



# Towards an open, transparent, and structured EU civil dialogue

Civil society's views on challenges and opportunities for an  
effective implementation of Article 11 TEU

**European  
Civic Forum** 

 **CIVIL  
SOCIETY  
EUROPE**

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April 2021

The European Civic Forum benefits from the financial support of the Europe for Citizens Programme of the European Union. The content of this publication is the sole responsibility of the European Civic Forum and the European Commission cannot be held responsible for any use which may be made of the information contained therein.



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## 1. Introduction

As in other parts of the world, all levels of government in the European Union (EU) continue to experience difficulties in retaining trust, legitimacy and relevance towards citizens. In many countries across the EU, there is an increasing distance between people, and political and public institutions. There is also a deepening mismatch between people's expectations and what policy makers at national and EU level do to tackle pressing public concerns such as climate change, social cohesion, employment, poverty and the respect for democratic principles.<sup>1</sup> For many, this results in disengagement from politics in general and European politics in particular, especially among the youth.<sup>2</sup>

Challenges affecting the transparency and inclusiveness of decision-making processes at EU and national level on EU matters are an important factor contributing to such frustrations. This is clearly reflected in the results of the recent Eurobarometer survey on European Union Citizenship and Democracy: asked about measures more likely to make them more

inclined to vote in the next European Parliament's elections, about 3 in 4 respondents (74%) referred to the increased involvement of citizens in decision-making processes within the EU. The survey's findings also point to low citizens' awareness of the impact of the EU on their daily lives – with an even higher proportion (79%) indicating that more information would make them more inclined to participate to the EU electoral process.<sup>3</sup> Furthermore, research has long shown that people that actively engage in civil society movements are more likely to vote: an EU study found, for example, that community volunteering is connected with a higher chance to develop an intention to vote, that was estimated as much as twice higher in 10 EU Member States covering more than half of the population of the EU.<sup>4</sup>

At the same time, data shows that citizens have a high level of trust in civil society: an infographic developed by Civil Society Europe based on data from Eurobarometers and EU publications points that as much as 87% of Europeans consider it important that civil society can operate freely and hold those in

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<sup>1</sup> See for example International Institute for Democracy and Electoral Assistance, [The Global State of Democracy 2019 Report](#) (2019).

<sup>2</sup> See for example M. Kitanova, [Youth political participation in the EU: evidence from a cross-national analysis](#), *Journal of Youth Studies*, 23:7, p. 819 (2020).

<sup>3</sup> Flash Eurobarometer Survey 485 (February-March 2020), [European Union Citizenship and Democracy – Summary Report](#), p. 28.

<sup>4</sup> Institute of Education, [Participatory Citizenship in the European Union – Analytic report](#), p. 66 (2012). See also [data](#) collected on France from Le Mouvement Associatif.

power accountable.<sup>5</sup> Findings of the recent Eurobarometer Future of Europe survey also confirm that civil society participation is increasingly seen as an effective way to make citizens' voices heard by decision-makers, with 1 in 4 respondents indicating that the upcoming Conference on the Future of Europe should actively involve civil society organisations.<sup>6</sup>

Many of the challenges currently affecting democracies within and across the EU expose how efforts to achieve a more open, transparent, and structured EU civil dialogue are now more urgent than ever. Three considerations appear of particular importance at this particular moment in time.

First, civil dialogue is a key tool to enhance the EU's democratic legitimacy and trust facing the rise of populist and nationalist rhetoric of political forces across the EU and proliferating Euroscepticism. Recent data shows a sharp increase Europe-wide of the total voter support for authoritarian populists since 1980, rising up to 26% in 2019 and up to 24% in the EU elections of the same year.<sup>7</sup> Against this background, in a

recent publication, the European Economic and Social Committee (EESC) pointed to the need to support civil society organisations (CSOs) in terms of knowledge, expertise and know-how to, among others, to support the elaboration of policy solutions to citizens' problems and concerns, and give voice to and advocate for those who are underrepresented or in an underprivileged position.<sup>8</sup>

Secondly, the decline of traditional participative mechanisms in today's rapidly changing society, impacting in particular the youth<sup>9</sup>, points to the urgency to invest more in civil dialogue at EU and national level, also with a view to modernise and enhance participation tools, including through making the use of internet and communication technologies (ICT) more effective, accessible and inclusive.<sup>10</sup>

Finally, as the European Commission underlined in its first Rule of Law report, the COVID-19 pandemic has further exposed the urgency to better safeguard institutional and societal checks and balances, and ensure civil society can exercise its role of

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<sup>5</sup> Civil Society Europe, [The impact of civil society organisations in Europe](#) (2019).

<sup>6</sup> Special Eurobarometer 500 (October-November 2020), [Future of Europe](#), p. 19.

<sup>7</sup> Timbro, [Authoritarian Populism Index](#) (2019). See also Statista, [Populism in Europe](#) (2018).

<sup>8</sup> See European Economic and Social Committee (EESC) (February 2019), [Societies outside Metropolises: the role of civil society organisations in facing populism](#).

<sup>9</sup> See for example European Commission, [Political Participation and EU Citizenship: Perceptions and Behaviours of Young People](#) (2016).

<sup>10</sup> See European Citizen Action Service (June 2015), [Co-deciding with Citizens: Towards Digital Democracy at EU Level](#).

democratic scrutiny, particularly in terms of emergency.<sup>11</sup>

While the importance of democratic participation and active engagement is largely acknowledged by policy makers at national and EU levels, there are longstanding concerns that current practices of EU civil dialogue do not guarantee the adequate level of openness, transparency and structure. While different types and forms of dialogue exist, they are not integrated in an overarching approach or structure and vary considerably according to the EU institution or body, member state or policy area concerned.

Such weak culture of participation is seen as one important factor that contributes to fuelling distrust between citizens and EU institutions. It calls for efforts on the side of the EU to nurture and develop an effective

civil dialogue in all the different areas of EU policy and legislative action, and at transversal level, as a means to foster a sense of ownership and responsibility in citizens, and ultimately a sense of trust.<sup>12</sup>

Ongoing policy processes such as the European Action Plan on Democracy brought forward by the European Commission<sup>13</sup> and the inter-institutional initiative on the Conference on the Future of Europe<sup>14</sup> offer key opportunities to rethink the way citizens and CSOs representing them can contribute to shaping EU policy making both at EU and national level. The European Parliament is seizing the occasion to further look into citizens' dialogues and practices for citizens' participation in EU decision-making, including with a view to secure solutions for the major role organised civil society should play in participatory mechanisms.<sup>15</sup> In

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<sup>11</sup> European Commission (September 2020), [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2020 Rule of Law Report -](#)

[The rule of law situation in the European Union](#), p. 6. See also Venice Commission (2020), [Interim report on the measures taken in the EU Member States as a result of the COVID-19 crisis and their impact on democracy, the rule of law and fundamental rights](#) (October 2020).

<sup>12</sup> See to that effect the preliminary findings and recommendations of the project EnTrust – Enlightened Trust in Governance, [European Policy Brief – Issue 1](#) (September 2020).

<sup>13</sup> European Commission (December 2020), [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions On the European democracy action plan](#), COM(2020) 790 final. Views from a wide range of CSOs on how the action plan should contribute to civil dialogue and active citizenship are set out the joint paper coordinated by the European Partnership for Democracy, [A comprehensive plan to innovate democracy in Europe: Civil society vision for the European Democracy Action Plan](#) (September 2020), p. 22.

<sup>14</sup> European Commission (March 2021), [Conference on the Future of Europe: Engaging with citizens to build a more resilient Europe](#).

<sup>15</sup> European Parliament, Committee on Constitutional Affairs, [Citizens' dialogues and Citizens' participation in the EU decision-making](#), INI(2020)2201. The draft Committee report suggests, among others, the creation of a permanent independent civil society forum: see European Parliament, Committee on Constitutional Affairs,

this context, efforts by all EU institutions and Member States' governments to enhance the openness, transparency and structural nature of EU civil dialogue should be a priority with a view to turn these commitments into practice and achieve concrete progress on better involving citizens in EU policy- and decision-making. Such efforts also tally with the EU's international commitment to promote accountable and inclusive institutions at all levels, including by strengthening responsive, inclusive, participatory and representative decision-making.<sup>16</sup>

Against this background, this study has a twofold objective: to provide an overview of the main gaps and challenges affecting existing practices of EU civil dialogue as viewed and experienced by CSOs active at EU and at national level, while also highlighting promising examples; and to offer insights into potential ways to improve the existing framework for EU civil dialogue, formulated as targeted recommendations addressed to EU policy makers.

To achieve this, this study has drawn on information gathered through complementary research methods, including:

- A review of the vast literature produced over the past years on the role of civil society participation and civil dialogue in the EU model of participatory democracy;
- Intensive desk research identifying and analysing relevant sources of information, such as policy documents and frameworks, existing studies and public opinion polls;
- Analysis and update of the findings of a comprehensive research carried out in 2018, including an online survey and semi-structured interviews with CSOs and EU representatives ('the 2018 survey', included as Annex to this report);
- Two targeted snap online surveys carried out in February 2021 to gather further views and experiences on EU civil dialogue from pan-European CSOs and national CSOs' platforms from across the EU ('the 2021 online surveys');
- Two focus groups discussions held in March 2021 with, respectively, pan-European CSOs and national CSOs' platforms from across the EU, aimed at eliciting in-depth

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[Draft Report on Citizens' dialogues and Citizens' participation in the EU decision-making](#) (2020/2201(INI)) (March 2021).

<sup>16</sup> United Nations, Sustainable Development Goals, [Goal No. 16 - Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels](#).

information and opinions on existing EU civil dialogue practices and on ways to achieve improvements ('the focus groups discussions').

The study builds on and complements the extensive work that European Civic Forum (ECF) and Civil Society Europe (CSE) have been carrying out throughout the past years to research, assess and advocate for the improvement of existing EU civil dialogue practices, as a means to foster the continued engagement of EU and national CSOs on EU issues.<sup>17</sup> This includes a previous study carried out in 2018, which looked at civil society participation in EU decision-making and how to move forward<sup>18</sup>.

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<sup>17</sup> For more information, see European Civic Forum, [Civil dialogue](#).

<sup>18</sup> See report from Civil Society Europe, [Civil Society Participation in EU Decisions: How to Move Forward?](#) (2018).

