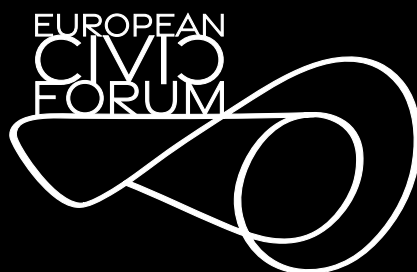




CIVIC SPACE REPORT

2024





About this report

This analysis was published as part of the European Civic Forum's Civic Space Report 2024. The full report contains chapters written by its secretariat, by member organisations, or by partner organisations and individuals. Much of the content originally appeared as part of ECF's submission to the European Commission's Rule of Law consultation. Each chapter reflects the views and analysis of its respective author. For more information about the European Civic Forum, please visit www.civic-forum.eu

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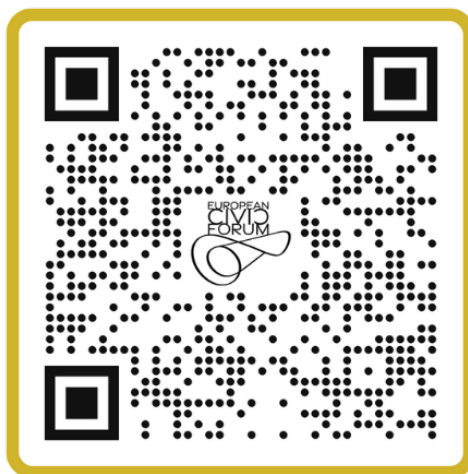


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EXECUTIVE SUMMARY

A New Push for European Democracy: Did the EU meet expectations?

The upcoming European elections will be an important moment in defining the political landscape for the next five years. In light of this, it's essential to evaluate the European Commission's commitment to a "new push for European democracy."¹ Have the EU's proposed policies achieved this goal?

Civic space is a key indicator of the health of democracy. Civil society and social movements take on their watchdog roles when democracy deteriorates. This report includes an analysis of developments in civic space in the EU and accession countries in the Western Balkans in 2023, including the impact of EU policies and programmes on the ground. It also contains 15 country chapters, one regional and a thematic chapter.

Unprecedented number of initiatives for democracy and rule of law

Over the past five years, the European Union has launched a series of initiatives that they claimed will address democratic backsliding across Europe and tackle the European democratic deficit. These initiatives include the European Rule of Law Report, funding conditionality measures, the European Democracy Action Plan, the Defence of Democracy Package, and the Conference on the Future of Europe. Despite these initiatives- which in some cases have brought significant steps forward, such as on the fight against Strategic Litigation against Public Participation (SLAPPs), protection of journalists and funding for human rights actions - the overall situation regarding the respect for the rule of law and democracy has deteriorated in many European countries, and democracy is far from being strengthened.

Civic space deterioration continued between 2019 and 2023

Civil society, including associations, NGOs, social movements, and human rights defenders, plays a crucial role in upholding the rights contained in the European Charter of Fundamental Rights, as well as democracy and the rule of law. According to the CIVICUS Monitor, which rates the conditions of civic space globally, there has been a deterioration of civic space. Since 2019, the number of EU

¹ https://commission.europa.eu/strategy-and-policy/priorities-2019-2024_en these are the political priorities set in 2019

member states rated “open” has decreased from 14 to 12 while the number of member states rated “obstructed” rose from 1 to 3. In the Western Balkans states outside the EU, civic space has also been challenged, with Serbia and Bosnia and Herzegovina rated as “obstructed”.

This report finds that in 2023, civil society, civic actors and human rights defenders continued to mobilise for effective access to fundamental rights, putting people and the planet first, and in response to the erosion of democratic processes, breaches of the rule of law, and direct attacks on civic freedoms. Civic actors and civic organisations continued to demonstrate resilience and embrace collaboration across sectors and networks.

The work and response of civil society and human rights defenders were shaped by several political and socio-economic developments, including elections, inflation, the cost-of-living crisis, migration, the climate crisis, violent conflicts and the displacement of populations. In several member states, civil society organisations (CSOs) continued to face challenges as a result of existing legislation which restricts the right to association. Under the guise of ‘transparency’, several member states proposed legislation to tackle foreign interference, which is likely to stigmatise civil society. As in previous years, the trend of restricting the right to protest, either through legislation or practice, continued. Climate and environmental rights protests and protests in solidarity with Palestine were particularly restricted.

Women, LGBTQI+ people, refugees and asylum seekers and ethnic and religious minorities continued to face disproportionate attacks both online and in person. Furthermore, legal harassment and SLAPPs continued to hamper and drain the resources of civil society and human rights defenders. When it comes to civic participation, while several member states experimented with citizens assemblies, particularly related to the topic of climate change, authorities also cracked down on climate movements through surveillance, legal harassment and criminalisation. Meanwhile, the structured involvement and dialogue with civil society in policy and decision-making remained weak. Civil society continued to experience a wide range of funding challenges in 2023, which keep civil society in a starvation cycle.

EU laws and policies increasingly influence civic space

Civic space is influenced not only by national developments but also by EU laws and policies. As the scope of EU law-making becomes broader, it increasingly affects the activities of civil society at both national and EU levels. Without clear strategies and guidelines to define, empower, and protect the democratic role of CSOs, their unique characteristics and roles can be neglected. Often, EU policies view civil society merely as a stakeholder in implementing policies or as part of the common market. This overlooks CSOs' non-profit nature, their role as intermediaries and watchdogs between the state and individuals (or markets), and their democratic function in promoting and safeguarding human rights.

As a result, EU law and its transposition into national legislation without taking into consideration the specificity of the CSOs sector, has sometimes had negative consequences, impacting the autonomy and operations of civil society, and its capacity to act and interact with institutions for the defence of the common good.

Moreover, while there is growing attention paid to the potential of EU law and initiatives to protect civic space, such as measures to tackle SLAPPs (Strategic Lawsuits Against Public Participation) and funding programs, European policies have sometimes contributed to shrinking civic space, particularly when security and financial considerations take precedence over human rights. Despite international commitments to engage and protect civil society, including by the EU, there is still no comprehensive approach to civil society at the European level.

The limitations of EU's approach to democracy and fundamental rights leads to negative civic space developments

The European Union's approach to democracy, the rule of law, and civic space has been fragmented, technical and transactional, prioritising economic and security interests over human rights and justice. Despite declaring support for civil society, democracy and the rule of law, EU policies have approached these as thematic areas of work, often developed in silos. As a result, this proclaimed support has not resulted in a change of direction and practices across EU governance and policymaking. On the contrary, EU policies have often reiterated the prioritisation of economic, financial interests and a narrow understanding of security through militarisation.

Subordinated to strict economic and financial European rules, many governments are weakening social protection while vital systemic challenges like employment, healthcare, education, and culture are increasingly devolved to individuals. Furthermore, in the pursuit of competitiveness, efforts to combat climate change are being sidelined. Yet, assigning responsibility to individuals who lack the means and power to act only deepens insecurity and precarity, reinforcing the vicious circle of erosion of trust. These socio-economic developments provide fertile ground for the spread of political illiberalism, the weakening of democratic standards and increasing restrictions on rights and freedoms. This has contributed to the popularity of reactionary and divisive political offers that fuel the idea that rights would be better accessible if the part of society considered "outside" and "foreign" is excluded, rather than promoting the universality of rights.

As a result, the EU's fragmented approach overlooks the integration of democracy and human rights into all policies and has resulted in a lack of coherence. In some cases, this risks leading to negative impact on civic space, as in the case of the directive which aims to "introduce common transparency and accountability standards in the internal market for interest representation activities carried out

on behalf of third countries”, also known as the foreign interference directive or defence of democracy directive, which risks legitimising restrictive foreign agents laws in several member states. Additionally, new EU policies, in particular the AI Act and new Migration Pact, are reinforcing the notion that rights are only guaranteed for some and are not universal or accessible to all in the EU.

Recommendations for the way forward

To foster a thriving civic space and true participatory democracy at the European level, the EU must adopt a comprehensive European Civil Society Strategy. This strategy should provide a coherent compass throughout all the EU policy-making processes and prioritise the following five pillars:

1. A strong Vice President mandate for oversight: Appoint a Commission Vice President responsible for civic space and dialogue with civil society to oversee the implementation of the strategy and ensure coherence between all EU actions.
2. Enabling civil society's democratic mission and its capacities to act for the common good and fundamental rights: Ensure European laws and policies enable civil society's democratic mission without negative side effects.
3. Protecting civil society and human rights defenders against attacks: Enhance efforts to protect civil society and human rights defenders from harassment and attacks, with an intersectional approach, by strengthening the rule of law cycle, and supporting the establishment of a European protection mechanism and/or national protection hubs.
4. Fostering real dialogue and meaningful participation: Recognise civil dialogue as essential for participatory democracy and ensure the structured participation of civil society in all EU policy-making processes by adopting a civil dialogue agreement.
5. Building the resilience of the civic sector through truly empowering funding policies: Implement funding policies that empower communities and respond to real needs, embedding human rights and participatory grant-making principles that get civil society out of the “starvation cycle”.

A large crowd of people at a protest, many holding rainbow flags and signs. The scene is filled with energy and diversity, with people of various ages and ethnicities participating. Some are holding up their phones to take photos or videos. The background is slightly blurred, emphasizing the density of the crowd.

METHODOLOGY AND ACKNOWLEDGEMENTS

Civic Space Report 2024

The following report is coordinated and edited by the European Civic Forum (ECF). It is composed of a horizontal analysis looking at pan-European developments in civic space and the enabling environment for civil society in the European Union for 2023 written by the ECF and 15 country reports written by civil society experts on the ground.

The ECF bases its analysis of civic space in Europe on six elements² that we believe are crucial for an open and vibrant civic space:

1. **A conducive institutional, political and socio-economic landscape:** the historical legacy of political culture, together with socio-economic structures and contingent events, profoundly shape the public's understanding of the role of civil society and the values it embodies, the activities it pursues, thus influencing public trust and support.
2. **The respect of civic freedoms:** a supportive legal and regulatory framework for civic freedoms, in particular freedoms of association, peaceful assembly and expression, and its effective implementation ensure the protection of civil society space.
3. **Safe space and state duty to protect:** public authorities have a duty to protect civil society actors and human rights defenders from physical, verbal and judicial attacks linked to their human rights' work by taking action against perpetrators.
4. **A supportive framework for CSOs' financial viability and sustainability:** supportive legislation on funding, including foreign and international funding, and availability of sufficient and predictable resources are crucial to civil society's capacities, independence and long-term strategic planning.
5. **The dialogue between civil society and governing bodies:** governing bodies must pursue policies and narratives that empower citizens and their organisations to be meaningfully engaged in the public debate and policymaking.
6. **Civil society's resilience to challenges to democracy, rule of law and fundamental rights.**

On the basis of these pillars, the ECF developed a questionnaire (in annex) to guide the contributors' analysis of their national context.

The horizontal analysis written by the ECF draws on the findings of the country and thematic reports, the ECF's **Civic Space Watch** platform, data from the Fundamental Rights Agency and the CIVICUS Monitor, and interviews conducted or information collected from the following regional

²Such categories reflect (I) the European Union Agency for Fundamental Rights (FRA)' methodology analysing challenges facing civil society organisations working on human rights in the EU, (II) the recommendations for the creation and maintenance of a safe and enabling environment for civil society based on good practices and lesson learned by the UN Higher Commissioner for Human Rights, and (III) the monitoring matrix elaborated by the Balkan Civic Society Development Network and used by DG NEAR in the European Commission.
















METHODOLOGY AND ACKNOWLEDGEMENTS

organisations, to whom we are grateful for their expertise: Transgender Rights Europe (TGEU), Saami Council, European Sex Worker Rights Alliance – ESWA, Jüdische Stimme, Een Andere Joodse Stem/Another Jewish Voice, European Legal Support Centre (ELSC), Platform for Undocumented Migrants (PICUM).

