this case, the Constitutional Court temporarily withheld the execution of these articles²⁶, but the majority of such articles stands. By removing CSOs which can point out at irregularities from the proceedings, the law opens the door to abuses. It allows investors to build without a valid building permit; it subordinates the competent public institutions and puts them in the service of private investors. This act appears to be directly connected to moves to fast-track the building of Mokrice hydroelectric plant, in which the Minister for Environment Vizjak has a vested interest.²⁷

CSOs and civil society responded to such measures with a petition *Narave ne damo* (We won't give away our nature), which collected more than 36,000

support signatures.²⁸ Additionally, one of the biggest "Friday protest" was organised on the day of this law was passed, with more than 10.000 people attending. But the authorities ignored it. Luckily, the Constitutional court intervened, but that did not stop the Government to propose a law that would permanently deregulate the building laws (Ed: see box "Targeting environmental organisations").

Although almost seven months have passed since the epidemic was declared in Slovenia and the new Government came to power, the politics of emergency legislation that impacts areas not connected with the coronavirus crisis continues. At the same time, the Government is

THE GOVERNMENT IS STILL CIRCUMVENTING OR REDUCING DIALOGUE WITH CIVIL SOCIETY TO A FORMALITY

still circumventing or reducing dialogue with civil society to a formality. For this reason, at the end of September, trade unions walked out of the negotiation on the fifth corona package in a sign of protest.²⁹

CONCLUSION

At the time of finishing this article, Slovenia is experiencing record rises in coronavirus cases and the Government is limiting public life and gathering again, restricting private and public gathering to 10 people. On 8 October, in a press conference, the minister of Internal Affairs introduced new measures and put the blame for the raise in cases on cyclist protesters, falsely claiming that Ljubljana - where the

protests are happening - is one of the most critical clusters.³⁰ He also announced that the police will be "much, much stricter" in issuing fines in the future.³¹

The unique situation of the pandemic coinciding with a change of Government in Slovenia has resulted in attacks on civil liberties, freedom of the press and limiting the people's right to a referendum. And sadly, these processes are continuing and amplifying, eroding some of the core foundations of a democratic society. ■

The analysis is updated to 13 October 2020. Thanks to Tina Divjak, Head of advocacy at the Centre for Information Service, Cooperation and Development of NGOs (CNVOS), for the help with revision.

²⁶ <https://focus.si/odlocitev-ustavnega-sodisca-o-zadrzanju-sprememb-gradbene-zakonodaje/>

²⁷ <https://www.liberties.eu/en/news/slovenia-new-government-restricts-access-to-public-participation-for-environmental-ngos/19290>

²⁸ <https://www.naravenedamo.si/>

²⁹ <https://www.zsss.si/sindikati-protestno-zapustili-sejo-ekonomsko-socialnega-sveta/>

³⁰ In the cases per inhabitants Ljubljana is somewhere a little above average compared with other municipalities: <https://covid-19.sledilnik.org/embed.html#/sl/chart/Map>

³¹ <https://www.rtvsl.si/slovenija/od-polnoci-zbiranje-najvec-10-ljudi-strezba-le-za-mizami-omejitve-tudi-v-trgovinah/538505>

One of my last trips before the pandemic was in September 2019 to speak at Active Citizens Days in Oslo on the debate European civil society at risk. I was considered as a counterpart to Veronika Mora from Hungary. I explained how in 2018 an NGO law was passed - among other things establishing an NGO fund to support the implementation of the Strategy for development of NGOs, how the Government supports civil society, how we have regular contacts, how the Prime Minister condemns populism, ... In February 2020 the Prime Minister resigned. On March 12 the pandemic was declared. On March 13 a new Government, led by Janez Janša, came into the office.