## 2. Participatory democracy as a compass for EU civil dialogue

### 2.1 Civil society, CSOs and civil dialogue

At EU level, the term "civil society organisations" (CSOs) has been defined by the EESC as referring to "non-governmental, non-profit-making organisations independent of public institutions and commercial interests, whose activities contribute to the objectives of the Charter of Fundamental Rights, such as social inclusion, active participation of citizens, sustainable development in all its forms, education, health, employment, consumer rights, support to migrants and refugees, and fundamental rights."<sup>19</sup>

Building on this concept, EU umbrella organisations have embraced a comprehensive definition of "organised civil society", in the aftermath of the entry into force of the Treaty of Lisbon, aiming particularly at the implementation of its Article 11.2 on civil dialogue between institutions, "civil society and representative associations".<sup>20</sup>

According to such common definition, organised civil society is meant as the sum of the formalised structures that act as intermediary between citizens and public bodies. While they may be established through different forms, such as non-governmental organisations (NGOs), charities, interest groups, social movements, foundations, or cooperatives, CSOs are, pursuant to this definition, regarded as being characterised by certain key common features, and namely:

- they represent a general interest or an interest of a part of society<sup>21</sup>;
- they are independent of public bodies, bringing together persons or organisations representing people on a voluntary basis;
- they are non-profit-making;
- they operate in areas outside the sphere of enterprise<sup>22</sup>;
- they function in a democratic and transparent manner, with election of their constituent bodies on a regular basis and direct participation by their members in decision-making.

This definition, which mirrors regional and international standards <sup>23</sup> ,

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<sup>19</sup> EESC, [Financing the CSOs by the EU](#), 2017/SOC/563, p. 5.

<sup>20</sup> Towards a structured framework for European civil dialogue (February 2010).

<sup>21</sup> For an attempt to identify criteria to gauge the representativeness of organisations, see EESC, [The representativeness of European civil society organisations in civil dialogue](#), 2006/C 88/11.

<sup>22</sup> Such definition therefore excludes economic actors such as trade unions and business associations, normally referred to at the EU level as "social partners".

<sup>23</sup> See in particular Council of Europe, [Recommendation of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe](#), CM/Rec(2007)14.

captures the basic function of CSOs, which is to embody, organise and channel the common aspirations and interests of society, or of certain groups within society, including those underrepresented, who normally do not enjoy access to decision-makers. On this basis, CSOs facilitate active and responsible citizenship by empowering individuals to better understand and contribute to shaping laws and policies which affect their daily lives, allowing them to act collectively in fields of mutual interest and representing them to ensure that their voice is heard. As such, CSOs are recognised as an essential component of a democratic and pluralist society.<sup>24</sup>

One core function of CSOs is to facilitate the participation and voice the aspirations of all the diversity of individuals and societal groups in democratic decision making. The European Commission has recognised that CSOs' participation is a key factor in ensuring good quality comprehensive legislation and in developing sustainable policies that reflect people's needs and are accepted by those most concerned by them.<sup>25</sup> This calls for effective and sustainable mechanisms for dialogue,

consultation and co-operation between civil society and decision-makers at all levels.<sup>26</sup> Civil dialogue is one important tool to strengthen mutual engagement between CSOs and decision-makers. At EU level, civil dialogue has been defined as "a democratic and public opinion-forming process."<sup>27</sup> The term can be understood as encompassing the varied range of channels existing both at EU and at national level that enable citizens and their organisations to access to and participate effectively in EU decision-making.

## 2.2 EU civil dialogue as an essential element of EU participatory democracy

Participation is a crucial component of European democracy, both as a prerequisite for the legitimacy of EU policies in the face of the so-called EU's democratic deficit, and as a tool to bring the European decision-making process closer to the individual citizen. The concept of participatory democracy is explicitly embedded in the Treaty on European Union (TEU), framed as the right of every EU citizens to participate in the

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<sup>24</sup> See among others European Commission (July 2019), [Strengthening the rule of law within the Union - A blueprint for action](#) and the decision of the Court of Justice of the EU in case C-78/18, [European Commission v Hungary](#), paragraph 112.

<sup>25</sup> European Commission, [Guidelines for EU support to NGOs in enlargement countries](#) (2014- 2020).

<sup>26</sup> See to that effect the Report of the Secretary General of the Council of Europe, [State of Democracy, Human Rights and the Rule of Law in Europe. A shared responsibility for democratic security in Europe](#) (2015).

<sup>27</sup> EESC, [Principles, procedures and action for the implementation of Articles 11\(1\) and 11\(2\) of the Lisbon Treaty](#), SOC/423, paragraph 2.1.

democratic life of the Union and as an institutional engagement to take decisions as openly and as closely as possible to the citizens.<sup>28</sup>

Organised civil society has a prominent role to play in better connecting citizens to EU decision-makers for the purpose of the practical implementation of the EU model of participatory democracy.<sup>29</sup> Indeed, civil society participation channels the expression of collective engagement, which adds to forms of direct citizens' participation that convey the sum of individuals' opinions. In fact, organised civil society is an important participation channel for citizens. Its mediation role is particularly relevant at the EU level, where, while some tools of direct citizens' participation exist at EU level<sup>30</sup>, they are rarely used by citizens to influence the EU decision-making process – both due to their expertise-based and technocratic nature and to their limited impact, which frustrate the engagement of ordinary citizens.<sup>31</sup>

The role of organised civil society in the EU participatory democracy reflected in Article 11 TEU, a key provision introduced by the Treaty of Lisbon which marks the culmination of several years of efforts by civil society to lay the basis for progress towards a more advanced EU model of participation and civil dialogue with organised civil society.<sup>32</sup>

Article 11 TEU explicitly requires the EU institutions to give citizens and representative associations, by appropriate means, the opportunity to make known and publicly exchange their views in all areas of Union action. It includes within this framework the well-established tradition of consultation (Article 11(3) TEU). At the same time, the provision calls for a shift to a more advanced model of participation, by imposing an obligation upon EU institutions to maintain "an open, transparent and regular dialogue with representative associations and civil society". In accordance with Article 11(2), the EU

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<sup>28</sup> Article 10(3) TEU.

<sup>29</sup> On the interconnection between civil dialogue, civil society and participatory democracy, see EESC, Group III, [Participatory democracy in 5 points](#) (March 2011).

<sup>30</sup> Including the European Citizens Initiative (Article 11(4) TEU), the right to petition (Article 24 of the Treaty on the Functioning of the European Union (TFEU) and Article 44 of the Charter of Fundamental Rights of the EU (CFR)) or the right to refer to the European Ombudsman (Article 24 TFEU and Article 43 CFR).

<sup>31</sup> For a critical analysis of Treaty based mechanisms of direct participation, see for example Centre for European Policy Studies, S. Russack, [Pathways for Citizens to Engage in EU Policymaking](#) (November 2018). Newer and more innovative forms of direct participation seem to suffer from similar challenges. See for example, as regards European Citizens Consultations, C. Stratulat & P. Butcher, European Policy Centre and The Democratic Society, [The European citizens' consultations: evaluation report](#) (2018).

<sup>32</sup> For an overview of progress achieved since the 1990s, see EESC, [Participatory democracy: a retrospective overview of the story written by the EESC](#) (July 2016).

institutions have a joint responsibility to ensure that organised civil society, which embodies the aspirations and interests of the citizens of Europe, is actively involved in the formulation of European policies and processes. Following intense advocacy and mobilisation of civic organisations across Europe<sup>33</sup>, the implementation of civil dialogue was for the first time explicitly included within the mandate of a European Commission Vice-President in 2019.<sup>34</sup>

The relevance recognised to civil dialogue as a key component of participatory democracy rests on the more general consideration of the active involvement of civil society in decision making within the EU's standards of good governance.<sup>35</sup> The same principle is applied to national governments, within the framework of the EU's monitoring for the respect of basic democratic standards: the extent to which EU Member States, and candidate countries, ensure an enabling environment for the participation of civil society in decision-making is regarded as an indicator for the respect of democracy and the rule of law.<sup>36</sup> Indeed, this bears clear relevance for

EU civil dialogue as well, considering the significant decentralisation of the different stages of EU law- and policy-making processes – from the elaboration of political guidelines to implementation and follow-up action – in the EU system of multi-level governance.

### 2.3 Basic standards for an open, transparent, and regular EU civil dialogue

As a preliminary observation, it is important to recall civil dialogue that should be intended as a structured, long-lasting and results-oriented process enabling a genuine and substantive exchange of information and opinions between public authorities, CSOs and civil society at large, meant to inform all stages in the political decision-making cycle – from the definition of orientations and priorities to evaluation. As such, it is to be distinguished from other forms and levels of engagement, and in particular from top-down processed like information (which is a one-way provision of information from public authorities) and consultation (where public authorities ask stakeholders for their

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<sup>33</sup> This was achieved through intense mobilisation by civil society organisations: see Civil Society Europe, [Open letter to President-elect Ursula von der Leyen](#) (September 2019).

<sup>34</sup> [https://ec.europa.eu/commission/commissioners/2019-2024/jourova\\_en](https://ec.europa.eu/commission/commissioners/2019-2024/jourova_en)

<sup>35</sup> Article 15 TFEU.

<sup>36</sup> See, as regards EU Member States, European Commission, [2020 Rule of Law Report The rule of law situation in the European Union](#), COM/2020/580 final; and as regards candidate countries, European Commission, [Enhancing the accession process - A credible EU perspective for the Western Balkans](#), COM/2020/57 final. See also Council of Europe Venice Commission and the Organisation for Security and Cooperation in Europe (OSCE), [Rule of Law Checklist](#), CDL-AD(2016)007.

opinion and feedback on specific policy topics or current policy developments).<sup>37</sup>

While the Treaties do not provide for a definition of EU civil dialogue and rules on its functioning for the purpose of the implementation of Article 11(2) TEU, key standards can be derived from an interpretation of the concept of civil dialogue anchored on EU fundamental rights and values, as enshrined in Article 2 TEU and in the EU Charter of Fundamental Rights (CFR)<sup>38</sup>, interpreted in light of relevant regional and international standards.

A review of relevant provisions of the CFR read in conjunction with the main international and regional instruments providing for agreed standards on civil participation<sup>39</sup> suggests that the implementation in practice of a meaningful civil dialogue with organised civil society requires the following, minimum elements.

### Enabling environment

As a form of civil society participation, the prerequisite of a well-functioning

civil dialogue is the existence of an enabling environment allowing a free and pluralist civil society to independently monitor and engage in public affairs.