The pan-European chapter on restrictions against organisations and individuals expressing solidarity with Palestine draws on cases in country reports, interviews and media and social media monitoring.

The country reports are written by 15 member and partner organisations, on the basis of our questionnaire. The authors choose the areas on which to focus on based on their expertise and the relevance of the issues for their national context.

We would like to thank these organisations and individuals, listed below, for their contribution.

-  Bündnis Für Gemeinnützigkeit (Austria)
-  Bulgarian Center for Not-for-Profit Law (Bulgaria)
-  Glopolis and NeoN Coalition (Czech Republic)
-  Human Rights House Zagreb (Croatia)
-  Nyt Europa (Denmark)
-  Maecenata Institute (Germany)
-  Network of Estonian Non-profit Organizations, (Estonia)
-  Ligue des droits de l'Homme - LDH (France)
-  Dominika Spyratou, migration and human rights consultant (Greece)
-  Ökotárs - Hungarian Environmental Partnership Foundation (Hungary)
-  Civic Alliance Latvia (Latvia)
-  National Federation of Polish NGOs – OFOP and Institute of Public Affairs (Poland)
-  Center za za informiranje, sodelovanje in razvoj nevladnih organizacij - CNVOS, Center for Information, Cooperation and Development of Non-Governmental Organizations (Slovenia)
-  International Institute for Nonviolent Action – NOVACT, in cooperation with Omnium Cultural (Spain)
-  Balkans Civil Society Development Network (Western Balkans)

A large crowd of people, many wearing black clothing and holding signs, is gathered for a protest. The scene is dimly lit, with some individuals holding up signs that are partially visible. A prominent yellow rectangular box is overlaid on the lower-left portion of the image, containing the text 'HORIZONTAL ANALYSIS' in bold, black, uppercase letters.

HORIZONTAL ANALYSIS

Introduction

Civic freedoms are in decline globally, with only two per cent of the world's population able to enjoy their right to associate, protest and express dissent without significant restrictions.³ A five-year analysis (2019-2024) of civic space by the CIVICUS Monitor shows that, in Europe, previously stable and established democracies with strong institutions have also experienced a deterioration of civic space.⁴ In 2023, this trend of deterioration continued. This chapter analyses developments in civic space in both the EU and Western Balkans, based on information and data stemming from the country and thematic chapters in this report and the findings of the Civic Space Watch platform.

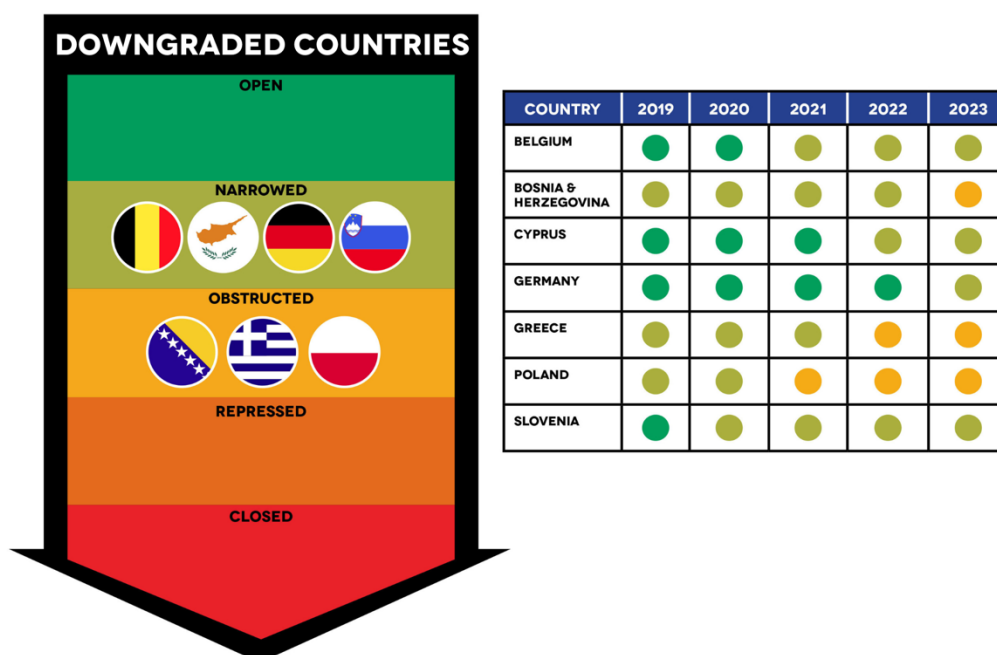


FIGURE 1: DOWNGRADED COUNTRIES IN 2023 (CIVICUS MONITOR, 2024)

It is divided into five sections. The **first section** provides an overview of the political, social and economic context which has shaped the space for civil society, while the **second section** summarises key developments in civic space in 2023.

³ https://monitor.civicus.org/globalfindings_2023/innumbers/

⁴ <https://monitor.civicus.org/rights-reversed-2019-to-2023/>

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The **third section** takes a closer look at the state of three pillars of civic space: structured participation of civil society in policymaking, protection, and funding. These three areas were chosen as the European Council's conclusions on the role of the civic space in protecting and promoting fundamental rights⁵ and the European Commission's recommendations on promoting the engagement and effective participation of citizens and civil society⁶, both commit to supporting civil society in these areas. These pillars would also be key components of a European Civil Society Strategy aimed at developing coherent policies and tools addressed at civil society in Europe.⁷ In 2022, over 300 CSOs called on the European Commission to develop such a strategy⁸, a call later backed by the European Parliament.⁹

Finally, based on the evidence contained in this report, the **fourth section** provides recommendations to EU institutions to address in the context of the institutional renewal following the European elections. In that context, a coalition of civil society organisations launched the Civil Society for EU manifesto¹⁰, which calls for the EU to truly recognise and promote the role of civil society through a Civil Society Strategy and a Civil Dialogue agreement.

Context

Civic space and the enjoyment of associative freedoms cannot be insulated from the socio-economic, political and geopolitical context. These factors profoundly shape not only the regular policies or responses to crisis by authorities, but also the resources and capacities of different civil society actors to mobilise and speak out.

In 2023, **democratic backsliding** continued to be an underlying factor affecting civic space in Europe and globally. V-Dem Institute's Democracy Report 2024 finds that in 2023, the level of democracy experienced by the average person globally decreased to levels reminiscent of those seen in 1985,

⁵ <https://data.consilium.europa.eu/doc/document/ST-7388-2023-INIT/en/pdf>

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023H2836#:-:text=To%20enable%20their%20effective%20participation,the%20Internal%20Market%20fundamental%20freedoms>

⁷ <https://www.amnesty.eu/wp-content/uploads/2022/06/Letter-to-Ms-von-der-Leyen-pdf.pdf>

⁸ <https://civic-forum.eu/call-for-action/300-csos-call-on-the-european-commission-for-a-european-civil-society-strategy-join-our-campaign>

⁹ <https://www.europarl.europa.eu/news/en/press-room/20220304IPR24799/civil-society-parliament-calls-for-eu-rules-and-strategy-to-counter-threats>

¹⁰ <https://civic-forum.eu/wp-content/uploads/2023/12/ECF-2024-MANIFESTO-4.pdf>

nearly four decades ago. The most significant declines in democracy have been observed in Eastern Europe, where the level of democracy enjoyed by the average person has steadily decreased to levels last observed in 1990, prior to the collapse of the Soviet Union. Prominent examples of the consolidation of autocracy in the post-Soviet era include **Belarus** and **Russia**, which has a sizable population and is responsible for a large proportion of the overall decline. Autocratisation is also evident within the European Union in countries such as **Greece, Hungary, Poland, and Romania**. According to the index¹¹, western Europe has also experienced a gradual decline in democracy since around 2010, with no country showing a trend of significant improvement. Additionally, the World Justice Project Index 2023 shows that the rule of law is in decline globally, with at least 11 EU member states witnessed an overall decline over the last five years, including **Belgium, the Netherlands, Greece, Spain and Romania**.¹² Democratic backsliding goes hand in hand with decline in democratic trust. Many people feel that their needs are unaddressed and their voices are not being heard through democratic processes and by their political representatives, both at national and EU level¹³. In 2023, the Pew Research Centre found that in several EU member states, including the Netherlands (63%), Germany (63%), Poland (69%), France (74%), Hungary (78%), Greece (81%), Spain (85%), many people feel that their elected officials do not care about what they think.

In 2023, the political and socio-economic landscape in the EU was shaped by **elections** in several EU member states including **Bulgaria, Estonia, Latvia, Greece, Poland, Spain, and the Netherlands**. In **Greece**, the New Democracy party, which has restricted the space for civil society, was victorious again. In **Spain** the conservative Partido Popular (PP) and far-right Vox were able to get into government in various city councils and regional executives, and soon after took steps to end their work supporting victims of sexist violence. In **the Netherlands**, the far-right Freedom Party (PVV) won the largest number of seats in the national elections. Meanwhile, in the Western Balkans, pending elections have blocked major legislative processes in **North Macedonia**, while in **Serbia**, concerns over manipulated elections in December 2023 have intensified civic activism.

In this political context, the scapegoating of excluded groups in society by politicians during electoral campaigns and in general remained a concern. For example, in **Poland**, LGBTQI+ people (in particular transgender people), and asylum-seekers were targeted by negative political rhetoric. Similarly, the **Dutch** elections were dominated by anti-Muslim and xenophobic rhetoric. The targeting of LGBTQI+

¹¹ v-dem.net/documents/43/v-dem_dr2024_lowres.pdf

¹² <https://worldjusticeproject.org/rule-of-law-index/downloads/WJPIInsights2023.pdf>

¹³ **At least seven out of 10 people in France, Greece and Spain are dissatisfied with the state of their democracy . The largest drop can be seen in France, with a 17 percentage-point decrease in satisfaction between 2022 and 2023, followed by Germany, Netherlands and Hungary. In several EU member states, including the Netherlands (63%), Germany (63%), Poland (69%), France (74%), Hungary (78%), Greece (81%), Spain (85%), many people feel that their elected officials do not care about what they think. The largest drop can be seen in France, with a 17 percentage-point decrease in satisfaction between 2022 and 2023, followed by Germany, Netherlands and Hungary.** <https://www.pewresearch.org/global/2024/02/28/representative-democracy-remains-a-popular-ideal-but-people-around-the-world-are-critical-of-how-its-working/>

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groups in **Hungary** and **Romania** through anti-LGBTQI+ legislation continued in 2023. In **Greece**, refugees and migrants, Roma people and LGBTQI+ groups continued to face discrimination and abuse by law enforcement authorities. In the Western Balkans, LGBTQI+ and gender rights groups across the region are navigating a progressively hostile environment. In **Serbia** there have been major attacks on LGBTQI+ activists without adequate legal proceedings, while in **North Macedonia**, the Orthodox Church has continued to promote anti-LGBTQI+ protests and anti-gender movements. It is worrying that in many countries, anti-rights narratives emerging from the far-right are being channelled and normalised by mainstream institutions and parties. In particular, this has been seen in the case of anti-migration narratives and policy proposals, such as the new EU pact on migration, which paints people on the move as suspects¹⁴, provoking anti-migrant sentiments.