Since then we have witnessed smear campaigns and attacks on media and CSOs, replacements of the huge majority of directors of public institutions and enforcement bodies, a number of anti-COVID measures and restrictions, on which the Constitutional Court is still deliberating. In short, we went to sleep in Slovenia and woke up in Hungary. However, we have also witnessed a revival of civil society. Protests on balconies started soon after the declaration of a pandemic, followed by Cyclist Fridays, Tuesdays for culture, etc. Social media are full of guerilla campaigns. Protest letters are being drafted and signed by a variety of different actors almost weekly. Different civil society actors and organisations started cooperating. People are responding rapidly. Solidarity in the sector has increased tremendously. Thus, the whole situation has brought about also positive developments. We can just hope that this energy will keep spreading and that democracy and human rights will be defended.

Tina Divjak,
Centre for Information Service,
Cooperation and Development of NGOs (CNVOS)

DEFENDING FREEDOM AND DEMOCRACY

Raising voices against inequalities

Interview with Nika Kovač, Inštitut 8. marec - Institute of the 8th March

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What sparked the protests and what messages did they initially want to convey?

In early March, during the lockdown, our Institute started protests called *'Out of the window'*. We invited people to put banners on their windows and send us photos. As an institute, our main focus



Nika Kovač

is on women's rights, but we also deal a lot with social and economic inequalities. What sparked our action was the fact that when the lockdown started in Slovenia, the Government decided not to help people who are self-employed and precarious workers. As elsewhere in Europe, many people lost their jobs, but the Government did not take care of them. Instead, soon after coming to power the Government decided to raise the salaries of the ministers by about 400€. The Government's PR response was flat out denying this simple and verifiable fact¹.

On 23 April, the main public television's investigative and political weekly TV show *Tarča* (The Target) made contact with whistleblower Ivan Gale, an employee at the Agency for

Commodity Reserves, responsible for the purchase of masks and respirators, who exposed opaque and corrupted practices involving visible politicians part of the Government, including the Minister of Economy.² The public outcry was huge but the Government was not shaken. People got very angry because the economic situation for many is extremely difficult. This is when the protests moved *from the balconies to the bicycles*.

² <https://www.rtvsllo.si/slovenija/v-tarci-razkrili-politice-pritiske-na-dobave-zascitne-opreme/521695>

¹ <https://www.24ur.com/novice/slovenija/vladni-clani-so-si-dvignili-placo-gre-za-delovne-razmere-tako-kot-pri-zdravnikih.html>

THE MAIN CONCERNS ARE THE ACTIONS OF THE GOVERNMENT AND GROWING SOCIAL INEQUALITIES



White feet glued to a protest in front of the government. 21 August 2020

Since then, every week on Friday there is a protest and so far, there have been fourteen in total. At the beginning, people were cycling around Ljubljana. But then the protests spread across Slovenia. Our Institute asked people to send pictures from their villages and cities, and we are getting them from around 20 towns every week. Other groups started contributing to the protests, each in their way. We say that the protests do not have organisers; they have initiators. Last week there was an action for women's rights and there we were very involved.

The main concerns are the actions of the Government and growing social inequalities, but there are different formations and groups inside. For example,

WHAT IS UNIQUE ABOUT TODAY'S PROTESTS IS THAT PEOPLE ARE COMING TO THE STREETS EVERY FRIDAY

the culture sector is hugely represented because it has been harshly affected by the Governmental cuts. They organised protests in front of the Ministry of Culture under very different forms: once, they were clapping their hands; another time, artists brought things from theatre performances and concerts in front of the Ministry as a symbol of the death of culture in Slovenia. One of the most visible people in the protests is a street artist that during the quarantine was recording videos of himself running to the Parliament and doing sports activities as a form of protest because the Government said we could only do recreational activities. These videos became viral on social media, and now he is one of the animators of the protests. People are following him. Trade unions are also active in the protests. Every week the main protest is at 7 pm, but before there is always a special action connected with the most recent developments. So, at every protest, there is some new group emerging.