Such an enabling environment rests on the existence of strong democratic infrastructures ensuring the respect and protection of the basic values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights (Article 2 TEU). These values also encompass an **open and free civic space**<sup>40</sup>, which rests on an enabling environment that includes:

- the political, cultural and socio-economic landscape;
- the regulatory environment for and implementation of civic freedoms of association, assembly, expression and privacy online and offline;
- a supportive framework for CSOs' financial viability and sustainability;
- the dialogue between civil society and governing bodies;
- civil society's responses to challenges to democracy, the

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<sup>37</sup> See in particular Council of Europe, [Guidelines for Civil Participation in Political Decision-Making](#), cited.

<sup>38</sup> According to its Article 52(1), the provisions of the CFR are addressed to the institutions and bodies of the EU and to the Member States when they are implementing EU law.

<sup>39</sup> For the purpose of this study, particular consideration was given to the following: Council of Europe, [Guidelines for Civil Participation in Political Decision-Making](#), CM(2017)83-final and the revised [Code of Good Practice for Civil Participation in the Decision-Making Process](#), CONF/PLE(2009)CODE1; Organisation for Economic Cooperation and Development, [Handbook on Information, Consultation and Public Participation in Policy-Making](#) (2001); Open Government Partnership, [Open Government Declaration](#) (2011).

<sup>40</sup> See UN Office of the High Commissioner on Human Rights, [What is civic space?](#) And European Civic Forum, [Civic Space Watch Report 2020](#).

rule of law and fundamental rights.

The acknowledgement of the role of organised civil society as partners in policy making is a key component of the enabling environment. This calls not only for a clear commitment of public authorities to engage and ultimately to take into account the results of civil dialogue, but also for a formal recognition of the role of CSOs as well as their protection and support through a variety of regulatory, policy and financial measures. Support, in particular, should include the provision of financial and human resources as appropriate, but also capacity building and civic education initiatives to enable meaningful participation.

### Openness and transparency

Openness and transparency of all stages of decision-making processes, from policy formulation to implementation and evaluation, is essential with a view to an effective civil dialogue.

Concretely, openness and transparency require **effective access to decision making arenas** and the proactive **dissemination of sufficient, clear and understandable information** both on the substance and the process of

dialogue. Information should be made easily accessible and available in a timely manner, without undue administrative obstacles and free of charge, in line with standards on the fundamental right to access to information<sup>41</sup> and the right to access to documents.<sup>42</sup> For the purpose of civil dialogue, information should cover the scope and subject matter of the dialogue, channels of participation, the way contributions are meant to be taken into account and expected outcomes of each given process.

### Accountability and responsiveness

Meaningful civil dialogue also requires institutions' responsiveness and accountability within and outside dialogue mechanisms, in accordance with standards governing the right to good administration.<sup>43</sup>

This calls for a **comprehensive regulatory framework** governing the functioning of civil dialogue, including clear timelines for each stage of the dialogue, the motivation of decisions and proper feedback structures for all dialogue participants. It also implies an obligation to ensure the **enforceability** of the results of civil dialogue and, as appropriate, the availability of **effective remedies**.<sup>44</sup>

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<sup>41</sup> Article 12 CFR.

<sup>42</sup> Article 42 CFR.

<sup>43</sup> Article 41 CFR.

<sup>44</sup> Article 47 CFR.

## Sustainability and structural nature

### Equality and inclusiveness

Civil dialogue must be consistent with the principles of equality and non-discrimination. This translates into an obligation to ensure inclusiveness and equal participation in dialogue of CSOs representing and channelling the voices of **all diverse groups within society**.<sup>45</sup> Particular attention must be paid to ensuring equality between women and men<sup>46</sup> and non-discrimination of people belonging to minorities and other vulnerable and marginalised groups.<sup>47</sup> It also refers to the obligation to respect cultural, religious and linguistic diversity<sup>48</sup> and to ensure reasonable accommodation for the needs of persons with disabilities.<sup>49</sup> The practical implementation of this obligation may also require appropriate **positive action** aimed at adapting the means and methods of dialogue to the different represented groups.

Irrespective of the different forms it can take (from public hearings to advisory councils, working groups, deliberative *fora*, etc), civil dialogue is not a one-off and requires permanent structures allowing for structured and regular exchange and participation. With regards to the European civil dialogue in particular, the permanent and structural nature of civil dialogue must, to be effective, be underpinned by mechanisms for dialogue established at both EU and national level, including, as appropriate, regionally and locally.

The establishment and functioning of EU civil dialogue processes at the different levels of governance should be planned ahead and guaranteed by appropriate regulatory measures, governing civil dialogue procedures in a clear and time-bound manner and pre-identifying agreed outcomes and targets. In elaborating such regulatory frameworks, public

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<sup>45</sup> Article 20 CFR.

<sup>46</sup> Article 23 CFR. Recent studies point at the impact of hate speech, in particular online, targeting women as a barrier to their political participation – see for example European Parliament, [Cyber violence and hate speech online against women](#) (September 2018).

<sup>47</sup> Article 21 CFR. The European Commission itself has recently acknowledged the need to address existing hurdles limiting democratic participation and representation for groups susceptible to marginalisation, such as people with a minority racial or ethnic background (European Commission, [A Union of equality: EU anti-racism action plan 2020-2025](#), COM(2020)565, p. 22).

<sup>48</sup> Article 22 CFR.

<sup>49</sup> Article 26 CFR, and in line with obligations under the [UN Convention on the Rights of Persons with Disabilities](#) to which the EU and all its Member States are Party, and in particular Article 29 on participation on political and public life.

authorities should take into due account the following principles:

- the need for **regularity**;
- **accessibility**, including as regards tools employed and timelines, which should offer sufficient opportunities to properly prepare contributions;
- **non-interference**, to avoid influencing the outcome of the dialogue in any way;
- **proportionality** between the scope and the methods of the dialogue being commensurate to the issue at stake.

To be **sustainable**, civil dialogue processes should also be supported by appropriate financial and human resources. This may require the establishment of more or less institutionalised co-ordinating entities or bodies to ensure continuity of dialogue throughout the different phases of the policy cycle (from agenda setting, to policy definition, decision-making, implementation, evaluation, and reformulation).

### 3. Gaps and challenges in the current EU's approach to civil dialogue

#### 3.1 A complex articulation without a proper framework

Long before the entry into force of Article 11 TEU, the observation of different, and more or less structured, forms of dialogue between the EU and civil society, within the framework of the already complex and multi-layered EU decision-making system, allowed to identify three complementary components of the EU civil dialogue<sup>50</sup>:

- civil dialogue in specific policy areas between CSOs and their interlocutors within the legislative and executive authorities at EU and national level, referred to as "**sectoral dialogue**";
- structured and regular dialogue between EU institutions or their national counterparts and civil society on the development of the EU and its cross-cutting policies, referred to as "**transversal dialogue**";
- dialogue between civil society organisations themselves on the development of the EU and its

cross-cutting policies, referred to as "**horizontal dialogue**".

Whilst these three forms of EU civil dialogue have long existed, sectoral and transversal civil dialogue have remained in an embryonic state, without being underpinned by a comprehensive regulatory framework or dedicated support or coordination structures. Such a shift to a more formalised and structured EU civil dialogue framework has not to date occurred, despite repeated calls from civil society and European Parliament resolutions<sup>51</sup>, after more than 10 years since the entry into force of Article 11 TEU. Downplaying the provision's innovative and prescriptive nature, EU institutions, at best, made some efforts to improve existing participatory mechanisms in some policy areas, without genuinely engaging in a factual implementation of the obligation imposed by Article 11 TEU.<sup>52</sup>

Generally speaking, and focussing on the sectoral and transversal dialogue between CSOs and EU or national policy makers, three main factors currently seem to stand in the way of a full and effective implementation of Article 11 TEU.

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<sup>50</sup> These were first set out, albeit using a partially different terminology, in an opinion by the EESC, [The Commission and non-governmental organisations: building a stronger partnership](#), CES 811/2000.

<sup>51</sup> Besides calls from civil society and the EESC, see also the position expressed by the European Parliament, [Resolution of 13 January 2009 on the perspectives for developing civil dialogue under the Treaty of Lisbon](#), 2008/2067(INI).

<sup>52</sup> For a comprehensive review of such efforts and a critical analysis of their inadequacy, see, among others, EESC, [Civil dialogue and participatory democracy in the practice of the European Union institutions](#) (2015).

First, **no sufficient investments** have been made to build and strengthen an EU culture of civil dialogue and civil society participation – either at EU or national level. This seems to mainly relate to the EU historical approach to civil society participation as instrumental to the advancement of the integration process, where civil society organisations were seen as consultative partners or, at best, technical input providers when shaping EU laws and policies rather than an integral component of EU governance. Top-down practices of mere information and consultation are often presented as forms of dialogue and participation, reflecting a technocratic and transparency-, rather than participation-, oriented approach to civil dialogue.<sup>53</sup> As a result, existing channels of CSOs' participation appear aimed at merely disclosing, justifying, or, at best, improving already existing policy orientations, decisions and outputs rather than feeding into them<sup>54</sup> – with a strongly perceived lack of genuine

participation and inclusiveness from the part of CSOs.

Second, there is **no official definition and articulation of the notion of EU civil dialogue**. Unlike social dialogue<sup>55</sup>, civil dialogue is not embedded in any regulatory framework and is not clearly defined in terms of its scope, basic standards, procedures and players. This leads to a serious fragmentation of forms and levels of participation and engagement of EU and national policy makers with CSOs. At the same time, the absence of clear regulatory standards hinders any effective monitoring of the extent to which the obligation to maintain an open, transparent and regular dialogue with CSOs is respected by EU and national policy makers alike.

Third, the **absence of any real coordination and support structures** – both at the level of the various institutions and at inter-institutional level – has led civil dialogue practices to vary

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<sup>53</sup> This instrumental approach, already visible in the European Commission [White Paper on Governance](#), COM(2001) 428, clearly characterises the current Better Regulation framework (see European Commission, [Better regulation: why and how](#)). It is also interesting to note that existing participation-related rules and standards set by the EU to date are actually limited to access to documents ([Regulation \(EC\) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents](#)) and consultations (European Commission, [Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission](#), COM(2002)0704).

<sup>54</sup> See among others F.W. Scharpf, [Legitimacy in the multilevel European polity](#), European Political Science Review, 1(02) (2009), p. 178.