Inflation and the cost-of-living crisis were significant concerns for people and civil society across Europe, affecting the way many people feel democracy works for them. In June 2023, EU data revealed that 95.3 million people, constituting 21.6 per cent of the population, were at risk of poverty or social exclusion in 2022,¹⁵ primarily due to unemployment. Poverty rates soared in countries like **Romania, Bulgaria, Greece, Spain, and Latvia**, exceeding 25 per cent.¹⁶ In **France**, according to the National Energy Ombudsman¹⁷, there were 178,000 electricity cut-offs and 87,300 gas cut-offs due to unpaid bills, up three per cent on 2022 and 49 per cent on 2019, a stark example of worsening economic conditions. While inflation across the EU decreased in 2023, some member states, notably **Hungary**, continued to experience significant inflation.¹⁸ Concerns were raised about the accessibility of public services for marginalised groups, including the homeless, Roma, people with disabilities, and single-parent households. Additionally, millions of people in non-standard employment¹⁹, as well as the self-employed, lacked access to unemployment benefits. Despite increased social protection expenditure in most EU states in 2022, overall spending as a proportion of GDP decreased.²⁰ This grim social picture is expected to worsen in the coming years, as the new EU fiscal rules adopted in 2023 fail to deal with the root causes of poverty and inequalities.²¹ The rules introduced stringent debt and deficit benchmarks, which will force the overwhelming majority of member states to cut back on social and green investment.²²

¹⁴ **The EU Migration Pact: a dangerous regime of migrant surveillance_#ProtectNotSurveil_10 April 2024 (equinox-eu.com)**

¹⁵ **Living conditions in Europe - poverty and social exclusion - Statistics Explained (europa.eu)**

¹⁶ **File: People at risk of poverty or social exclusion 2022 12-06-2023.jpg - Statistics Explained (europa.eu)**

¹⁷ **<https://www.energie-mediateur.fr/1-million-d-interventions-pour-impayees-de-factures-denergie-en-2023/>**

¹⁸ **World Report 2024: European Union | Human Rights Watch (hrw.org)**

¹⁹ **An umbrella term for forms of employment that deviate from the standard, including temporary employment, part-time and on-call work and agency work. For more information see:**

<https://www.ilo.org/topics/non-standard-forms-employment#:~:text=They%20include%20temporary%20employment%3B%20part,employment%20and%20dependent%20self%20Deployment.>

<https://www.ilo.org/topics/non-standard-forms-employment#:~:text=They%20include%20temporary%20employment%3B%20part,employment%20and%20dependent%20self%20Deployment.>

²⁰ **Ibidem.**

²¹ **<https://www.eapn.eu/eu-fiscal-rules-reform-risks-going-wrong/>**

²² **Publication - Fiscal Rules Report.pdf (etuc.org)**

In this context, calls to defend democracy are ringing out across the European Union. Decision-makers face a dual challenge: responding to internal vulnerabilities and to attacks from outside. The success of the latter depends largely on the erosion of cohesion inside our societies. Addressing these concerns, the European Commission launched the "**Package for the Defence of Democracy**", which is primarily aimed at foreign interference. Civil society has stressed that it is essential to broaden this scope and recognise the importance of tackling our internal democratic vulnerabilities. Democracy's strength lies in its ability to generate fair and effective policies. Its success is measured by how well these policies address societal needs across diverse contexts and lived experiences, including social, economic, environmental, and cultural. Legitimacy is established through the ability of democratic systems to foster social inclusion, address insecurities, and promote cohesion for a shared future. The proposed approach of the Defence of Democracy package fails to take these factors into account and address them. On the contrary, the new EU fiscal rules introducing stringent debt and deficit benchmarks go in the opposite direction.

Additionally, as part of the package, the Commission proposed a directive which aims to "introduce common transparency and accountability standards in the internal market for interest representation activities carried out on behalf of third countries". This proposal, known as the foreign funding directive, has led to serious concern and action in civil society in 2023. Using foreign funding as an indication of an association's risk to democracy contradicts international standards protecting civil liberties. The focus on foreign origins risks mirroring the rise of reactionary nationalism and extreme right-wing ideologies. Such regulations burden associations with excessive administrative requirements and can lead to stigmatisation and harassment. This directive, just like similar national laws already in place, worryingly insinuates that entities funded from outside the EU may be reasonably suspected of engaging in malevolent activities on behalf of third countries. This ultimately undermines EU's credibility and legitimacy in defending democracy and civil society beyond our borders.

Finally, the **geopolitical context** has shaped civic space in 2023. A double-standard approach to conflict and migration risks perpetuating Europe's colonial legacy in the Global South. A prominent example being the difference in the treatment of migrants coming from Ukraine compared with those coming via Belarus from other zones of conflict such as Syria, Afghanistan and Iraq. The EU's militarised approach to migration has led to systematic violations of migrants' rights, including illegal pushbacks and the denial of the right to claim asylum, and the criminalisation of those defending them.

This double-standard was dramatically illustrated by EU's response to the escalating violence in Israel and Palestine and the wider Middle East after the Hamas attack on 7 October and Israel's military campaign that has killed more than 35,000 civilians in Gaza and involved actions which are now under investigation by the International Court of Justice. Several member states have silenced the voice of people who are expressing solidarity with the Palestinian people, calling for the protection of civilians and an unconditional ceasefire, while allowing demonstrations in support of Israel.

Key developments in European Civic Space in 2023

The following section describes some of the main developments emerging across the country and thematic chapters and draws on resources collected on the European Civic Forum's civic space monitoring tool Civic Space Watch in 2023.

Focus on foreign interference fosters climate of suspicion against civil society

Legislative proposals for so-called Foreign Agents' Registration Acts (FARA) have been put forward in **Bosnia and Herzegovina, Bulgaria, Poland, and Slovakia** in 2023 and 2024. Since 2015, civil society in Bulgaria has continued to advocate against the adoption of a such a law. In April 2023, following the parliamentary elections, a FARA bill was submitted by the far-right party Revival (*Vazrajdane*), which has continuously labelled civil society and the media as "foreign spies." In **Slovakia**, the far-right Slovak National Party (SNS), which is part of the government coalition, put forward draft amendments to the law on CSOs, which introduces provisions for designating CSOs as foreign-supported organisations.²³

Under the guise of tackling foreign interference, the intentionally vague wording of the Defence of Sovereignty law in **Hungary** potentially targets any critical person or organisation - including CSOs, journalists, philanthropic donors, trade unions or churches. In **Bosnia and Herzegovina**, the recently adopted draft Foreign Agents' Law targets and stigmatises foreign-funded organisations. The proposed act has parallels with Russia's controversial law, aiming to regulate foreign-funded

²³ Dokumenty: Parlamentné tlačë : Parlamentná tlač 245 - Národná rada Slovenskej republiky (nrsrc.sk)

organisations operating within Republika Srpska, through the requirements to register as “foreign agents” and to disclose detailed financial information, activities, and affiliations. In Georgia, a foreign agents bill was passed into law despite mass protests.²⁴

Similarly, at the European level, the proposed foreign interference directive, part of the **Defence of Democracy package**, puts civil society at risk of administrative burden, stigmatisation and harassment.²⁵ The proposal is already encouraging some political actors to restrict civic space. For example, during a parliamentary debate in **Bulgaria** on the FARA bill, the Revival party claimed that they were merely “transposing” the planned EU directive early. Members of the **Hungarian** parliament also referred to the European law in the debate of the country’s controversial Sovereignty Act.²⁶

These newly proposed laws, together with existing restrictive laws, in the absence of reforms, have negatively affected the freedom of association in 2023²⁷. In **France**, the law “on the respect of the republican principles” (Law No. 2021-1109 of 24 August 2021), known as the Separatism Law, and its provisions relating to the so-called “Republican Commitment Contract”, has considerably broadened the grounds for dissolving associations and tightened up funding control measures. Between 2021 and 2023, the government ordered the dissolution of several associations and groups, including *Les Soulèvements de la Terre*, *Groupe Antifasciste Lyon et Environs* (known as “GALE”), *Bloc Lorrain* and *Coordination Contre le Racisme et l’Islamophobie*. Each of these organisations applied to the Council of State to have its dissolution annulled, with successful applications in some cases. In **Greece**, following pressure, the Ministry of Migration and Asylum privately communicated to CSOs that the registration requirements for CSOs and individuals working on migration-related issues would be reviewed and amended, but no such actions have been taken to date. In **Romania**, a newly passed law severely restricts CSOs right to appeal to the court and in particular limits the ability of environmental CSOs to challenge development projects and initiate public interest litigations.

Right to protest remains under threat, environmental defenders particularly targeted

²⁴ <https://www.politico.eu/article/georgia-parliament-pass-foreign-agent-russian-law-amid-pro-eu-protest-crackdown-tbilisi/>

²⁵ <https://civic-forum.eu/wp-content/uploads/2024/01/Defence-of-Democracy-an-analysis-of-the-foreign-funding-directive.pdf>

²⁶ Sándor Czinkóczy. (2023). Varga Judit már a fősodratú médiát is a magyar érdekek ellenségei közé sorolta a parlamentben. 444.hu. Last accessed on 19 March 2024 at <https://444.hu/2023/11/28/varga-judit-mar-a-fosodratu-mediata-is-a-magyar-erdekek-ellensegei-koze-sorolta-a-parlamentben>

²⁷ <https://civic-forum.eu/civic-space-report-2023-fighting-for-democratic-empowerment-and-resilience>

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In our previous civic space reports, we have documented how several EU member states have passed legislation restricting the right to protest.^{28,29,30} The regulatory landscape governing the right to peaceful assembly in several member states continues to contravene international standards.

In **Spain**, both the Organic Law regulating Citizen Security (LO 4/2015, March 30), also known as the Gag Law, and the recently reformed Penal Code (LO 10/1995, November 23), have been criticised for being out of line with international and European human rights standards.

In **Germany**, the Assembly Act in North Rhine-Westphalia bans on counter-demonstrations, joint preparations for demonstrations and demonstrations on motorways, in addition to authorising general – including secret – video surveillance of assemblies and unlimited storage of this data, in violation of the Constitution.

In **Greece**, the 2021 Law 4703/2020 regulating peaceful assemblies remained in force despite concerns by civil society, the opposition and other actors. And in the **Western Balkans**, legislative gaps remain, with online or digitally-mediated assemblies not recognised explicitly as specific forms of assemblies in legislation. This bears an inherent risk of restrictive interpretation of the general rules of assemblies, privacy and data protection.

Violations of the right to peaceful protest have been frequently documented in the EU. According to CIVICUS Monitor's data, intimidation, detention of protesters and disruption of protests are among the top five civic space violations in Europe. Incidents of protest bans, the detention of protesters, police violence and the use of excessive force, and the systematic impunity of police officers have been documented in several member states.

Environmental and climate rights defenders were particularly targeted in 2023, including in **Austria, Denmark, Germany, Italy, the Netherlands** and **Spain**. Authorities in many member states have responded to these forms of activism with criminalisation, such as in Italy, where the “eco-vandalism bill” introduced harsher penalties for environmental defenders.³¹ In **Austria**, activists from climate group *Letzte Generation Österreich* (Last Generation Austria) faced detentions and legal threats due to some actions of civil disobedience, with more than 300 legal procedures against the group reported in 2023. In **Spain**, the *Defender, a quien Defiende* platform, reported at least 60 active cases against climate activists and a new investigation shows the systematic criminalisation and persecution of environmental movements.³² In **France**, the so-called separatism law has been used to dissolve and

²⁸ <https://civic-forum.eu/wp-content/uploads/2023/03/Civic-Space-Report-2023-European-Civic-Forum.pdf>

²⁹ <https://civicspacewatch.eu/elementor-16622/>

³⁰ https://civic-forum.eu/wp-content/uploads/2020/11/INT_ACTIVIZEN5_BAF.pdf

³¹ <https://www.wired.it/article/ecovandali-legge-governo-meloni-proteste-clima-ultima-generazione/>

³² <https://defenderaquiendefiende.org/defender-a-quien-defiende-denuncia-que-entre-2022-y-2023-ha-sistematizado-al-menos-131-vulneraciones-de-derechos-humanos-contra-futuro-vegetal/>

defund environmental organisations and movements utilising civil disobedience tactics, such as the association *Alternatiba*³³ and the network *Les Soulèvements de la Terre*.^{34,35}

³³ <https://civicspacewatch.eu/france-victory-for-alternatiba-as-a-court-rejects-a-request-to-withdraw-its-subsidies/>

³⁴ <https://civicspacewatch.eu/france-the-council-of-state-annuls-the-dissolution-of-les-soulevements-de-la-terre/>

³⁵ <https://civicspacewatch.eu/france-police-clash-with-environmental-activists-in-sainte-soline/>

Repressions against those expressing solidarity with Palestine

Following the dramatic escalation of violence in Israel and Palestine, many people in Europe have taken to the streets to peacefully protest, to show solidarity with the victims and to call for the respect of human rights and international law. These protests are unfolding amid an increase in hate speech and hate crimes targeting both Jewish and Muslim communities in Europe. Repression of the movement of people showcasing solidarity with the Palestinian people is one of the most striking cross-cutting trends emerging in the country chapters contained in this report.