The Government is doing a lot of shady things right now. For instance, it

decided to change the law in order to impede environmental organisations to take part in environmental assessment plans when building construction or in development plans. A group called 'Balkan River Defence' together with the national platform of NGOs, CNVOS started a huge movement called 'We do not sell our nature'. They held a protest in front of the Government when the law was discussed in the Parliament. This was the beginning of this movement. They also did a petition and other actions, such a sit-in in front of the Ministry of environment. During that gathering, the police came, threw them in their cars, brought them away and arrested them. The people became very angry because these were peaceful protesters. So, the week after the protest was about the environment. Every week the protesters pick up some new content. That week there was a huge sign stating 'we do not sell our nature' and people were screaming this message as well.

MANY INITIATORS ARE FROM THE CULTURAL SECTOR AND AT EVERY PROTEST, THEY THINK ABOUT SOME SPECIAL ACTION

Are there messages that are recurrent?

Yes, the main message is that we do not want this Government. It could be argued that many people are not anxious because of Covid-19, but because of what the new Government might do and implement under the cover of this pandemic. As a popular banner from one of the protests reads: 'the virus will leave, but the dictatorship might stay'.

The second message of the protest is to end the corruption. Since the Government took office, there have been many scandals, the biggest one concerned the masks that the Government purchased.

The third main message is to end police repression. Until now, we never really saw police violence in Slovenia. This changed with these protests. There have been a few cases of police misbehaviour, although the protesters are very calm and very aware of the issue of social distancing. One day people were trying to enter the Parliament saying, *'this is our house'* and the police were pushing them away quite roughly. Another time, there was an action in the main square against police repression: people were sitting in the square reading the Constitution for one hour. Then the police took them away. For the first time, they also put a fence around the square, and they wear anti-riot gear.

They are also giving penalties for silly things. For example, one of the first actions was to bring drawings of feet and to leave them in front of the Parliament to show how many people were angry. The Police officers were giving penalties, and when asked why they responded: it is not okay to voice their opinion. People got 400 Euro penalties for this. This never happened before. Once, protesters were painting on the streets with crayons, and the police started fining them. They said that it is forbidden in Slovenia unless it is performed by children. Nevertheless, the people keep coming. We have a history of protest against right-wing governments in Slovenia. In

**WHILE WE MARCH
ACROSS THE CITY,
ELDERLY PEOPLE FROM
THE BALCONIES WAVE
AND SUPPORT US**

**SOME PEOPLE TAKE THE
STREETS BECAUSE THEY
LOST THEIR JOBS AND
THEIR INCOME AND DID
NOT RECEIVE SUPPORT
FROM THE STATE**

2012-2013, we had four huge demonstrations against the then right-wing Government. They were called *'Rising up'*. People managed to make the government fall. But what is unique about today's protests is that people are coming to the streets every Friday. At the beginning, I thought that they would die down during the summer, but this did not happen.

What kept these protests alive?

The Government does not stop. Last week, for example, the Minister of Interior said that it is the victims' fault if they are raped. Every week something like this happens. In addition, social inequalities are getting bigger and bigger, and people are seeing that some are getting richer while most of us are struggling.

In Slovenia, we have a lot of self-employed people, and before COVID, one out of 4 of them lived under the poverty rate. Now, the numbers are getting higher and higher. Many had to close their shops. Many lost their contracts. Many have been out of work since March. In the beginning, the Government did not provide any funding to support them; then they did - 700 Euro per month. But now, not anymore, and people are still losing their jobs. I have a job in the public sector which means my salary was not affected. I could work from home and I was not afraid of the Coronavirus. I also managed to save some money. But self-employed people do not have this privilege, and the number of

those experiencing economic hardship is growing.