<sup>55</sup> The European Social Dialogue, which enables the social partners (representatives of management and labour) to contribute actively, including through agreements, to designing European social and employment policy, is a mechanism with quasi-legislative powers which is thoroughly regulated by the Treaties in terms of participants, powers and procedures (see Articles 151-156 TFEU).

considerably according to the institution concerned. The persistent opacity and non-participatory nature of decision-making processes within the Council of the EU is particularly emblematic, but concerns also are also raised as regards the European Parliament and the European Commission. The EESC Liaison Group with European civil society organisations and networks<sup>56</sup> created in 2004 is the only example so far of institutionalised structure for transversal civil dialogue, whose mandate is to strengthen cooperation between EU-level networks of CSOs and the EESC, which has not been replicated by any EU institution. The lack of coordination structures also affects the coherence and consistency of civil dialogue practices within each institution. This is particularly the case for the European Commission, where civil dialogue practices differ greatly from one Directorate-general to another. While coordination efforts have been registered, for example, in the implementation by the European Commission of the dialogue with churches, religious associations and non-confessional organisations<sup>57</sup>, the same has not so far occurred for civil dialogue.

These general issues translate in practice into concrete gaps and

challenges which seriously affect EU civil dialogue practices both at EU and national level.

### 3.2 CSOs' views on and experiences with civil dialogue with EU policy makers

Civil dialogue between organised civil society and EU policy makers takes on particular importance as a concrete tool to ensure that citizens' concerns are better heard at the EU level. To that effect, important investments have been made on the part of civil society to come together at European level in transnational, or pan-European, networks and thus be able to engage with EU policy makers by speaking with one voice. Yet, these European networks and federations of CSOs report weak institutional efforts to provide opportunities for an open, transparent and regular dialogue as foreseen in Article 11 TEU.

#### Fragmentation facing the absence of a comprehensive policy framework

The lack of an overarching policy framework setting a common basic approach for the implementation of Article 11 TEU is seen by CSOs as one major gap affecting the coherence, transparency, inclusiveness and

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<sup>56</sup> EESC, [EESC Liaison Group – Promoting civil dialogue and participatory democracy](#).

<sup>57</sup> In order to implement such dialogue, foreseen by Article 17 TEU, the Commission has appointed since 2012 a Commission coordinator who directly reports to a responsible Commissioner. See more information on the dedicated webpage: [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/dialogue-churches-religious-associations-and-non-confessional-organisations\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/dialogue-churches-religious-associations-and-non-confessional-organisations_en)

regularity of civil dialogue between CSOs and EU policy makers.

Lacking such framework, civil dialogue between CSOs and EU policy makers is mostly channelled through top-down processes or is informal in nature. Findings of the 2018 survey, corroborated by information gathered through the 2020 online surveys and the focus groups discussions, reveal that the channels of civil dialogue with EU policy-makers more frequently used by pan-European organisations are mostly public consultations, public events or conferences, or participation in the work of specialised expert groups or other similar entities. Beyond these channels, which are mainly managed by the European Commission, organisations seem to rely on dialogue opportunities that they themselves are able to create building on their advocacy experience. Either way, this situation is far from offering genuine opportunities and accountability mechanisms for an open, transparent and regular dialogue as required by Article 11 TEU.

On the one hand, **top-down processes**, besides being at odds with a genuine approach to civil society participation, are affected by a certain lack of consistency and transparency. For example, while the majority of CSOs seems to be familiar with public consultations, many raise concerns about the inadequacy of

current consultation practices. These include a lack of sufficient publicity of upcoming and ongoing consultations, the high technical nature of consultation questionnaires and the inconsistent setting of consultation deadlines, which are often very short. This is reflected in the fact that around 70% of respondents to the 2018 survey rated as unsatisfactory, low or very low the user-friendliness of online consultations. The insufficient transparency of consultations outcomes is also a common concern – with many CSOs complaining about the poor feedback on how responses are taken into account and some pointing to the risk of responses being “cherry-picked” to push a specific agenda. Around 70% of respondents to the 2018 survey rated transparency and responsiveness of the European Commission within public consultation processes as either unsatisfactory, low or very low. This confirms the need for the European Commission to improve its public consultation practices, including by better monitoring and assessing contributions to protect against manipulation of results, as a recent report by the European Court of Auditors underlined.<sup>58</sup>

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<sup>58</sup> European Court of Auditors, [Special report no 14/2019](#) (September 2019).

### ***Transparency and responsiveness within Directorate-General Justice's rule of law review cycle***

The important acknowledgement by the European Commission of the critical role of CSOs in contributing to monitor, protect and promote the rule of law in EU countries has not yet been mirrored by open, transparent and regular civil dialogue mechanisms on rule of law issues. The [annual rule of law consultation](#) carried out by Directorate-General Justice is to date the main channel offered to CSOs to contribute to the newly set up rule of law review cycle. This however has been criticised for failing to provide CSOs with a fair and meaningful opportunity to influence the process. Commonly raised concerns, as also [conveyed](#) by CSE, include the very short consultation timeframe, the rigid structure of the consultation questionnaire and the lack of transparency of the other stages of the process – from consultation design to country visits and evaluation – as well as the exclusion of CSOs from follow-up technical and political dialogues with national governments.

A low level of publicity and transparency also reportedly affects stakeholders dialogue through advisory bodies, which represent the main channel through which sectoral dialogue is implemented. Asked about their experiences with Commission expert groups <sup>59</sup>, respondents to the 2018 survey pointed to a lack of sufficient information about the groups and

how to join them, a lack of clarity and transparency as regards objectives, agenda setting and feedback on discussions, with a number of them stressing how meetings often consist of information sessions with very little space for actual debate. A certain inconsistency is also observed as regards composition of these groups: if rules on the selection of expert group members have been improved to increase consistency in the use of open calls for application <sup>60</sup>, the composition of expert groups (i.e., whether the group should be composed by Member States' representatives, individual experts, public bodies or CSOs) is autonomously decided by the responsible service with no obligation to ensure a balance between different groups represented. As a result, many Commission's services mostly lead expert groups exclusively composed of Member States' representatives, although the areas of interest would benefit from civil society expertise – a matter which has also been raised by the European Ombudsman. <sup>61</sup> Moreover, where expert groups do include non-government members, these are in the great majority of cases businesses and lobbyists representing corporate

<sup>59</sup> The great majority of advisory bodies, as defined in Article 2 of the European Commission's [Decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups](#),

C(2016)3301 are Commission expert groups, irrespective of their denomination (e.g., High-Level Groups, Committees, Platforms, Stakeholders Dialogues, Working Groups, etc.). These advisory bodies are published on the [Register of Commission expert groups and other similar entities](#).

<sup>60</sup> Article 10 of European Commission's decision C(2016)3301, cited.

<sup>61</sup> European Ombudsman, [Ombudsman: How to make the Commission's expert groups more balanced and transparent](#) (January 2015).

interests.<sup>62</sup> The situation is even more opaque in other EU institutions, where, in the absence of formalised frameworks for expert groups comparable to that existing within the Commission, the level of transparency as regards the participation of civil society experts is very low. Respondents to the 2018 survey pointed, for example, at the absence of clear procedures for the selection of experts at public hearings within the European Parliament.

Public events and conferences also do not seem to offer genuine opportunities for an open, transparent and regular dialogue. A common criticism relate to the fact that such events are mostly meant as a means to stimulate exchange and cooperation between different stakeholders, rather than as a channel of civil dialogue between CSOs and EU policy makers<sup>63</sup>, while in some cases CSOs have also raised concerns about the lack of inclusiveness in terms of the agenda setting and the opacity of follow-up on the side of institutions.<sup>64</sup>

The lack of regularity is also one crucial limitation, as many of such *fora* are one-off events, and those held with a certain regularity are at risk of being discontinued at every change of mandate.<sup>65</sup>

On the other hand, beyond such top-down processes, dialogue with EU policy makers becomes informal and often translates into **arbitrariness**. Although many CSOs indicated in the focus group discussions that easy access to EU policy makers, in particular within the European Commission and the European Parliament, is one positive feature characterising existing civil dialogue practices, the success of engagement through informal dialogue reportedly works well depending on CSOs' capacity to create personal contacts with individuals across the institutions and on the good will of the policy maker. There is also a

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<sup>62</sup> In 2017, it was estimated that, across the approximately 800 expert groups existing at the time, an estimated 70 per cent of the non-government members of the groups represented corporate interests, for some groups made up exclusively of business representatives (Corporate Europe Observatory, [Lobby Planet Brussels](#) (2018), p. 48 and [Corporate interests continue to dominate key expert groups](#) (2017)). A more recent report also pointed at the influence exercised by business entities and representatives on Member States to make them act as channels for corporate influence on EU decision-making (see Corporate Europe Observatory, [Captured states: when EU governments are a channel for corporate interests](#) (2019)).

<sup>63</sup> This approach is well exemplified, among others, by the [European Migration Forum](#), the [European Roma Platforms and Roma Summits](#), the [European Forum on the Rights of the Child](#) and the [EU Anti-Racism Summit](#).

<sup>64</sup> See for example The Parliament Magazine, [Anti-racism groups claim European Commission guilty of excluding them from flagship anti-racism summit](#) (March 2021).

<sup>65</sup> This has been the fate, for example, of the European Parliament Citizens Agoras, or of the [Annual Colloquia on Fundamental Rights](#) organised by the European Commission between 2015 and 2019.

concern around the imbalance between CSOs and private lobbies, which generally are perceived as enjoying a better outreach.

This fragmentation and lack of structure is also reflected in the **regularity** of civil dialogue with EU policy makers: while sectoral dialogue is reported as having a certain frequency, the regularity of transversal dialogue – which less often rests on formalised processes such as public consultations or stakeholder dialogues – is far less evident.

All this affects, in turn, CSOs' perception of the impact of their engagement. CSOs respondents to the 2020 online surveys rated the **impact** of both sectoral and transversal dialogue with EU policy makers as mild to low, in particular due to the absence or the lack of transparency of feedback and follow-up on the side of institutions. This corroborates the findings of the 2018 survey, where respondents rating as unsatisfactory, poor or very poor the impact of their engagement amounted to as much as around 80% as regards public consultations, around 90% as regards stakeholder dialogues, around 60% as regards informal dialogue with representatives of the European Parliament and around 90% as regards informal dialogue with representatives of the Council of the EU and the European Council.

### ***A comprehensive policy framework for civil dialogue on the Common Agricultural Policy***

Civil dialogue on the Common Agricultural Policy (CAP) is one good example of a Commission civil dialogue underpinned by a comprehensive policy framework set out in a [dedicated Commission Decision](#). The framework rests on a set of [Civil Dialogue Groups](#) (CDGs) which help Directorate-General Agriculture and Rural Development to hold a regular dialogue on all matters relating to the CAP and its implementation. The CDGs are composed of selected, EU-wide, non-governmental CSOs registered in the EU Transparency Register. Currently, there are 13 CDGs, which meet on a regular basis to address both sectoral and horizontal aspects of the CAP.