In **at least 12 EU member states**, authorities have taken disproportionate measures, including the pre-emptive banning of protests based on apparent risk to “public order” and “security”. Such cases have been documented in **Austria, Belgium, Bulgaria, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Poland** and **Sweden**. In several member states, the courts have later overturned these bans.

The crackdown has also included the use of excessive force in **at least seven member states**, including the use of pepper spray, deployment of police dogs, physical aggression, and kettling tactics. This creates a climate of fear and intimidation and violates international human rights standards. Protesters have been subject to intimidation, harassment and arbitrary detentions including in **France, Germany**, and **the Netherlands**. For example, Jewish activist Iris Hefets was arrested after she staged a solo protest in Berlin and held a sign which read “As an Israeli and Jew, stop the genocide in Gaza.”

Several member states, including **Germany, France** and **Italy**, have conflated legitimate criticism of Israeli authorities with antisemitism and silenced Palestinian, Jewish and other activists. Individuals have faced repercussions for speaking out, including dismissal, disciplinary action or threats of deportation if they are foreign nationals. For example, Berlin authorities cancelled the Palestine Kongress event and deported British Palestinian doctor on the grounds of safety and security.

On social media, organisations and individuals showing support for the Palestinian cause have reportedly been shadow-banned, including in **Denmark** and **Spain**. Several member states including **Austria, France, Germany**, and **the Netherlands** have censored and in some cases criminalised the chant “From river to the sea, Palestine will be free”.

A climate of fear for excluded groups

Online verbal threats and attacks as well as offline, in-person attacks have been documented in several member states including the **Czech Republic, Denmark, Estonia, Germany, Poland** and **Spain**. Often, these attacks are perpetrated by political forces smearing and vilifying critical voices

and excluded groups. In the Western Balkans, particularly in Republika Srpska in **Bosnia and Herzegovina**, political leaders' inflammatory rhetoric and persistent attacks have heightened the vulnerability of civil society, while in the Herzegovina-Neretva Canton, CSOs have faced repeated and excessive audits. In **Serbia**, the systematic misuse of the media to tarnish the reputation of CSOs has become alarmingly common, especially for organisations like the Belgrade Center for Security Policy and Center for Research, Transparency and Accountability, which addresses sensitive social issues and often criticises government policies.

Women, LGBTQI+ people, refugees and asylum seekers, and ethnic and religious minorities are disproportionately targeted by such attacks. For example, in **Poland**, those working on sexual and reproductive health and rights have continued to face threats and attacks from non-state and state actors in 2023. In **Spain**, online hate speech including racist, misogynistic, homophobic, transphobic and Islamophobic attacks, particularly on X (formerly Twitter), remain an issue. Offline attacks have also been documented - on 8 March, a driver hit three feminist protesters who were blocking one of the main roads in Barcelona.

Threats to LGBTQI+ rights have continued in 2023. In **Estonia**, during Baltic Pride Solidarity Week, a Finnish pastor was stabbed due to their sexual orientation and/or religious affiliation while participating in an open prayer organised by the Association of Gay Christians. Three other people were injured during the attack.³⁶ In **Bulgaria**, a transgender women activist, who staged a solo protest, was detained and subjected to degrading treatment, including being stripped naked and inspected by a male police officer to "identify her." In **Denmark**, LGBTQI+ organisations reported an increased sense of fear, affecting their work and sense of security. In some organisations, this has led to senior staff members having secret addresses and to the establishment of direct contact lines with security forces. Activists in **Bosnia and Herzegovina** addressing issues such as anti-corruption, the environment, women's rights, and LGBTQI+ rights have been subjected to continuous threats, abuse, physical assaults, and legal harassment.

Ethnic and religious minorities and indigenous people continue to face threats and attacks. In **Finland**, the Saami Council reported that, when questions about the Sámi rights are discussed, they often face hate speech, often instigated by political parties, for publicly expressing their opinion and actively participating in the public debate.³⁷ In the context of the escalating violence in the Middle East, threats and attacks have particularly affected Jewish and Muslim organisations, fostering a climate of fear. For example, in **Germany**, Jewish religious centres and organisations have been attacked and vandalised.³⁸ At the same time, authorities have patrolled the streets, harassed and

³⁶ <https://humanrights.ee/en/materials/inimoigused-eestis-2024/lgbt-inimeste-olukord/>

³⁷ <https://yle.fi/a/3-12679816>

³⁸ <https://www.dw.com/en/molotov-cocktails-thrown-at-berlin-synagogue-police/a-67134803> - :text=The attack occurred around 3,broke, extinguishing the fire."

arrested civilians in the Berlin district of Neukölln, home to large Turkish and Arab communities, an act that was denounced by 120 Jewish intellectuals.³⁹

CASE STUDY: Indigenous Sámi people face threats to rights and civic space

by the Saami Council

The indigenous Sámi people, living in the northern parts of Sweden, Norway, Finland, and Russia, confront a multitude of challenges regarding their rights and safety. Historically, the Sámi have faced challenges such as assimilation policies and being subjected to religious conversion, losing their lands, and being stripped of their culture. Despite some progress, today they still face violations, including discrimination, intimidation, racism, hate speech, and threats to their culture and traditional ways of life, which considerably affect their access to civic space and fundamental rights.

In recent years, increased incidents of threats, hatred, and violence towards the Sámi people have been reported in Sweden. Sámi people have been subjected to death threats, and their reindeers – a crucial part of their livelihood – have been tortured and killed in violation of their economic, social and cultural rights. Investigations by the media show that the Swedish police rarely investigate these hate crimes against the reindeer herding Sámi.¹ During the Swedish elections in 2022, misinformation about Sámi and their rights was spread, which led to further tension in the country.

Similar issues plague Sámi communities in Finland, Norway and Russia, where hate speech has become alarmingly prevalent, particularly in online forums and public debates. A report from Amnesty International Norway shows that every fourth expression about the Sámi on Facebook is negative.¹ According to the study, prejudices and negative stereotypes about Sámi people increase when Sámi issues, particularly Sámi and land rights, are in the media. This was observed in Finland during the renewal of the Sámi Parliament Act in 2023, which ignited heated rhetoric, with notably the Centre Party politicians contributing to a hostile environment. Sámi activists who publicly expressed¹ their opinion about the Act faced online threats and hate speech.

EU policies, especially those related to the green transition, mineral extraction and renewable energy, introduce complexities in Sápmi, the area where the Sámi communities live. The EU's pursuit of climate and environmental goals has resulted in increased land encroachments in Sápmi. This has caused tensions as these policies do not adequately consider the rights of indigenous peoples, leading to disputes over land use, resource management, and the preservation of cultural heritage. These challenges are portrayed as a conflict between indigenous peoples' rights and the interests of the majority population, which gives rise to an increase in hate speech against the Sámi population.

³⁹ <https://www.nplusonemag.com/online-only/online-only/freedom-for-the-one-who-thinks-differently/>

Legal intimidation and harassment continue

In our previous reports, we have documented the use of legal harassment, intimidation and criminal prosecution against civil society and activists in several member states. This trend has continued in 2023. Data from the CIVICUS Monitor confirms that intimidation is the number one tactic used in the EU to restrict civic actors, organisations and journalists. It is particularly concerning when representatives of civil society organisations and human rights defenders are criminally prosecuted for their human rights actions. For example, in **Spain**, the National Court announced that 12 people are under investigation for terrorism in connection with their alleged participation in peaceful protests and acts of civil disobedience.⁴⁰

According to the Platform for Cooperation with Undocumented Migrants (PICUM), in 2023 at least 117 individuals faced criminal or administrative proceedings for acting in **solidarity with migrants** in the EU, with the highest number of cases documented in **Italy** and **Greece** (74 and 31 respectively). Additionally, at least 76 migrants were subjected to criminalisation under counter-smuggling legislation, with the highest number of cases in **Greece, Italy, and Spain**. In **Poland**, an activist assisting at the Polish and Belarusian border was arrested on charges of human trafficking and is currently awaiting trial. At the same time, European policies, in particular the New Pact on Migration and Asylum introduces a package of reforms expanding the criminalisation and digital surveillance of migrants.⁴¹ In several of the cases mentioned, authorities resorted to surveillance, including through the use of intrusive technologies, to build its case against the human rights defenders.

Strategic Lawsuits Against Public Participation (SLAPPs) have also been documented in several member states including **Austria, Croatia, Poland** and **Romania**. As of July 2023, the CASE coalition database in Europe noted over 820 cases. Notably, over 245 new lawsuits were initiated against journalists in **Croatia**. In **Germany**, sex worker rights defender Ruby Rebelde was found guilty of damage to reputation and defamation in July 2023, after *Sisters e.V.*, which advocates for the end to prostitution, brought a case against her. The decision has been appealed by the European Sex Workers Alliance.

SLAPPs are not only used to legally intimidate actors and organisations, but also to financially drain them, as seen in **Romania**. In December 2023, a court ruled against an NGO in a case brought by a real estate developer, forcing it to close down as it could not pay the exorbitant legal expenses of approximately €12,000, on top of the €10,000 in legal fees it had already paid. **Serbia** and **Bosnia and Herzegovina** rank among the highest in the Western Balkans for SLAPP cases, with journalists, media organisations, activists, CSOs and especially environmental defenders being the primary targets.

⁴⁰ <https://civic-forum.eu/publications/open-letter/joint-letter-solidarity-for-activists-in-catalonia-accused-of-terrorism>

⁴¹ <https://www.equinox-eu.com/wp-content/uploads/2024/04/The-Migration-Pact-ProtectNotSurveil.pdf>; **More than 160 Civil Society Organisations call on MEPs to vote down harmful EU Migration Pact - PICUM**

Draining resources: Burdensome registration and reporting requirements

Despite some positive developments, such as the start of the first national regranting projects of the Citizens, Equality, Rights and Values Programme (CERV), civil society continues to experience a wide range of funding challenges, including the access, availability, transparency and sustainability of funding. This contributes to slowly eroding civil society's capacities (read the spotlight for more information). Across the region, burdensome registration, funding applications and reporting requirements drain CSOs' resources and capacities and contribute to negatively affecting their ability to focus on their mission.

In several member states, CSOs report experiencing **administrative burden** as a result of complicated funding applications. In **Croatia**, the administrative requirements that organisations must meet are continuously increasing, while the financial support for ensuring sustainable administrative, financial, and operational activity for the organisations is not. In **Denmark**, the application processes and different application systems are costly, and the work that goes into applying is rarely funded. Strict registration requirements for NGOs in Greece, a prerequisite to accessing national funds, make access to these funds even more difficult, especially for smaller organisations.

Despite attempts at reforms, in **Poland**, new registration procedures have not solved long-standing problems with registration. Rather, the process of registering a new organisation continued to take a long time in some parts of the country. In **Romania**, there have been 14 attempts to modify laws dealing with the procedures governing the establishment and operation of CSOs, resulting in a rigid, cumbersome, bureaucratic, and time-consuming landscape. CSOs have raised concerns over unclear laws and non-uniform judicial practices, lengthy procedures, as well as a lack of centralised data and communication between various state institutions.