Among the most affected groups are also NGOs because they lost a lot of funding during the lockdown. The cultural sector was also heavily affected. There were huge difficulties for those that kept working during the crisis: police officers, shops that remained open. They have low salaries and did not receive enough support. A lot of small businesses are closing. Just today on the news, it was announced that police officers would get 100% higher salaries during the lockdown period. However, only those in higher positions will get this money, while normal police officers only got a 20% increase. Now they are also angry. There was also a big problem in elderly homes: people there were the most affected and the Government did not take care of them.

**PEOPLE GET ANGRY
WHEN THEY DO NOT
HAVE ENOUGH MONEY
FOR FOOD AND RENT**

Another good point is that many initiators are from the cultural sector and at every protest, they think about some special action. Thus, people come even out of curiosity to see what will happen. For example, one day, the Government said they would fly NATO airplanes across Slovenia to thank the health sector for their work. This was non-sense. People made paper airplanes and threw them at the Parliament.

How many people take part in the protests? What kind of constituencies do they mobilise?

In Ljubljana, there are usually between 3'000 and 10'000 people in each protest;

it depends. But most of the time, there were about 10'000 people on the streets. In other cities, it also depends, in some cases 500 or 1000 people. In some small villages, it is 40-50 people. There are many young people from the group 'Young people for environmental change', but also elderly people. Another beautiful action: while we march across the city, elderly people from the balconies wave and support us. So, there are many different people. There are also political parties, from the liberal and left side of the political spectrum. And then there are people from the NGO sector. I think that most protesters are already politicised. Though, some people take the streets because they lost their jobs and their income and did not receive support from the state. For example, the Institute works a lot with self-employed mothers. Many of them have beauty salons or are hairdressers. I asked them why they were marching, and they told me that they could not pay their bills.

Are there also far-right mobilisations in the streets?

Yes, there is a small neo-Nazi movement called "Yellow vests". But it is really small, about 20 people. They were saying that they are just people who care about Slovenia and have nothing to do with the Nazi ideology. But then one NGO showed the connection, so they stopped going to the protests. They said they would keep monitoring them though. When they started coming to the protests, the whole square took up a big flag with a swastika crossed out to show that they do not want this movement in Slovenia.

Are these protests connected with other strategies in different fora to obtain change?

It is difficult to say because there are many different groups and each of them has its agenda. There are rumours that some groups want to build a new party, but I do not know anything concrete on

this. It is good to see that different NGOs have started working together: there are new connections been made and new ways been used to call for change. For example, when there was an action for the protection of nature, the feminist groups - who are normally not involved on such topics - got very engaged. We thought it was important. We asked people to bring plants to the Parliament and walk around, in sign of protest. This action brought together NGOs working with nature and various groups. For example, there was a company making backpacks out of garbage. People are getting to know each other and doing things together. And I think that this will continue.

**THE WHOLE SQUARE
TOOK UP A BIG FLAG
WITH A SWASTIKA
CROSSED OUT TO SHOW
THAT THEY DO NOT
WANT THIS MOVEMENT
IN SLOVENIA**

Is there a desire to get also organised transnationally in Europe?

I can only speak from our point of view. We do not have many international contacts, but I think that it will be important in the future. For example, our Minister commented on what is happening in Poland with the Istanbul Convention saying that we should also do the same. So, we should fight together. I think it would be important for us to get in touch with people organising protests in other countries and learn from their experience.

Do you think that the European Union can be an ally in your struggle? In what way?

I think that the European Union should intervene in much more concrete ways and punish States that do not respect human rights. For me, the EU is currently not really fighting this hard enough.

What lessons can be learned from this initiative that can potentially inform a post-COVID-19 institutional and societal response?

I think that we need to tackle the issue of social inequalities. The COVID crisis showed us how big they are, and it made them more prominent. People get angry when they do not have enough money for food and rent. We are not caring enough for the self-employed and the precarious workers. A lot of these mobilisations occurred because people are afraid of how they will live through this year. Governments need to take care of their people. ■

The interview was carried out on 29 June 2020. As of 1 November, the protest have continued and multiplied.

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