### **Lack of coordination and support structures leading to inconsistent civil dialogue practices**

The failure to ensure a regulated approach to EU civil dialogue also translates into the lack of coordination and support structures both within and among EU institutions and bodies. As a consequence, civil dialogue practices **differ greatly from one institution to another.**

Responses concerning the rate of engagement for civil dialogue with different EU institutions confirm this. For example, a much greater proportion of respondents to the 2018 survey indicated that they engage through different – formal and informal – channels with the European Commission, compared to a lower proportion as regards the European Parliament and a very small

proportion as regards interactions with the Council and the European Council. Respondents raised particular concerns about the absence of clear channels for dialogue with the Council and the European Parliament in the context of trilogue negotiations on EU law proposals, whose lack of transparency has also been criticised by the European Ombudsman<sup>66</sup> and by the Court of Justice of the EU.<sup>67</sup> Very limited dialogue opportunities are reported particularly as regards the Council of the EU: respondents to the 2018 survey rated the transparency of the Council decision-making as either unsatisfactory (around 25%), poor (around 40%) or very poor (around 45%), mirroring concerns also raised at various occasions by the European Ombudsman.<sup>68</sup>

In this context, CSOs have pointed to the efforts made by the **EESC Liaison Group** with European civil society organisations and networks to act as an intermediary and a structure for civil dialogue between CSOs and the EESC. At the same time, they underlined the need for a critical

assessment and review of the body's role and impact on the EESC work, and, more generally, of the EESC representativeness with regards to some pitfalls in the nomination procedures at the national level. A recent study carried out by ECF details CSOs' concerns, in particular, as regards the lack of structured and transparent mechanisms for the selection of EESC Diversity Europe Group<sup>69</sup> candidates, the poor involvement of CSOs in the appointment process and the consequently CSOs' perception that EESC appointed members are not enough representative of the sector.<sup>70</sup>

The lack of coordination and support structures also affects the coherence of civil dialogue practices within each institution. If that resonates with the underdevelopment of structured civil dialogue practices within the **European Parliament** and the **Council**, this gap also exposes the serious limitations of the progress made over the past years by the European Commission.

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<sup>66</sup> European Ombudsman, [Ombudsman calls for more trilogues transparency](#) (July 2016).

<sup>67</sup> Court of Justice of the EU, Judgment in [Case T-540/15 De Capitani v European Parliament](#), 22 March 2018.

<sup>68</sup> See for example, recently, the European Ombudsman [Decision in Strategic Inquiry OI/4/2020/TE on the transparency of decision making by the Council during the COVID-19 crisis](#) (March 2021).

<sup>69</sup> The EESC Diversity Europe Group (Group III) brings together representatives from organised civil society, particularly in the economic, civic, professional and cultural field. Other EESC Groups are the Employers' Group and the Workers' Group. For more information, see <https://www.eesc.europa.eu/en/members-groups/groups/diversity-europe-group-iii>

<sup>70</sup> European Civic Forum, Analysis on the EESC nomination procedures (forthcoming).

A number of services of the **European Commission** have made notable efforts in recent years to conduct a more open, transparent and regular civil dialogue. However, a common criticism by CSOs pertains to the inconsistency of the approach within and across the different Directorate-Generals of the European Commission. Institutional practice shows that even when policy coordination efforts are made in certain areas, this does not necessarily translate into progress in terms of civil dialogue. While the Commission has appointed policy coordinators and adopted new comprehensive policy strategies over the past years, many of which do recognise the important role played by civil society and the need to engage in a dialogue with CSOs, this has not always translated into the setting up of structured forms of civil dialogue. This is the case, for example, in the area of anti-racism, where dialogue with organised civil society is of particular importance given the underrepresentation and low access to decision-making affecting participation of racialised communities and minority groups in EU and national policy making.<sup>71</sup>

More generally, only a limited number of Directorate-Generals have set up units or contact points clearly tasked to ensure an overall coordination of interactions and dialogue with civil society, as corroborated by information collected from Directorate-Generals as part of the 2018 survey. In most services, dialogue with CSOs happens exclusively within expert groups or even one-off events, while only a minority have set up proper dialogue mechanisms. The role of the Secretariat-General has been questioned in this context. The steering and coordination functions of the Secretariat-General are meant to serve, among others, its role as interface between the Commission and non-governmental organisations and entities and its task to foster good governance.<sup>72</sup> Yet, the Secretariat-General has so far been reluctant to develop a coordinated approach to civil dialogue, or even guidelines on interaction with civil society, and feedback from Directorate-Generals gathered through the 2018 survey indicates that at this stage there is no

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<sup>71</sup> In particular, the Commission [Coordinator on combating anti-Muslim hatred](#) and the [Coordinator on combating Antisemitism and fostering Jewish life](#) are meant to be the main point of contact for CSOs on those issues, but no such institutionalised and structured dialogue was integrated in their mandate when these figures were created in 2015. The same goes for the newly set-up figure of the Commission Coordinator for Anti-Racism, introduced by the [EU Anti-Racism Action Plan 2020-2025](#), cited, as critically pointed out by CSOs (see for example European Network Against Racism, [Securing meaningful participation: a key element of success for the EU anti-racism action plan – Open letter to EU Commission President von der Leyen, Vice-President Jourova and Commissioner Dalli](#) (October 2020)).

<sup>72</sup> [https://ec.europa.eu/info/departments/secretariat-general/mission-statement-secretariat-general\\_en](https://ec.europa.eu/info/departments/secretariat-general/mission-statement-secretariat-general_en)

appetite for developing a common basic approach.

**Directorate-General Trade's  
Transparency, Civil Society and  
Communication team**

Directorate-General TRADE is one of the few services of the European Commission that has set up a specific team to coordinate relations with civil society that serves the implementation of a [regular and structured dialogue with CSOs](#). The dialogue is meant to inform about and discuss the ongoing developments of the EU trade policy and is carried out in close consultation with the Civil Society Dialogue Contact Group, a support structure which includes one representative from each of the broad categories of organisations involved in the civil society dialogue. The transparency, civil society and communication team also manages a database recording the service's meetings with stakeholders. While being regarded as an overall positive practice, the fact that businesses outnumber CSOs in the Civil Society Dialogue has attracted criticism. Against this background, a comprehensive evaluation study was recently commissioned to assess and improve the Civil Society Dialogue process, including as regards the need to ensure better representation of CSOs.

### Poor investments in civil society participation and civil dialogue

The lack of a genuine civil dialogue culture within EU institutions is perceived as an important factor hindering the effective implementation of Article 11 TEU.

Views from EU policy makers gathered through the 2018 survey reveal an approach to civil dialogue which is characterised by an important degree of **instrumentalization**. CSOs seem to be mainly viewed as sources of information and input to feed into sectoral initiatives, and are criticised when they are unable to offer an adequate degree of specialisation on relevant topics. The ambition of CSOs to participate in and influence decision-making by EU institutions is badly perceived by some, as a factor that hinders the possibility of a constructive dialogue. Civil dialogue seems to be mainly intended in terms of information and consultation, with the main objective of fostering transparency of policy-making rather than participation. It is telling that when mentioning the Commission's efforts to promote participatory democracy, and in particular citizens' participation in the shaping of EU policies and laws, the EU Action Plan on Democracy only makes reference to the instrument of public consultations.<sup>73</sup> The focus put on the unilateral provision of information by CSOs when setting up the EU Transparency Register, jointly created by the European Commission and the European Parliament in 2011,<sup>74</sup> is also an example of a missed opportunity against the background

<sup>73</sup> European Commission (December 2020), [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions On the European democracy action plan](#), cited, p. 9.

<sup>74</sup> [http://europa.eu/transparency-register/index\\_en.htm](http://europa.eu/transparency-register/index_en.htm).

of longstanding calls to rather create a database that could be used to facilitate the proactive identification of CSOs to support and engage with for the purpose of advancing towards more structured forms of EU civil dialogue<sup>75</sup>. CSOs also underline the lack of adequate support on the part of the EU to promote CSOs engagement. Respondents to the 2018 survey, corroborated by information gathered through the 2020 surveys and focus group discussions, point at limited resources and capacity as a barrier to dialogue participation. At the same time, a majority of CSOs, in particular at pan-European level, indicated that they normally engage in civil dialogue with EU policy makers by joining forces with other CSOs, mostly as members of formal or informal coalitions. The creation of Civil Society Europe in 2015 as a permanent coordination structure for European civil society organisations to dialogue with EU institutions on transversal issues of common interest is a case in point.<sup>76</sup>

### ***The troubled involvement of organised civil society in the Conference on the Future of Europe***

The [Conference on the Future of Europe](#) is a paradigmatic example of the flawed approach of EU institutions to civil dialogue, in particular in its transversal form. Promoted jointly by the European Commission, the European Parliament and the Council of the EU, the Conference on the Future of Europe is presented as “a catalyst for new forms of public participation at the European, national, regional and local levels”. The Conference sets itself the goal of giving citizens a greater role in shaping EU policies and ambitions, by creating, in close cooperation with civil society, a new public forum for an open, inclusive, transparent and structured debate with Europeans around key issues that affect their everyday lives. And yet, no clear participation role was recognised to organised civil society. Against this background, CSOs self-organised through CSE by launching their own [Civil Society Convention on the future of Europe](#) to actively contribute to the shaping of the process. Yet, the Executive Board of the Conference [rejected](#) to include a representative of the Civil Society Convention on the Future of Europe as an observer.

### **3.3 CSOs’ views on and experiences with civil dialogue with national policy makers on EU issues**

In the complex EU system of multi-level governance, civil dialogue with national policy makers on EU issues is a key tool to bring EU decision-making closer to citizens. While such dialogue needs to be articulated at all levels of

<sup>75</sup> See also EESC, [Principles, procedures and action for the implementation of Articles 11\(1\) and 11\(2\) of the Lisbon Treaty](#), cited, paragraph 4.10.

<sup>76</sup> Civil Society Europe, [Sitting in the drivers’ seat for change](#) (February 2015).

government, national coalitions or platforms of CSOs play an important role in amplifying and channelling the voice of grassroots organisations towards those national decision-makers who bear a responsibility in the design and the implementation of EU laws and policies. However, the many gaps and challenges affecting national policy makers' civil dialogue practices, in particular on EU issues, constitute a serious barrier to CSOs' efforts.