In **Greece**, the government launched two digital databases to collect information about CSOs, their operations and the state funding they receive (Joint Ministerial Decision 6216/2023). While the registries are important to ensure transparency and NGO regulations, over 300 NGOs expressed concerns about the legislation when it was proposed in 2021, in particular over the databases which introduce many registration requirements.

Legal frameworks on anti-money laundering and terrorism financing further challenge CSOs in several countries in the EU and Western Balkans, including through issues like restricted banking access, enhanced due diligence processes, unfeasible reporting requirements or inapplicable

beneficial ownership registration provisions.⁴² Efforts are being made across **Albania, Bosnia and Herzegovina, Montenegro, and Kosovo** to address these challenges through risk assessments and small, but mostly positive, legislative reforms. Additionally, CSOs are navigating a complex landscape of regulatory changes, bureaucratic inefficiencies, and financial uncertainties. While some progress is noted in enhancing operational conditions for non-profits, significant hurdles in the tax framework, public funding reforms, and transparency remain.

Citizens' assemblies increasingly tested, but structured involvement of CSOs remains weak

In several member states, citizens councils and assemblies were tried and tested in 2023. However, the results have been mixed. For example, in **Germany**, politicians have organised citizens' councils, town hall meetings, and assemblies but have paid little attention to the format for such engagement which tends to crowd out organised civil society. A Climate Assembly convened in **Austria** resulted in 93 proposals for a climate-friendly future, but concerns have been raised about the actual implementation of these proposals. On a positive note, as part of the first Citizens' Climate Assembly (ACC) in **Spain**, twelve face-to-face participatory sessions were held between September 2022 and January 2023 in Barcelona, which resulted in recommendations which were handed over to the City Mayor and representatives of the political group. Additionally, a new mechanism for citizen participation, *Decidim.Barcelona*, was introduced by the Barcelona City Council, which promotes civil society initiatives and neighbourhood proposals which, after collecting a certain number of signatures, are directly included on the agenda of the city council's meetings.

While experimenting with direct citizen participation is an important positive development, 2023 was characterised by little to no progress in the engagement of organised civil society. Notably, in **Hungary**, despite the amendment of the Act on Public Participation in the Preparation of Legislation in response to the milestones set by the European Commission, there remains little or no room for CSOs and citizens to engage with public institutions and in decision-making. In **Bulgaria**, the Council for Civil Society Development (CCSD) barely functioned in 2023, although its establishment in 2022 was outlined as a positive development in the Commission's 2023 Rule of Law Report. However, in **Latvia**, the government has given both a political and financial commitment to support civil dialogue (read more below).

⁴² <https://balkancsd.net/novo/wp-content/uploads/2023/09/112-4-FINAL-Policy-Paper-AMLCFT-Regulations-and-Implications-on-Civil-Society-in-WBT.pdf>

Positive developments: Civil society's action leads to substantial human rights and democratic victories

Despite ongoing attempts to shrink the space for civic actors and civic organisations, there have been several positive cases demonstrating their resilience. Civil society across the EU increasingly embraced collaboration across sectors and networks, as witnessed in the **Czech Republic, Denmark, Hungary, Latvia** and **Spain**.

The solidarity movement with Palestine in **Spain** saw CSOs, trade unions, social movements and activists join forces. The campaign “Barcelona with apartheid no, Barcelona with human rights” was another remarkable success story of civic actors which saw more than 200 civil society organisations launching a new participatory mechanism in the city to collect signatures from people demanding the city of Barcelona to suspend all institutional relations with Israel. In the **Czech Republic**, *NeoN*, the civil society network of networks has increased to 20 members, associating over 600 CSOs across wide thematic fields ranging from environment, education, youth and informal education, aid, social housing, anti-corruption and volunteering. In **Hungary**, human rights and anti-corruption organisations increasingly cooperate with independent media outlets and with trade unions, teachers’ organisations and students’ movements, as witnessed during the protests related to public education.

Civil society also continues to be at the forefront of challenging violations of fundamental rights and ensuring accountability through the judicial system, as seen in **Estonia, France, Germany** and **Greece**. As a result of a successful case brought by the youth climate group Fridays for Future against **Estonia’s** largest energy company, the construction of an oil shale plant was suspended by a court order. In **Germany**, the *Gesellschaft für Freiheitsrechte* (GFF) sued the Federal Office for Migration and Refugees (BAMF) over its practice of retrieving asylum seekers’ mobile phone data to establish their identity and nationality, and this practice has been declared unlawful. The GFF also took on several other cases related to police violence, privacy and surveillance. As a result of legal challenges brought by *Ligue des Droits des L’Homme* (LDH) in **France** several bans on protestests, including those against pension reform and in solidarity with the Palestinian people, have been overturned.

Furthermore, civil society has played a remarkable role during elections held in several countries. During 2023, a key achievement of civil society in **Poland** was engagement in election monitoring, and the organisation of campaigns to promote voting. Both proved to be effective in targeting the public encouraging them to vote (including via TikTok and social media) and attracted large numbers to monitor the elections on 15 November. In **Estonia**, in the pre-election campaign, civil society actively took part by initiating debates, and analysing election promises, while organisations in different fields assessed the promises of political parties from their own perspective.

There have been some notable positive legal developments in relation to freedom of association as a result of civil society advocacy, including in **Austria, Denmark** and **Latvia**. In **Austria**, a legal reform,

which entered into force on 1 January 2024, has facilitated administration of the public-benefit status and could improve financial viability, by reducing the waiting period from three years to one, and simplifying procedures of independent auditors to confirm eligibility. In **Latvia**, the Ministry of Justice drafted amendments to the law governing associations and foundations which aim to enhance the regulation for greater participation of members, boards, and other stakeholders in the decision-making processes of organisations. They also seek to enable organisations to operate more efficiently and resourcefully by granting the right to conduct membership meetings electronically.

In the spotlight: A closer look at European commitments to empower, protect and support civil society

2023 marked important milestones for civic space in Europe, as the European Council adopted the Conclusions on the role of the civic space in protecting and promoting fundamental rights⁴³ and the European Commission adopted recommendations on promoting the engagement and participation of citizens and civil society.⁴⁴ Both of these documents demonstrate a commitment towards engaging, protecting and supporting civil society in Europe. The following section looks at the current state of play in three key areas: civil dialogue, protection, and funding, key areas for an **EU civil society strategy**, and identifies the gaps and extra support needed.

⁴³ <https://data.consilium.europa.eu/doc/document/ST-7388-2023-INIT/en/pdf>

⁴⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023H2836#:~:text=To%20enable%20their%20effective%20participation,the%20Internal%20Market%20fundamental%20freedoms>

Structured civil dialogue: implementation, resources and coherence are essential

What is civic participation and why does it matter?

A significant challenge faced by contemporary democracies is the disconnect between the general public and political institutions and decision-making bodies. Organised civil participation through civil society offers an avenue, in addition to participating in electoral politics, for people to express diverse perspectives and defend the common good in the decision-making arena.

The Council of Europe and the UN provide key principles and standards for civil participation both at the national and regional levels⁴⁵, which include: the transparency and accountability of institutions in decision-making processes; clear legal frameworks to enable participation for all; ensuring mutual respect, trust and cooperation; and sustainable funding and institutional support. Some of these principles are also reflected in the 2023 European Commission's recommendations on promoting the engagement and effective participation of citizens and civil society.

Civil participation for inclusive policy-making and action includes different forms and levels of engagement. From least to most participative, these are: **information, consultation, dialogue, and partnership**.⁴⁶

The state of civic participation in 2023

Access to information and consultation

Access to information and consultation are the first two stages of participation, which enable more advanced forms of engagement. Structural challenges such as short consultation times make it difficult for civil society to participate in decision-making, as raised in the country chapters on **Croatia, Denmark, Romania, Slovenia, Hungary, Spain** and **Greece**. Limited access to required information, data or law proposals is also a challenge.

Civil dialogue

⁴⁵

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802e-ed5c>

⁴⁶

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802e-ed5c>

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Civil dialogue is a permanent, structured and meaningful interaction between institutions and organised civil society. To be relevant, it must be inclusive, transparent and results-oriented, allowing for a substantive exchange of information, expertise, and experience, as well as providing room for feedback. It entails the co-creation of solutions and long-lasting partnerships between public authorities, CSOs and civil society at large. Such dialogue is designed to take place at all stages of the political decision-making cycle, from the framing of positions and priorities to evaluation.⁴⁷

The European Commission's 2023 recommendations on civic participation call on member states to "establish structured dialogues with civil society organisations on specific topics related to public policy-making processes," and to "ensure that such dialogues go beyond consultations for specific policy or legislative proposals, and are regular, long-lasting and result-oriented."⁴⁸

According to the Fundamental Rights Agency's (FRA) annual survey on civic space, the top two difficulties encountered by CSOs in the legal framework are access to information and legislation on civil dialogue and consultation, with 55 per cent and 50 per cent of respondents respectively saying they encountered difficulties often or sometimes. Additionally, transparency and lobbying laws were found to create challenges often or sometimes by 31 per cent of respondents.

In several member states, civil society participation in policy-making is formalised through the creation of committees or councils composed of both representatives of CSOs, elected by the sector, and members of the government, that, in principle, regularly contribute to policy-making. However, as illustrated in the country chapters of this report, the extent to which civil dialogue is implemented in practice varies across member states. In addition, marginalised groups continue to face barriers to participation.

In some member states, while dedicated policy frameworks and forums for such dialogue exist, their implementation remains weak. This was raised in the country chapters of **Croatia, Slovenia, Hungary, Czech Republic** and **Bulgaria**. Notably, in **Hungary**, despite the amendment of the Act on Public Participation in the Preparation of Legislation in response to the milestones set by the European Commission, there remains little or no room for CSOs and the public to engage with public institutions and in decision-making. The little progress on CSO participation in official consultative bodies (monitoring committees, the Anti-Corruption Task Force) is insignificant given the context in which the government adopted the Defence of Sovereignty Act. In **Croatia**, the appointment of civil society organisations to advisory bodies is often non-transparent in practice and the Council for Civil Society Development has almost completely ceased to be an actual platform for consultation and dialogue between CSOs and the government. Such practices have resulted in policy-making being perceived as opaque and inaccessible to the general public and advocacy organisations and undermined the legitimacy of decisions made.

⁴⁷ <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/strengthening-civil-dialogue-and-participatory-democracy-eu-path-forward>

⁴⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32023H2836>

In contrast, in **Latvia**, the government has expressed both the political and financial commitment to promoting a cohesive society, with plans to increase funding for civil society initiatives, develop a legal framework for civil dialogue, and strengthen the resilience of civil society. Two specific programs for civil dialogue will begin in 2024. The first program, funded under the European Social Fund Plus (ESF+), allocates €500,000 for the period 2024-2027 for the implementation of civil dialogue. The second program provides funding from the national budget for the Memorandum Council as the central civic platform.

The implementation of civil dialogue is also often contingent both on political will and the political landscape, including electoral outcomes. For example, in **Bulgaria**, civic participation processes were notably impacted following two years of political turmoil which impacted the work of many state institutions. In **Denmark**, the majority government opted to take decisions internally before opening up to consultation which limited the window for input from stakeholders and reduced access to key decision-makers in 2023. This is particularly the case in countries where there is no civil dialogue framework or civil dialogue legislation to regulate and guide the involvement of civil society in policy-making, such as **Germany, Austria** and **Greece**.

In **Austria**, cooperation between decision-makers and NGOs experienced a new high thanks to the openness of the governing Green Party, leading to important improvements in the framework conditions for NGOs. Nevertheless, this could easily shift with the change of the political landscape in the absence of strong rules for lasting dialogue.

As outlined in the country chapters, the transition from limited *ad hoc* consultations to a culture of participation as an integral part of decision-making requires not only the introduction of institutionalised mechanism, harmonising procedures across public administration, but also:

- 🔍 safe and enabling environment, with strong civic and democratic public education,
- 🔍 the development of motivation, capacities and skills for participation among public administration, politicians, the public and stakeholders⁴⁹,
- 🔍 appropriate funding and resources for civil society and for formal public structures enabling civil dialogue,
- 🔍 early engagement of civil society in the development of policies,
- 🔍 moving away from tokenistic and extractive⁵⁰ “check-box” exercises to meaningful, result-oriented partnerships.

⁴⁹ <https://www.oecd.org/governance/oecd-public-governance-reviews-czech-republic-41fd9e5c-en.htm>

⁵⁰By extractive we mean the repeated depletion of energy and resources of civil society with out anything in return.

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Challenges in these areas emerge with different intensity across the different country cases. For example, the quality of the dialogue often depends on individual politicians and officials in the state administration, even in good practice examples like **Latvia** and **Estonia**. For example, in **Estonia**, CSOs who were consulted for the Climate Act received no explanation on how much weight their contributions carried and whether their positions would be included in the legislation.

One of the most important indicators of the quality of the dialogue is whether it is result-oriented and it leads to effective impact. The findings of the FRA civic space survey for 2022⁵¹ showed that 50 per cent of CSOs who responded to the survey expressed concerns over the lack of outcomes and feedback when participating in policy-making.

Responding to the 2023 FRA survey, CSOs stated that the most relevant changes in accessing policy-making are: involving civil society from the onset of the participation process (43.8 per cent); consulting early enough before adoption of law and policy (37.6 per cent); better information about participation possibilities (24.7 per cent); funding for the time spent on input provided (22.7 per cent). Access to funding to participate in civil dialogue, advocacy and campaigning also emerges as the most important need regarding the funding framework.

Direct citizen engagement

Direct citizen engagement through citizens' panels, conventions or dialogue is complementary to the participation of civil society. NGOs can play an important role in the organisation of citizens' assemblies and offer infrastructure to sustain and carry forward the proposals emerging from them. As described above, in recent years, authorities in several member states have experimented by organising citizens' assemblies on different topics. However, the demands emerging from the assemblies have not always been integrated by policy-makers. It is important to stress that it is dangerous when democratic institutions and policy-makers do not address the messages and demands of this form of participation, as it can feed a sense of powerlessness and distrust. Additionally, the focus on EU citizens can lead to excluding people living in Europe with different legal status and risks making the policy-making process exclusionary and discriminatory.

Civic participation at the European level

Civil dialogue and the right to participation should be integral components of EU policy-making, as enshrined in Articles 10 and 11 of the Treaty on European Union (TEU)⁵² and international

⁵¹ <https://fra.europa.eu/en/publication/2023/civic-space-2023-update?page=6#read-online>

⁵² [resource.html \(europa.eu\)](#)

standards.⁵³ However, while the first two stages of participation – access to information and consultation – are regulated at the European level, European policy-making is characterised by the absence of a legal framework and agreement for structured civil dialogue.

In response to the FRA survey on civic space in 2023, CSOs reported better quality of the consultation processes at the European level – which is regulated by the Better Regulation guidelines – than at the national level.⁵⁴ The majority of respondents describe their interactions and exchanges with European institutions as rather collaborative or very collaborative (European Commission: 58 per cent, members of the European Parliament: 71 per cent, other European agencies: 40 per cent).

Yet, deeper levels of participation, namely civil dialogue and partnership, despite being codified in TEU, lack harmonised structure for implementation across European governance and decision processes. As a result, participation tends to remain at the level of information sharing or consultation (both through the online platforms and exchanges with policy-makers) and can be extractive, tokenistic and lack proper impact, as seen from the following examples in 2023.

Since the announcement of the Artificial Intelligence Act, civil society has made great efforts to coordinate horizontally to feed into the process, engaging diverse organisations at the national and European levels. In the absence of results-driven dialogue ahead of the drafting of the law, the framework proposed by the European Commission to address the widespread impact of AI technologies on society and fundamental rights was flawed.⁵⁵ While the European Parliament's position included important safeguards, this came as a result of civil society advocacy towards individual MEPs who championed the protection of fundamental rights. On the contrary, the process of the formulation of the position of the European Council was opaque and inaccessible to civil society, while technology industry lobbyists and representatives of law enforcement authorities and security services had greater influence throughout the legislative process.⁵⁶ The safeguards demanded by civil society were then significantly watered down during the EU trilogue negotiations between the member states, the Commission, and the Parliament – a process which was characterised by great opacity.

The extractive and tokenistic nature of consultation processes at the EU level was illustrated during the legislative process for the Defence of Democracy package. While the Commission launched two rounds of consultation (one targeted and another more general) and engaged in meetings with civil society, informal exchanges with European Commission officials revealed that the proposal was

⁵³ CoE, Committee of Ministers (2017), *Guidelines on civil participation in political decision-making*, 27 September 2017; ECNL (2016), *Civil participation in the decision-making processes*, May 2016; CoE (2009), *Code of Good Practice for Civil Participation in the Decision Making Process*, CONF/PLE (2009)CODE1, 1 October 2009.

⁵⁴ **Ranking of EU versus national level consultation (9%, 7% respectively), high (29%, 14%), acceptable (44%, 38%)**

⁵⁵ <https://edri.org/our-work/the-european-commission-does-not-sufficiently-understand-the-need-for-better-ai-law/>

⁵⁶ <https://corporateeurope.org/en/2023/11/big-tech-lobbying-derailing-ai-act>

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developed in a short time frame, while the initial public consultation was still underway. Despite repeated attempts to raise concerns about the directive⁵⁷, to date, the Commission has continued to dismiss them.

Additionally, the challenges with civil society participation at the national level are mirrored at the European level, undermining the quality of policy-making as well as efforts to uphold the rule of law. For example, in the case of monitoring public spending and the dispersal of EU funds to **Hungary**, an Anti-Corruption Task Force was created to assist the Integrity Authority (established in late 2022). However, several CSOs, including Transparency International Hungary and K-Monitor Association, criticised the task force after its first report largely neglected CSOs' opinions. In contrast, as an example of good practice, in December 2023, the parliament, the European Commission, and the European Parliament Liaison Office in Latvia signed a Memorandum of Understanding on strategic partnership which aims to raise awareness about **Latvia's** membership in the EU and promote broader public participation in EU-related discussions.

Protection needs to be intersectional⁵⁸

What is the duty of institutions and why does it matter?

States have a duty to safeguard civil society and human rights defenders from physical harm by external parties. At the same time, they have to uphold the right to life, physical integrity and freedom from ill-treatment for everyone in their jurisdiction as well as safeguarding their right to association, peaceful assembly and expression, without any undue interference. This includes the obligation to proactively prevent such incidents and promptly conduct impartial investigations when they occur.⁵⁹ Without a safe space, genuine and meaningful democratic participation is not possible.

States' duty to protect has been reiterated by the European institutions. The European Commission's 2023 recommendation on civic engagement stress that civic participation requires a safe and enabling environment. The recommendation also emphasises that "Member States should take the

⁵⁷ <https://civic-forum.eu/wp-content/uploads/2024/01/Defence-of-Democracy-an-analysis-of-the-foreign-funding-directive.pdf>; <https://civic-forum.eu/position/defence-of-democracy-package-ecf-responds-to-the-latest-european-commission-consultation>; <https://civic-forum.eu/publications/open-letter/joint-ngo-statement-eu-foreign-interference-law-is-civil-society-at-risk>

⁵⁸ Building on the earlier work of black feminists, such as the Combahee River Collective, the term was formerly coined in 1989 by civil rights activist and African American feminist Kimberlé Crenshaw as a metaphor to explain the ways in which black women under the US legal system are often caught between multiple systems of oppression marked by race, gender, and economic hierarchies without recognising how their unique experiences converge or intersect. Thus intersectionality seeks to understand how our individual identity characteristics, together with systems of oppression intersect or come together to shape our unique lived experiences.

⁵⁹ https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-challenges-facing-civil-society_en.pdf, p 47

necessary steps to protect civil society organisations from threats, criminalisation, intimidation, harassment as well as attacks and other forms of criminal acts, both offline and online.” This includes:

1. Ensuring that timely and effective protection is available to civil society organisations, their staff and volunteers, as well as persons close to them;
2. immediate condemnation, prompt investigation and prosecution of any illegal acts.

Additionally, the EU Council conclusions on civic space also call on member states to ensure the safety and security of civil society actors and human rights defenders, recognising their vulnerability to threats, harassment, and violence. The document stresses the necessity of concrete actions to safeguard the rights and safety of these individuals, urging member states and relevant institutions to take appropriate measures.⁶⁰

The role of national protection institutions and infrastructure

In addition to EU-level mechanisms, strengthening the role of National Human Rights Institutions (NHRIs) and national-level protection infrastructure is important for ensuring enabling conditions for rights defenders. NHRIs stand out as unique national institutions, with a mandate to independently promote and protect human rights within their respective countries. Therefore NHRIs play a key role in bridging independent actors, civil society, and state actors together and can sometimes have more influence in national decision-making than CSOs.⁶¹ The importance of national protection institutions is documented in several country chapters. For example, in **Poland**, the human rights ombudsman has played an important role in monitoring and access to justice in relation to police brutality during protests. Nevertheless, at least 13 NHRIs in the EU and accession countries do not fully comply with the Paris principles.⁶² Civil society has also in some cases developed protection hubs.⁶³ Strengthening national-level protection infrastructure and establishing and/or allocating more resources to NHRIs to address these internal challenges is essential.

In many EU countries, efforts to protect HRDs are already developed or underway, with political-level guidelines and actions in place to address threats against HRDs outside of the EU. For instance, **Finland** has developed comprehensive guidelines⁶⁴ for HRD protection, recognising the importance

⁶⁰ <https://data.consilium.europa.eu/doc/document/ST-7388-2023-INIT/en/pdf>

⁶¹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/principles-relating-status-national-institutions-paris>

⁶² <https://fra.europa.eu/en/publication/2024/nhri-accreditation-status-and-mandates-update-2024>

⁶³ <https://civitates-eu.org/wp-content/uploads/2021/04/Mapping-shrinking-civic-space-in-Europe-final.pdf>

⁶⁴

https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/164904/UM_2023_11.pdf?sequence=4&isAllowed=y




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of civil society and HRDs. Likewise, support programmes in **the Netherlands**⁶⁵ have been established to assist HRDs facing risks abroad and supporting HRDs that have relocated to the country. However, these initiatives focus on external actions and are managed within ministries of foreign affairs, overlooking the need for internal, national and EU-level protection mechanisms. Such policies should be adapted to take into account the threats faced by civil society within the EU.

Safe space in 2023

Physical, verbal and legal threats against CSOs and human rights and environmental defenders have become an increasing concern in Europe. Qualitative evidence collected since the launch of the Civic Space Watch monitoring tool in 2018 and our first Civic Space Report in 2019⁶⁶ shows that threats and attacks have shifted from being an issue on the fringes to a systemic concern for civic space in Europe. Data collected by the FRA through its civic space survey shows that the vast majority of respondents from EU member states faced some form of threat and attack in 2023⁶⁷.