### No real perspectives towards a proper civil dialogue in the absence of common standards

Existing civil dialogue practices within the member states naturally provide the compass – both in terms of potential and limitations – for civil dialogue with national policy makers on EU issues.

While some progress has been registered over the past years as regards the development of innovative deliberative democracy mechanisms<sup>77</sup>, similar positive trends are not witnessed as regards national authorities' structured dialogue with organised civil society. Participants to the 2020 survey and the focus group discussion observed **general gaps in CSOs' access to and participation in decision-making at national level**. Even in those countries where a legal framework for civil dialogue is in

place, serious challenges are reported as regards its implementation in practice. Several CSOs complained that state authorities' approach to dialogue is that of information and instrumentalization rather than genuine participation. Many pointed to the lack of structure and regularity, inadequate publicity and transparency and poor feedback and follow-up from the side of national institutions as the aspects that most negatively affect current practices of national civil dialogue, including on EU issues – despite the energy invested by CSOs to meaningfully contribute to policy processes. Around 60% of respondents to the 2018 survey indicated that they never or only rarely meet with national ministries on EU policies or legislation.

Channels of dialogue with national policy makers on EU issues more frequently used seem to be mostly public consultations. Yet, around 60% of the respondents to the 2018 survey indicated that their governments do not normally organise public consultations on draft EU laws and policies. In addition, CSOs questioned the effectiveness of public consultation as a channel for civil dialogue, pointing that national authorities often launch public consultation with no real intentions to

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<sup>77</sup> See for example OECD, [Innovative citizen participation and new democratic institutions: catching the deliberative wave](#) (2020).

genuinely take contributions into account. During the focus group discussion, examples were given of authorities launching consultations on national laws implementing EU rules with deadlines as short as a few days, or taking policy decisions before the actual closure of consultations.

CSOs which provided examples of positive experiences with civil dialogue on EU issues with national authorities in the context of the 2020 survey and focus group discussion mainly referred to sectoral dialogue carried out through structured thematic *fora* or working groups. These examples came especially from CSOs qualifying themselves as service providers. Generally speaking, CSOs still rated the impact of sectoral dialogue as low or very low. Very few examples of transversal dialogue were provided by CSOs. Similarly, only a limited number of national authorities, interviewed within the framework of the 2018 survey, reported of such transversal civil dialogue practices. Interestingly, those few CSOs which did provide examples of positive experiences with transversal dialogue, expressed a higher rating as regards the perceived impact of their engagement – showing that when adequate channels of transversal dialogue exist, they can be impactful.

### **Denmark's EU semester structured dialogue**

Since several years, the Danish government has established a civil dialogue process on EU issues linked to the European Semester cycle and the Europe 2020 strategy. The dialogue is cross-sectoral, structured and regular, with three annual meetings timed in the year to coincide with key moments in the Semester cycle, in which different ministries are involved. Building on the Semester indicators and country recommendations, participants are given the opportunity to share their views on progress made in the multitude of areas covered by the Semester cycle and actively feed into the national implementation reports. While the model is considered to be well established and to work very well, it has not so far been used as a broader structure for transversal dialogue to address other horizontal EU issues.

Civil dialogue with national authorities on EU issues is also affected by additional challenges relating to national authorities' attitudes towards, and ownership of, EU decision-making processes.

A number of CSOs who participated in the focus group discussion stressed how often times civil society participation is viewed and implemented by state authorities as a **mere box-ticking exercise**, which is done mostly where CSOs' involvement is a requirement stemming from EU law or policies. During the focus group discussion, examples were given pointing to serious shortcomings affecting the dialogue between national authorities and stakeholders, including CSOs, concerning the use

and disbursement of European Structural and Investment Funds (ESIF) – which is yet an area where attempts have been made on the part of the EU to substantively strengthen the partnership principle over the past years, including through the adoption of a European Code of Conduct on Partnership.<sup>78</sup> Around 70% of respondents to the 2018 survey rated the effectiveness of participation in ESIF Monitoring Committees as unsatisfactory, poor or very poor.

Rising nationalism and the **focus on national issues** is also regarded by CSOs in certain countries as a factor which reduces even more opportunities of national dialogue on EU issues. At the same time, CSOs regret that existing gaps in national policy makers' approach to civil dialogue on EU issues are not effectively compensated by pressure coming from the EU. Among the factors commonly mentioned is the lack, on the one hand, of basic common civil dialogue standards and, on the other hand, of efforts from the part of the EU to facilitate and monitor the implementation of civil dialogue and CSOs' participation requirements by national authorities.

**Inadequate coordination and structures to bridge the national and the EU dimension through civil dialogue**

**Poor intra-governmental coordination** is seen by CSOs as an important obstacle to the effectiveness of civil dialogue with national policy makers on EU issues. Positive experiences shared by participants to the 2020 survey and the focus group discussion highlighted the progressive approach to civil dialogue of specific ministries, including, as regards horizontal issues, foreign and EU affairs ministries. At the same time, however, they acknowledged that the lack of consistency in civil dialogue practices between different ministries and bodies, and poor inter-ministerial coordination, significantly decreases the transparency and effectiveness of existing dialogue mechanisms.

CSOs also regret **insufficient support on the part of the EU**. While some participants to the focus group discussion reported that they do engage with the EU Commission representations at national level, most complained about the fact that delegations do not provide real support to facilitate mutual engagement between national authorities and CSOs. Some also pointed at an instrumentalising attitude towards CSOs, seen as

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<sup>78</sup> European Commission, [Delegated Regulation \(EU\) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds](#).

multipliers of EU priorities at national level rather than partners in national policy-making on EU issues.

As already observed with respect to civil dialogue with EU policy makers, the **need for permanent support structures** is a point shared by many CSOs. Participants to the focus group discussion shared their views, in particular, on the EU practice of requiring the appointment of national contact or focal points in the framework of certain policy processes, such as the disbursement of EU funds. While such practice is seen, in principle, as a positive step to improve CSOs' access to and participation in decision-making, the absence of clear standards and rules concerning the contact or focal points' basic requirements as well as their role and functioning turns them into a double-edged sword. CSOs shared examples raising concerns about arbitrary appointments, low independence, limited transparency and poor accountability. Challenges relating to the nomination procedures for the representatives of the EESC, already illustrated in the previous section, add to CSOs' concerns over the lack of adequate support structures.

### ***Towards an EU-UK Civil Society Forum as part of the Brexit Trade and Cooperation Agreement***

Efforts to set up a structure that can permanently facilitate and coordinate civil dialogue at national level on EU issues have been made within the framework of Brexit. The [EU-UK Trade and Cooperation Agreement](#) explicitly foresees, as part of provisions relating to the "Institutional Framework", an obligation for both parties to consult and interact with civil society on the implementation of the agreement and any supplementing agreement (Article 6). To ensure the implementation of this civil dialogue obligation, the Agreement provides that the parties shall facilitate the organisation of a Civil Society Forum, which should meet at least once a year, and include CSOs established in the UK and the EU (Article 8). CSOs are being actively involved in the ongoing setup of the Forum. The EU-UK Civil Society Forum replicates and expands the practice, which Directorate-General Trade has promoted since 2011, of creating fora with civil society, known as [Domestic Advisory Groups](#) (DAGs), tasked to regularly engage with national authorities and EU institutions for the purpose of verifying the correct implementation of trade agreements (normally limited to the sustainable development chapter). While the permanent and structured nature of DAGs, their independence and the transparency in the appointment process are particularly appreciated, their impact has been [questioned](#), also due to a perceived lack of genuine institutional engagement. Against this background, it will be interesting to follow the establishment and work of the EU-UK Civil Society Forum, including in terms of contributing to an improved and more representative institutional framework for cooperation with civil society at national level.

## No long-term vision on civil society participation

In some Member States, challenges affecting civil dialogue are part of a broader **hostile attitude** of authorities towards organised civil society, which generally affect CSOs' enabling environment and therefore their ability to participate in decision-making, either generally or in certain sensitive policy areas.<sup>79</sup> Even where this is not the case, CSOs deplore a **lack of support** from EU and state authorities alike for civil society engagement with national policy makers on EU issues, with only rare exceptions.

During the focus group discussion, CSOs drew attention to the fact that even where consultation processes at national level are a compulsory legal requirement (such as, for example, in the context of the disbursement of European Structural and Investment Funds), CSOs participate on a totally voluntary basis and their efforts often do not bear real fruits due to the lack of genuine engagement on the part of the authorities. Limited support and resources also negatively affect the capacity of national coalitions or platforms of CSOs to organise and convey views of local and grassroots

groups and to trigger and engage in dialogue with national policy makers.

### *A Civil Society Fund to promote CSOs' participation in EU policy-making in Malta*

The Malta [Civil Society Fund](#), set up in 2020 by the Malta Council for the Volunteer Sector in partnership with the Ministry of Education and Employment aims at enabling CSOs to participate effectively in the decision-making process at EU level and to better educate their members on EU matters related to their respective fields of competence. To that effect, the Fund makes available financial assistance to facilitate the creation and strengthening of national CSOs with and within European coalitions, networks and platforms, to promote the exchange of best practices, knowledge and information among CSOs and to offer CSOs training and other capacity building activities related to EU policies.

Against the background of CSOs' key role in helping governments face the challenges brought by the **COVID-19 pandemic**<sup>80</sup> and the European dimension of the crisis, no real efforts were registered on the part of EU and national authorities to strengthen civil dialogue in this context. On the contrary, CSOs' participation

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<sup>79</sup> For an overview of the current challenges facing CSOs across the EU, see ECF, [Civic Space Watch Report 2020](#) (December 2020) and CSE, [Response to the European Commission Annual Rule of Law Report Stakeholders consultation](#) (May 2020).

<sup>80</sup> A repository of civil society initiatives across the EU during the pandemic has been created by ECF within its Civic Space Watch project, [Solidarity amid the COVID-19 crisis](#). See also EESC, [The response of civil society organisations to face the COVID-19 pandemic and the consequent restrictive measures adopted in Europe](#) (January 2021).

reportedly deteriorated<sup>81</sup>, even within discussions over the definition of recovery priorities and policy and economic responses to the crisis, which greatly impacted the civil society sector.

***CSOs largely side-lined in the preparation of the National Recovery and Resilience Plans***

A [recent report](#) by CSE and the European Center for Not-for-Profit Law has looked into the participation of CSOs across the EU in the preparation of the National Recovery and Resilience Plans (NRRPs), which will lay the basis for the disbursement of the 750 billion EUR EU Recovery Package set up by the EU to help repair the economic and social damage brought about by the coronavirus pandemic. While CSOs' participation in the drafting and implementation of the NRRPs is explicitly mentioned in the [Regulation](#), the report points, with limited exceptions, at generalised deficiencies in civil dialogue practices on NRRPs across the EU. Among the main gaps found, the report stresses poor consultation practices, uncertain and untransparent procedures, limited inter-ministerial coordination and unclarity over the role of civil society as implementing partners and beneficiaries. Similar findings are contained in a subsequent [EESC resolution](#), which calls on national governments to put in place adequate procedures to consult CSOs on NRRPs, and on the European Commission to closely monitor and take action against Member States which fail to fulfil this obligation.

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<sup>81</sup> Among the numerous reports by non-governmental organisations illustrating such deterioration at EU level, see European Civic Forum, [Civic Space Watch report 2020](#), cited and Civil Liberties Union for Europe and Greenpeace European Unit, [Locking down critical voices – How governments' responses to the Covid-19 pandemic are unduly restricting civic space and freedoms across the EU](#) (September 2020). For information concerning the impact of COVID-19 on civil society, see also EU Agency for Fundamental Rights (FRA), [Fundamental rights implications of COVID-19](#) and European Parliament, [The Impact of COVID-19 Measures on Democracy, the Rule of Law and Fundamental Rights in the EU](#) (April 2020).

## 4. Towards an open, transparent and structured EU civil dialogue: key recommendations to EU policy makers

The information collected and presented in this report as regards CSOs' current views on and experiences with EU civil dialogue shows that, although Article 11 TEU provides for a legal obligation and a legislative framework for an open, transparent and regular dialogue with organised civil society, existing forms of participation continue to prove inadequate. Current EU civil dialogue practices, both at EU and at national level, are clearly failing to meet the basic standards of enabling environment, openness and transparency, accountability and responsiveness, equality and inclusiveness as well as sustainability and structural nature.<sup>82</sup>

This calls for an in-depth and inclusive discussion on how to address identified gaps and challenges and achieve progress towards a genuinely open, transparent and structured EU civil dialogue as required by Article 11 TEU, for which the upcoming

**Conference on the Future of Europe** represents a key opportunity.

The following **5 key recommendations**, formulated building on the findings of this study and on CSOs inputs<sup>83</sup>, are meant to prompt and inform such discussions.

### 4.1 Fostering CSOs' enabling environment as a means to promote mutual engagement

Against the background of worrying trends negatively affecting civic space and CSOs' work across the EU<sup>84</sup>, the EU should step up its efforts to foster an enabling environment which is instrumental to genuine and mutual engagement between public bodies and CSOs serving, in turn, an effective EU civil dialogue. There are a number of concrete things that the EU could do to achieve that.

#### A more comprehensive and action-oriented assessment of the state of civic space in the EU

The EU institutions should integrate into existing policy processes related to the protection and promotion of democracy, rule of law and fundamental rights a

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<sup>82</sup> See above, section 2.3.

<sup>83</sup> See European Partnership for Democracy, [A comprehensive plan to innovate democracy in Europe: Civil society vision for the European Democracy Action Plan](#), cited, p. 22. CSE, which also contributed to the joint paper, already formulated similar recommendations – see for example CSE, [Civil Society Europe response to the EC consultation on EU citizenship and free movement](#) (February 2019), p. 10.

<sup>84</sup> See see ECF, [Civic Space Watch Report 2020](#) and CSE, [Response to the European Commission Annual Rule of Law Report Stakeholders consultation](#), cited.

## **comprehensive and action-oriented assessment of civic space at EU level and in each Member State.**

Building on information collected from CSOs, the EU Agency for Fundamental Rights (FRA) and relevant reports by international organisations and bodies, such an assessment should regularly feature in the European Commission's Annual Rule of Law Reports, and inform follow-up discussions and actions by the Commission itself as well as by the other institutions, including the Council's horizontal and peer review rule of law dialogues and hearings and inter-parliamentary debates organised by the European Parliament.<sup>85</sup> The revived Annual Reports on the Charter could also be used by the Commission to devote to these issues a specific focus from the fundamental rights perspective.<sup>86</sup> On this basis, a policy framework bringing together actions to promote and protect an enabling environment for CSOs in the EU should be established, for example through a European Commission communication.

Invest in communication to raise awareness of and promote support for organised civil society

The EU institutions, and in particular the European Commission, with the support of FRA and the EESC, should invest in innovative and forward-looking communication strategies to **raise public awareness about the importance of a healthy civic space and of the role of organised civil society** for the EU's democratic governance. For example, this could be embedded in ongoing communication investments in the area of fundamental rights, and namely the information campaign to be launched by the Commission on the Charter and awareness raising initiatives towards young people promoted through the Erasmus+ programme.<sup>87</sup>

Working towards a European statute for associations and non-profit organisations

Building on the ongoing work carried out by the European Parliament<sup>88</sup>, the European Commission should use its power of legislative initiative to propose a **Regulation on a**

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<sup>85</sup> [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism_en)

<sup>86</sup> European Commission, [Strategy to strengthen the application of the Charter of Fundamental Rights in the EU](#), COM/2020/711 final.

<sup>87</sup> European Commission, [Strategy to strengthen the application of the Charter of Fundamental Rights in the EU](#), cited.

<sup>88</sup> European Parliament, [A statute for European cross-border associations and non-profit organisations](#), 2020/2026(INL).

**European statute for associations and non-profit organisations**, including CSOs. The Regulation should enable and facilitate, among others, participation and engagement on EU issues at both national and EU level. The scope and content of the proposal should be drawn up in close cooperation with CSOs.

### Channelling financial support to promote civil society development as well as participation

The success of CSOs' efforts in achieving a boost for the new **Citizenship, Equality, Rights and Values (CERV) Programme**, which is meant to offer core support to the development of the civil society sector across the EU<sup>89</sup>, is a promising development. It is now important that, in the context of the implementation of the programme, funds are channelled where they are most needed and are disbursed through more **user-friendly procedures** and in full respect of the independence of CSOs. To that effect, the Commission needs to **remedy participation gaps** to date and start seriously involving CSOs in the identification of priorities and the design of annual implementation programmes.<sup>90</sup> For available funding to also serve the promotion of civil society participation, a **dedicated budget line** within the CERV

Programme should be foreseen to fund advocacy, engagement and dialogue participation on EU issues at both national and EU level.

The Commission should also enhance financial support for the development of the civil society sector to national, regional and local authorities, through a **strategic review of national programmes** under key shared-management funding programmes such as the European Structural and Investment Funds (ESIF) and the Next Generation EU recovery plan.

It is also critical to ensure that the different EU funding programmes, for instance in the area of education, culture, health, social, environment, digital, research are not only open, but support the participation of civil society organisations including by dedicated calls. Civil society should also be consulted on the implementation of the financial rules.

Finally, the EU should ensure that obstacles to **cross border donations and philanthropy** are removed.

### 4.2 An inter-institutional agreement establishing an overarching policy framework on EU civil dialogue

The European Commission should follow-up on repeated calls, including

<sup>89</sup> <https://civic-forum.eu/press-release/civic-organisations-to-secure-a-historic-victory>

<sup>90</sup> [Joint Open Letter by CSE and the Human Rights and Democracy Network \(HRDN\) to Directorate-General Justice on the CERV programme implementation](#) (January 2021).

by the European Parliament<sup>91</sup>, and propose the conclusion of an **inter-institutional agreement on EU civil dialogue** for the implementation of Article 11 TEU.<sup>92</sup>

The agreement should be informed by a detailed study of existing processes for civil society participation in EU policy-making at national and EU level and the proposal should be drafted in close cooperation with CSOs and in consultation with relevant EU bodies and namely the EESC, the Committee of the Regions, the European Ombudsman and FRA.

The inter-institutional agreement should reflect a joint political commitment of all EU institutions and enable the setting up of a permanent and stable framework for EU civil dialogue at both EU and national level. To that effect, it should establish:

- **basic principles related to an open, transparent and structured EU civil dialogue** anchored on EU fundamental rights and values, and in particular Article 2 TEU and relevant provisions of the CFR, read in light of relevant regional and international instruments

providing guidance on civil society participation;

- basic principles related to the **eligibility criteria of CSOs** participating in the EU civil dialogue, to be inspired by the principles of equality, inclusiveness, legitimacy and representativeness<sup>93</sup>, as well as a basic set of rights and obligations on the part of CSOs, including a strict adherence to common EU values;
- a **harmonisation of civil dialogue standards, procedures and mechanisms** common to all EU institutions and to all Member States, for both transversal and sectoral dialogue;
- a strong **monitoring and reporting framework** to regularly assess implementation of basic principles and standards, procedures and mechanisms, at both EU and national level. At national level, this appears particularly important when civil dialogue, be it of an horizontal or sectoral nature, is an EU requirement. Consideration should be given to the possible role of the European Ombudsman within the monitoring framework;
- the allocation of **appropriate staffing and budgets** within the different EU institutions and

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<sup>91</sup> European Parliament, [Resolution of 13 January 2009 on the perspectives for developing civil dialogue under the Treaty of Lisbon](#), cited.

<sup>92</sup> The possibility for the institutions to conclude inter-institutional agreements is foreseen by Article 295 TFEU.

<sup>93</sup> A set of criteria in terms of representativeness have been already proposed by the EESC, [The representativeness of European civil society organisations in civil dialogue](#), cited.

bodies, also for the purpose of reinforcing the civil dialogue infrastructure (see below).

To make sure the inter-institutional agreement is effectively implemented in practice, each institution should be required to translate the basic principles and standards, procedures and mechanisms into internal **implementation guidelines**. Similarly, Member States should be required to prepare and adopt **national implementation plans**, which may build as appropriate on already existing civil dialogue frameworks and structures.

The inter-institutional agreement should also foresee a **regular evaluation by CSOs** of the progress made at the various levels of governance.

#### 4.3 Reinforcing the EU civil dialogue infrastructure

##### A stronger and more representative inter-institutional coordination entity

There is a clear need for a **permanent inter-institutional coordination entity** for transversal civil dialogue at EU level. This should act as an independent and inclusive support structure tasked and resourced to regularly engage with organised civil society on major cross-cutting issues with topical relevance

for the EU's political, social and economic orientations, and to convey civil society views and concerns to EU policy makers. Engagement with both CSOs and EU institutions should be based on the conclusion of formal protocols of cooperation. The appointment of CSOs' representatives liaising with the coordination entity should strictly adhere to the principles of autonomy, inclusiveness and transparency.