While undoubtedly difficult to identify, the consequences of these incidents can be categorised into four themes:

-  **Psychosocial impact:** HRDs and civic actors face repercussions on their mental health linked to feeling fear and unsafe. In some cases, it can lead to traumatic physical and emotional experiences. According to the FRA civic space survey, in 2023, 46 per cent of respondents reported that psychological effects like burnout, depression and anxiety had a high and medium impact on their work and organisations, while 20 per cent reported that their employee or volunteers experienced post-traumatic stress disorder (PTSD);
-  **Financial impact:** It can be costly to respond to such threats and attacks, as organisations are forced to shift their resources away from their core missions. This drains resources, as CSOs have less capacity to effectively communicate about their activities, strategically cultivate a network of supporters and fulfil their mission. Disinformation campaigns can also threaten the resources of CSOs and HRDs and can lead to the loss of donors. According to the FRA civic space survey, 34 per cent of CSOs reported financial problems or loss of funding and 29 per cent discontinued or reduced activities as a consequence of attacks;
-  **Self-censorship and chilling effect:** Such developments can diminish rights defenders' efforts to hold governments, institutions and corporations accountable. In at least four country reports, CSOs reported toning down their campaigns or not daring to speak out on some issues.

⁶⁵ <https://www.government.nl/topics/human-rights/human-rights-worldwide/supporting-human-rights-defenders>

⁶⁶ <https://civicspacewatch.eu/wp-content/uploads/2021/06/activizanship-4.pdf>

⁶⁷ FRA Protecting civil society – Update 2024, upcoming

- 🔍 **Negative impact on the sustainability of civil society:** All the above undermine the resilience of civil society and can lead to employees and volunteers leaving the organisation (19 per cent according to the FRA in 2023) or in serious cases result in relocation (6 per cent).

Below is a breakdown of the most common threats and attacks in 2023.

Negative public discourse, smear campaigns and stigmatisation

In 2023, democratic civil society and critical voices continued to be targeted by smear campaigns, especially when acting as public watchdogs or performing advocacy functions. For example, in **Hungary**, the EU Citizens, Equality, Rights and Values (CERV) and USAID Central Europe funding programmes were targeted publicly for supporting so-called “Soros-organisations” and the “LGBTQI-lobby”. Most major human rights groups were named in a series of news articles, particularly those awarded under the new re-granting programme managed by a consortium led by the *Ökotárs Foundation*. At the EU level, youth and Muslim rights organisation FEMYSO was subjected to a smear campaign which led to increased censorship towards the organisation by European institutions.⁶⁸ Meanwhile, at the EU level, anecdotal evidence shows that the foreign funding directive included in the **Defence of Democracy package** is already contributing to the climate of suspicion and stigmatisation at the national level.⁶⁹

Reputational attacks can create the impression that critical voices are ‘legitimate targets’ for other measures and create a breeding ground for the deployment of other legal, judicial or financial obstacles. It can also affect public trust in the sector and, as a result, its ability to mobilise masses on matters linked to democracy and the rule of law.

Threats and attacks intersect with hate of excluded groups

According to the FRA’s 2023 civic space survey, 62 per cent of respondents said that they sometimes or often faced online verbal threats and attacks and 40 per cent reported in-person (offline) verbal threats and attacks. Physical attacks are also a concern, with 15 per cent reporting vandalism of premises and nine per cent reporting physical attacks. Data from the CIVICUS monitor confirms intimidation as the main trend in Europe, with incidents recorded in at least 10 EU countries. The country chapters illustrate a clear pattern between the verbal and physical attacks reported and hate crimes against excluded and marginalised groups (as described above in the developments section). Racialised groups, migrants and asylum seekers, and the LGBTQI+ community have been particularly affected by the rise of the far right and mainstreaming of their narratives by other parties and institutions. Civil society organisations and rights defenders which represent and advocate for the

⁶⁸ <https://femys.org/investigation-statement/>

⁶⁹ <https://civic-forum.eu/wp-content/uploads/2024/01/Defence-of-Democracy-an-analysis-of-the-foreign-funding-directive.pdf>

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rights of these groups, often face specific challenges to their actions. This is enabled by discriminatory and exclusionary trends promoted or tolerated by some authorities. As a consequence, these groups are further silenced and made invisible, and often afraid of expressing themselves and exercising their rights in public spaces.

Legal harassment and criminalisation of human rights actions

Civic actors have regularly faced legal harassment and criminalisation. These legal frameworks, strategies and political actions intend to treat actions for human rights as illegitimate and illegal. They include:

- 🔍 Legislation criminalising specific actions (i.e., 2018 “Stop Soros” Law in **Hungary**);
- 🔍 Criminal prosecution of CSOs, activists or other critical voices for their actions (e.g. criminalisation of solidarity with migrants and civil disobedience actions by environmental defenders), words (e.g. the move to criminalise the slogan “From the river to the sea Palestine will be free” in several countries) or organising and participating in peaceful demonstrations (e.g. the criminal charges against the leader of the Polish Women’s Strike in **Poland**, and the prosecution of the organisers of the Democratic Tsunami protests in **Spain**⁷⁰);
- 🔍 SLAPPs: malicious civil lawsuits abusing the judicial system with the aim of draining the target through long court processes (such as those initiated by anti-rights groups against LGBTQI+ NGOs in **Poland**).

These legal proceedings often do not lead (or even aim to lead) to a conviction and many complaints end in acquittal or dismissal. Nevertheless, they result in serious material and symbolic costs such as reputational damage or intimidation.

Over the past years, several states have adopted increasingly restrictive legal frameworks for CSOs working on migrants’ rights, also known as the **criminalisation of solidarity**. Increasingly, all acts around the migration journey can be criminalised, including steering a boat which is going adrift; rescuing people at sea; providing essential services, basic humanitarian aid, information, and assistance during the asylum procedure; denouncing human rights violations at borders; and helping people in return procedures. At the core of this trend, there is the criminalisation of migration itself, a denial of human dignity – both in the language and narrative, as well as in the legal framework of several EU member states. Migrants who act in solidarity with other migrants are disproportionately hit by criminalisation policies.⁷¹ A similar trend is now faced by environmental rights defenders and movements, as restrictive legislation targeting these groups have been passed in the past years.

⁷⁰ <https://civic-forum.eu/publications/open-letter/joint-letter-solidarity-for-activists-in-catalonia-accused-of-terrorism>

⁷¹ https://civicspacewatch.eu/wp-content/uploads/2022/03/Activizanship06_Web.pdf (pp31-43)

Surveillance and threats emerging from new technologies

Following the trend of recent years, in 2023, new technologies, digital tools and artificial intelligence (AI) are increasingly utilised to narrow civic space in Europe. State authorities have used technology to surveil⁷², infiltrate, harass and criminalise civil society organisations and activist groups more efficiently, as examples from **Germany** and **Spain** show. State authorities' use of intrusive spyware and mass surveillance technology is typically justified under the guise of “national security” or crime prevention purposes. However, it is often deployed for political aims or to suppress dissent, intimidate CSOs, rights defenders, journalists, lawyers and opposition as well as collect sensitive data and legitimise privacy violations. The Pegasus and Predator spyware systems, for instance, have been extensively used to target individuals unrelated to crimes or security threats.⁷³ Similarly, the use of AI-powered mass surveillance in public spaces poses a significant threat to individuals, civic actors and fundamental freedoms. These technologies not only target individuals exercising their rights to assembly and expression but also disproportionately impact marginalised communities on a larger scale. Predictive policing systems and other intrusive surveillance tools are frequently deployed to monitor and criminalise marginalised neighbourhoods and racialised “suspect” communities in the name of public safety and combatting crimes. In reality, these tools exacerbate existing inequalities and undermine the principle of the rule of law.⁷⁴

Additionally, when intrusive surveillance technologies are used, state authorities are often passive or reluctant to investigate and bring the deployers of the systems to justice, as the example of **Greece** shows, where investigations into the Predatorgate spyware scandal have been obstructed. The government has refused cooperation with the national and EU institutions investigating the incidents.⁷⁵

EU policies and tools for protection

In 2023, much-welcomed legislation was put forward. This includes the **European Cross Border Associations directive**, which creates a new legal form that will facilitate cross-border activities for not-for-profit associations.⁷⁶ The **Anti-SLAPP directive** introduces protections for journalists, media, civil society and activists engaged in public participation. However, gaps and limitations remain.

⁷² https://www.europarl.europa.eu/doceo/document/A-9-2023-0189_EN.html

⁷³ [https://www.europarl.europa.eu/RegData/etudes/STUD/2022/740514/IPOL_STU\(2022\)740514_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/740514/IPOL_STU(2022)740514_EN.pdf)

⁷⁴ <https://reclaimyourface.eu/predictive-policing/>

⁷⁵ <https://www.politico.eu/article/greek-government-spying-regulators-wiretapping-predatorgate-scandal/>

⁷⁶ <https://civilsocietyeurope.eu/wp-content/uploads/2024/02/Policy-input-on-the-ECBA-Directive.pdf>

Protection for who? The discriminating approach of EU policies

While migrants, asylum seekers and undocumented people are amongst the most vulnerable categories of human rights defenders, as described above, new EU legislation passed in 2023 has not only failed to protect them but risks further contributing to discrimination and criminalisation.

Hailed as the first legally-binding proposal to regulate AI in the world, the **EU AI Act** was finalised in December 2023. However, the AI Act is a missed opportunity to protect civil society, human rights defenders and civic space. While the final text includes limitations and prohibitions on harmful systems such as biometrics for identification, recognition and categorisation, the act has major gaps that weaken its ability to protect human rights, the rule of law and democracy. The act allows police to deploy real-time face recognition for tasks like locating missing persons, preventing terrorism, and identifying serious crime suspects. These broad exceptions jeopardise the safeguards and could lead to violations of the right to peaceful assembly and expression.⁷⁷ For instance, it could empower authorities to identify, harass, or detain protesters, undermining their fundamental rights. Similarly, high-risk systems may be used by law enforcement and intelligence authorities to undermine democratic principles and processes, particularly in countries where civic space, fundamental rights and the rule of law are already under strain.

Worryingly, the act also includes fewer protections for specific EU groups, particularly migrants. For example, while emotion recognition systems will be banned in workplaces and educational settings, after pressure from member states, the use of such high-risk systems would not be prohibited in policing, border control, and migration contexts. The act also includes major exemptions for law enforcement and security authorities to use high-risk AI systems.⁷⁸ The new Pact on Migration and Asylum adopted in April 2024 further expands digital surveillance of migrants⁷⁹ and criminalisation of migrants' rights defenders.⁸⁰ During a political agreement reached on the EU directive on violence against women, member states failed to protect undocumented women who report sexual violence, after a provision that would ban police from sharing victims' data with immigration authorities was removed.⁸¹

Existing gaps in European protection toolbox

⁷⁷ https://civic-forum.eu/wp-content/uploads/2024/04/AI_Act_RoL_Analysis-0424.pdf

⁷⁸ <https://civic-forum.eu/statement/after-the-trilogues-the-eu-ai-act-falls-short-of-needed-guarantees-to-people>

⁷⁹ <https://www.equinox-eu.com/wp-content/uploads/2024/04/The-Migration-Pact-ProtectNotSurveil.pdf>

⁸⁰ [More than 160 Civil Society Organisations call on MEPs to vote down harmful EU Migration Pact - PICUM](https://www.equinox-eu.com/wp-content/uploads/2024/04/The-Migration-Pact-ProtectNotSurveil.pdf)

⁸¹ <https://picum.org/blog/new-eu-directive-on-violence-against-women-leaves-out-migrant-women/>; <https://www.theparliamentmagazine.eu/news/article/ngos-warn-eu-gender-justice-bill-leaves-most-vulnerable-behind>

It is noteworthy that the existing tools which includes the [ProtectDefenders.eu](https://www.eeas.europa.eu/eeas/eu-guidelines-human-rights-defenders_en) platform and the EU External Action Service's Guidelines on Human Rights Defenders⁸², focuses exclusively on the protection of human rights defenders outside the EU. Currently, there is no EU mechanism to document attacks that would allow the EU to better understand the trends and nature of attacks inside the EU or respond with emergency support to HRDs and their organisations. The annual **Rule of Law Report** covers civic space, but only marginally and superficially, especially with regard to the right to protest and attacks on human rights defenders and their organisations. As such, to date it cannot be considered an effective accountability mechanism for countries that fail to protect civic space or intentionally restrict it.⁸³ In the next two years, the CERV programme will support civil society projects monitoring civic space and alerting EU institutions to restrictive measures and incidents. The EU institutions will need to formally address these alerts and integrate them into the report.