In parallel with the creation of such an inter-institutional coordination entity, the EU should engage in a **review of the composition, mandate and functioning of the EESC** to increase its legitimacy, transparency and effectiveness as a bridge between CSOs and EU policy makers. As also recommended by ECF in its study on EESC nominations <sup>94</sup>, this should include the adoption of guidelines regarding the nomination of EESC representatives, especially to clarify selection criteria and set minimum standards to ensure the inclusiveness and transparency of the appointment process, including to make sure that nominations take into account possible applications and suggestions by national CSOs and introduce an appeal system. Efforts should also be made to better balance the composition of EESC Groups and increase the involvement of CSOs in shaping the work of the EESC, especially in key *fora* such as the Liaison Group. This would contribute

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<sup>94</sup> European Civic Forum, Analysis on the EESC nomination procedures (forthcoming).

to foster CSOs' ownership of and support for the work of the EESC, and increase its effectiveness and visibility.

### Creating coordination structures within each EU institution

Urgent steps should be taken in order to create **basic coordination structures for civil dialogue within each EU institution.**

Considering its key powers of policy orientation, legislative initiative and enforcement, the existence of a strong civil dialogue infrastructure within the **European Commission** appears particularly pressing. The explicit inclusion of the implementation of civil dialogue within the mandate of the European Commission Vice-President for Values and Transparency since 2019 is a welcome step, that needs to become institutional practice. However, this development appears of a mere proclamatory nature insofar as it was not accompanied by any real structural coordination effort, nor the allocation of appropriate staffing and budget for the implementation of this mandate. A basic coordination structure for civil dialogue should be integrated within the Commission's Secretariat-General, to act as a general point of contact for the Commission's transversal dialogue with CSOs, including through high-level meetings; and to ensure coherence of approaches, capacity building and awareness raising on

basic principles and common minimum standards, procedures and mechanisms for civil dialogue across the services. Such centralised coordination structure should rest on a network of civil dialogue teams, or units, to be set up in each Directorate-General and put in charge of creating and managing structured sectoral civil dialogue groups and mainstreaming civil society participation throughout the activities of the service. An inter-service group on civil dialogue should also be created by the Secretariat-General to bring together the service's coordination entities, for the purpose of monitoring civil dialogue practices, exchanging information and promoting mutual learning.

The **European Parliament** should also make efforts to set up a basic civil dialogue infrastructure. One of the European Parliament's Vice-presidents should be formally tasked of acting as an interlocutor for civil society and a point of contact for transversal dialogue, to be supported by a central coordination entity embedded within the Parliament's Secretariat. At the same time, focal points for civil dialogue should be appointed in each Parliament committee's Secretariat, and should be responsible to create and manage permanent sectoral civil dialogue groups in connection with each Committee, functioning on the basis of common basic principles, standards, mechanisms and procedures. This should improve the

openness, transparency and regularity of Committee's and MEPs' engagement with CSOs, including for the purpose of informing draft reports, resolutions and trilogue positions.

In a similar vein, efforts should be made to substantively improve the way institutions representing the Member States engage with civil society.

As regards the **Council of the EU**, there have been so far isolated examples of civil dialogue practices. These have mainly consisted in opportunities of sectoral engagement with civil society, in the form of CSOs' participation to informal meetings in areas such as social affairs and environment. Some recent initiatives however point to the important role the General Secretariat of the Council (GSC) could play in this context: reference goes, for example, to the newly established GSC initiative of a regular and semi-structured dialogue on transparency involving, among others, CSOs. Building on such examples, the GSC should appoint a permanent representative in charge of civil dialogue and relations with organised civil society. Such focal point should act as a point of contact for CSOs and coordinate the Council's transversal dialogue with CSOs. In particular, a civil dialogue on EU general affairs issues should be organised with each rotating Presidency or the Presidency 'trio' on the basis of a consistent approach.

The focal point should also facilitate permanent sectoral civil dialogue to be ideally led by each of the Council's working parties on the basis of common basic principles, standards, mechanisms and procedures.

With respect to the **European Council**, civil society should as a minimum be invited to present its views on key EU agenda developments once a year, similarly to the opportunity already offered to Social Partners on the occasion of the European Spring Councils.

#### Offering better support structures at national level

The EU should encourage national governments to secure and develop strong infrastructures for EU civil dialogue at national level.

This should include a call on Member States to strengthen the role of **foreign or EU affairs ministries** and of **Member States' Permanent Representation to the EU** both as points of contact for organised civil society on EU issues and for the purpose of inter-ministerial coordination and coherence as regards civil dialogue on EU issues. Furthermore, when requiring national authorities to set up civil society **national contact or focal points** in the context of the implementation of specific EU laws and policies, the EU should establish clearer criteria on appointment, independence and functioning, and

engage in a serious monitoring of their respect.

The Commission should also make sure that EU **financial support** under key shared-management funding programmes such as ESIF and the Next Generation EU recovery plan is channelled to support the development by national, regional and local authorities of effective civil society participation and dialogue mechanisms.

In this context, the EU should also use its own institutional infrastructure to facilitate mutual engagement between national authorities and CSOs on EU issues and help achieve progress on EU civil dialogue at national level. This may include strengthening the role in this area of **European Commission country delegations** and the **European Parliament Representation offices**. EU institutions and bodies, and in particular the European Commission and the European Parliament, possibly in cooperation with the EESC, the Committee of the Regions<sup>95</sup> or FRA<sup>96</sup>, should also explore opportunities to promote the **exchange of information and practices** concerning EU civil dialogue among national authorities.

#### 4.4 Improving existing civil dialogue and participation processes

##### Using expert and advisory groups for input rather than output legitimacy

Dialogue conducted through expert and advisory groups, in particular by the European Commission, is often rather non-participative and resumes to information or consultation on pre-determined policy outputs. This approach should be modified to enable such expert and advisory groups to rather gather input which can help shaping policy responses. This would require, among others:

- rules on the composition of expert and advisory groups ensuring **balanced representation** of national authorities, interest groups, CSOs and other stakeholders in each expert or advisory group;
- efforts to regularly **renew membership** of expert and advisory groups;
- the use of existing **public registries**, and in particular the Register of Commission Expert Groups<sup>97</sup>, not only as an information tool, but also as a tool to feed and evaluate the work of expert and advisory groups;
- investments in **CSOs' capacity building** in certain areas as a

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<sup>95</sup> On the potential role of the Committee of the Regions in fostering effective civil dialogue practices, see for example the [Eurocities Declaration on Citizens Engagement](#) (2018).

<sup>96</sup> In particular making use of FRA's network of National Liaison Officers (<https://fra.europa.eu/en/cooperation/eu-member-states>).

<sup>97</sup> <https://ec.europa.eu/transparency/regexpert/>

preparatory step to the setting up of expert and advisory groups.

### Revisiting consultation practices through participatory lenses

#### **Online public consultations**

continue being, at the moment, the most commonly used tool for EU civil dialogue. The EU should therefore invest to improve public consultation practices so that they can better serve the purpose of civil society participation and civil dialogue. This should include efforts to:

- reduce technicism and simplify language of consultation questionnaires;
- launch more focussed public consultations timed with the different relevant steps of the policy cycle;
- use tools that are accessible by and allow outreach to a wide group of stakeholders, including by combining online participation tools with physical or hybrid meetings as appropriate;
- providing more adequate timelines and time for consultation to ensure participation of different levels of civil society;
- improving clarity, openness and transparency as to if and how input was integrated in policy decisions.

### Untapping the potential of ICT tools to develop innovative forms of civil dialogue

ICT tools have the potential to offer innovative methods to engage citizens and CSOs representing them to shape public policies.<sup>98</sup> The EU should champion an **effective and inclusive use of ICT** as a means to contribute to an open, regular and structured civil dialogue on transversal as well as sectoral issues, in line with basic civil dialogue principles and in full respect for privacy and EU data protection rules. Such platforms should ensure **wide accessibility** (both for people with disabilities and to secure outreach to and uptake of underrepresented or marginalised groups) and should rest on the combined use of tools such as surveys, webcasting, videoconferencing, smartphone applications, or chats, to be relied on at the different stages of the policy making cycle.

The upcoming Conference on the Future of Europe, which will revolve around a multi-lingual digital platform meant to allow citizens and stakeholders to submit ideas online, and help them participate in or

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<sup>98</sup> See, for example, European Citizens Action Service (ECAS), [Co-deciding with Citizens: Towards Digital Democracy at EU Level](#) (2015). A mapping of participation models promoted by governments during the COVID-19 pandemic also shows the benefits of using digital platforms, apps and other tools to enable public participation – see Open Government Partnership, [Collecting Open Government Approaches to COVID-19](#) (2020).

organise events<sup>99</sup>, should be used as a timely case study to be critically assessed with a view to informing future digital dialogue initiatives.

#### 4.5 Proactively encourage and support CSOs' participation

The EU should be more proactive in encouraging and supporting organised civil society to make use of, ideally improved, tools to participate in EU policy making.

In this context, the EU should ensure a more inclusive and effective outreach to organised civil society for the purpose of both transversal and sectoral dialogue. The existing **Transparency Register**<sup>100</sup>, which is operated jointly by the European Commission and the European Parliament, currently consists in a mere database listing and providing basic information accessible to the public on individuals and entities that engage at various levels in EU decision-making processes.

The potential of such Register is very limited compared to the initial model created by the European Commission in 2002, which was meant to make

available information on CSOs active at European level as well as on existing committees and other consultative bodies used by the Commission when consulting organised civil society in a formal or structured manner.<sup>101</sup>

Building on the Commission's original concept, the Transparency Register, to be extended to include the Council, should be revised to become a user-friendly database that EU and national policy-makers may use to identify and proactively reach out to CSOs in order to promote their engagement and participation in transversal and sectoral civil dialogue.

Furthermore, the European Commission should better support, through **targeted operating grants under the CERV Programme**, EU and national coalitions and platforms of CSOs to enable them to better mobilise and coordinate grassroots CSOs' engagement in EU civil dialogue. Support should cover, for example, standard setting, awareness raising initiatives, capacity building activities as well as mutual learning and the exchange of information and practices.

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<sup>99</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_1065](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_1065)

<sup>100</sup> <https://ec.europa.eu/transparencyregister/public/homePage.do>

<sup>101</sup> Such original database, called Coneccs (Consultation, European Commission, Civil Society) was replaced in 2008 by the Transparency Register. See [https://powerbase.info/index.php/European\\_Commission\\_CONECCS\\_Database](https://powerbase.info/index.php/European_Commission_CONECCS_Database)