Some lessons could be learned from the 2021 recommendation on the protection, safety and empowerment of journalists, which aimed to ensure safer working conditions for all media professionals and sets out concrete actions for member states to take, such as the development of a rapid response mechanism.⁸⁴ The adoption of the **EU Media Freedom Act (EMFA)** in March 2024 marked a significant step towards safeguarding protection for journalists and their sources, enhancing media freedom across the EU. However, the act falls short of adequately protecting journalists from the threat of spyware.⁸⁵ As a result, the EMFA inadvertently legitimises the use of spyware against journalists, by enabling EU governments to potentially deploy spyware under the guise of national security.⁸⁶ The proposed **EU Child Sexual Abuse (CSA) Regulation** allows authorities to access private online communications, jeopardising encryption and potentially legitimising mass surveillance.⁸⁷ In countries where the space for CSOs, activists, political opposition, journalists and lawyers is narrowed and they are under surveillance and harassed, end-to-end encryption as a means of communication is highly important.

⁸² https://www.eeas.europa.eu/eeas/eu-guidelines-human-rights-defenders_en

⁸³ <https://civicspacewatch.eu/wp-content/uploads/2021/12/Report-Civic-Space-in-the-European-Rule-of-Law-Framework.pdf>

⁸⁴ <https://digital-strategy.ec.europa.eu/en/library/recommendation-protection-safety-and-empowerment-journalists>

⁸⁵ <https://www.euractiv.com/section/media/news/eu-parliament-passes-european-media-freedom-act-concerns-over-spyware-remain/>

⁸⁶ <https://edri.org/our-work/challenges-ahead-european-media-freedom-act-falls-short-in-safeguarding-journalists-and-eu-fundamental-values/>

⁸⁷ <https://edri.org/our-work/rearranging-deck-chairs-on-the-titanic-belgiums-latest-move-doesnt-solve-critical-issues-with-eu-csa-regulation/>

Funding: a slow and steady erosion of civil society's sustainability and resilience

Why does funding civil society matter?

The freedom to seek, receive, and use resources is inherent to the right to freedom of association and essential for the effective operation of civil society. Nurturing funding policies can lead to an overall positive impact on human rights and democracy, since it provides civil society with resources and capacities to fulfil its democratic mission.

Numerous international human rights instruments and regional monitoring bodies recognise the right of associations to seek, receive, and use financial resources, as well as the duty of state authorities to create an enabling environment for accessing funding.⁸⁸

This includes:

1. **Positive duty:** States should provide various forms of support to associations, including public funding, tax benefits, grants, and exemptions, while ensuring fair and non-partisan distribution of public support. They should refrain from placing illegitimate restrictions and protect CSOs from attacks by third parties.
2. **Transparency and accountability:** Regulatory authorities should implement legislation and regulations concerning access to funding transparently and impartially and should be accountable for their actions.
3. **Non-Discrimination:** States must provide safeguards against discriminatory practices targeting organisations representing the most excluded groups, burdensome reporting requirements disproportionately targeting civil society, and stigmatisation of foreign-funded organisations.

The public funding landscape in 2023

Despite the importance of funding for civil society, the 2023 FRA civic space survey found that 75.4 per cent of respondents thought that funding concerns threatened some, much or all of their work in the past 12 months. 90.4 per cent of respondents said that their financial reserves covered less than one year of activity with 42.6 per cent stating that their reserves could only provide for less than

⁸⁸ <https://www.ohchr.org/en/documents/thematic-reports/ahrc5023-access-resources-report-special-rapporteur-rights-freedom>

6 months.⁸⁹ These figures are corroborated by developments in the funding landscape as described in the national country chapters and unpacked below.

The barriers, limitations and restrictions to funding have very deep consequences on civil society, including:

1. **Less resources to act as a watchdog:** In the past few years, civil society has been in a constant state of mobilisation, at the forefront of addressing social needs and democratic challenges linked to the COVID-19 health emergency, the wars in Ukraine and other countries, which have led many to flee the country and to find safety in Europe, the effects of climate change and related natural disasters, as well as democratic backsliding in Europe. Often, these efforts were not supported by specific funding but instead required reallocating existing resources. On top of these challenges, shrinking civic space, the lack of protection from attacks and the need to adapt to increasingly complex bureaucratic regulatory requirements mean that CSOs have less means and resources to dedicate to their missions.

2. **Donor-dependency:** Fewer sources of funding make it more difficult to diversify funding, thus making organisations dependent on just a few donors and vulnerable to changes in their funding strategies. This weakens civil society's capacity to address the root causes of social and democratic issues. At the same time, the lack of coordination among private and public donors, as well as participatory mechanisms to draft donors' funding policies, considerably exacerbates this risk.

3. **Self-censorship to chilling effect:** The politicised access to funding in several countries and the increased use of funding cuts against organisations critical of government policies, has led to a chilling effect on advocacy groups. This can include cautiously toning down their messages and activities deemed as "too political or radical" out of a fear of jeopardising their funding sources. These developments are compromising civil society organisations' roles as watchdogs and their ability to drive change.

4. **Precarious work to organisational vulnerability:** volunteers and workers in civil society are not immune from the socio-economic challenges in Europe.⁹⁰ While data and literature on precarious work inside NGOs is very sparse, recent research⁹¹ and the anecdotal evidence contained in the country chapters shows that funding policies, in particular the reliance on project funding and excessive bureaucracy, lead to precarious working conditions in civil

⁸⁹ FRA Protecting civil society – Update 2024, upcoming

⁹⁰ <https://www.ipsos.com/en/29-europeans-say-they-are-currently-precarious-financial-situation>

⁹¹ <https://www.sciencedirect.com/science/article/abs/pii/S0148296322003228>

<https://link.springer.com/article/10.1007/s11115-021-00512-w>

society organisations. This creates “a sense of instability, insecurity and uncertainty among employees”, weakens the development of organisations and increases their vulnerability.⁹²

As a consequence, bureaucratic, precarious and project-oriented funding policies lead to vulnerabilities not only for civil society but for our democracy.

Financial viability and sustainability remain a concern, with some inspiring exceptions

The funding landscape varies greatly from country to country and comparable data is missing. In some countries, like **Bulgaria** and **Romania**, CSOs continue to face significant challenges regarding financial viability. The lack of diverse funding opportunities, including public funding schemes and access to EU funding, poses a threat to sustainability. On the contrary, in **Austria**, CSOs appear to be relatively financially stable, thanks to the significant support of the state. However, there is a risk of dependence on governmental funding.

In 2023, the financial viability of the sector in **Germany** and **Denmark** saw significant funding cuts. In **Germany**, as the substantial savings targets for the 2024 federal budget led to cuts in funding to civil society organisations, with the consequent reduction or cancellation of programmes and the departure of experienced staff. Additionally, the planned Democracy Promotion Act – a large funding programme for CSOs working to promote democracy, human rights and the rule of law – has been on hold for several months due to disagreements within the governing coalition.

In **Slovenia**, where financial sustainability is ensured by the strong public support for CSOs, the vast majority of NGO funds remained undistributed following a major government scandal involving the minister in charge.

Financial viability and sustainability are not only linked to the available public funding for the sector but also to the government policies to create an environment where multiple funding opportunities, such as donations and private philanthropy, are available. A positive example is the new National Philanthropy Policy in **Ireland**, which underscores the public sectors’ role to support the development of private philanthropy and relevant areas of action.⁹³ In the **Czech Republic**, the Strategy for the

⁹²

https://www.researchgate.net/publication/354876187_What_affects_employment_by_NGOs_Counteract_on_to_precarious_employment_in_the_Polish_non-profit_sector_in_the_perspective_of_COVID-19_pandemic_crises

⁹³ <https://assets.gov.ie/278827/96f3aabc-9802-4716-b437-bf5072526060.pdf>

Cooperation of the Public Administration with NGOs 2021 to 2030⁹⁴ is a key government document for the cooperation of the Czech public administration with the non-profit sector. It sets out a commitment to support the development of conditions under which CSOs can perform their role from the local to the national level, including the promotion of philanthropy, volunteering, the efficiency of the financing system from public budgets. From January 2024, new tax measures enable individual and corporate donors to take advantage of increased tax deductions.⁹⁵

In **Austria**, 2023 saw significant improvements for civil society organisations regarding financial viability, most importantly: 1) amendments to tax law enabling donations to human rights organisations to be deducted from taxes; 2) a simplification of administrative process to achieve public-benefit status and associated tax benefits; 3) subsidies to address rising energy costs extended to the civil society sector; and 4) favourable legal changes to strengthening the voluntary involvement of citizens and respective organisations.⁹⁶

On the contrary, in **Hungary**, there are no tax benefits for private persons who donate. However, if companies donate to CSOs with public benefit status, they may decrease their corporate tax base by 20 per cent of the donation). Nevertheless, in 2023, both the amount collected from the assigned one per cent of income taxes (available since 1997) and the number of taxpayers using this option grew significantly, by approximately 26 per cent compared to 2022 (total amount HUF 15.3 billion, €40 million, number of taxpayers 1.8 million).⁹⁷

An additional factor affecting the financial viability of the sector is the cost-of-living crisis that led to an exponential increase of fixed costs for the running of organisations. In most countries, with few notable exceptions like **Austria**, government subsidies did not extend to civil society organisations. In **Latvia**, while the revenues of the sector have increased, the overall expenditures remain higher.

Controlling NGOs through funding policies

In our previous reports, we documented how governments have used funding policies in an attempt to curtail and control the work of CSOs in some countries. The most notable cases documented were **Hungary** and **Poland**, through centralised and politically-controlled institutions disbursing funding for civil society. The lack of transparency in the distribution of funding remains an ongoing and major

⁹⁴ **The Strategy for the cooperation of the Public Administration with NGOs for the years 2021 to 2030 was approved by the Czech government on 12 July 2021:** <https://vlada.gov.cz/cz/ppov/rnno/aktuality/vlada-schvalila-strategii-spoluprace-verejne-spravy-s-nestatnimi-neziskovymi-organizacemi-na-leta-2021-az-2030-189691/> and <https://vlada.gov.cz/assets/ppov/rnno/dokumenty/BROZURA-FINAL-S-PRILOHAMI.pdf>

⁹⁵ **The Act No. 586/1992 Coll., on Income Taxes.**

⁹⁶ **Parlament Österreich (14 June 2023). *Freiwilligengesetz, Änderung (2085 d.B.)*.** Retrieved 3 January 2024, from: <https://www.parlament.gv.at/gegenstand/XXVII/I/2085>

⁹⁷ <https://www.nonprofit.hu/hirek/Nagy-meglepetesek-a-2023-as-1-felajanlas-teren-novekvo-osszegek-novekvo-felajanlasok-uj-szereplok>

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challenge in these countries. As a result, civil society continues to be characterised by an abundance of funding of politically affiliated organisations on the one hand, and “starving” organisations, particularly those in rural areas, on the other.

Nevertheless, the use of politically-motivated funding cuts to censor or control NGOs has emerged in other countries. The FRA civic space survey data for 2023 shows that 33 per cent of respondents “often” or “sometimes” faced this type of threat and attacks. For example, in **France**, during a hearing at the Senate about the deployment of excessive police violence during a public protest, Minister of the Interior Darmanin made public remarks questioning the public subsidies allocated to a human rights organisation monitoring police actions during demonstrations, suggesting they could be threatened by its watchdog activities.⁹⁸ The French Separatism Law has broadened the grounds for controlling organisations through funding policies, with several organisations faced with the question of self-censorship or having had their public funding withdrawn.

In **Germany**, the tax law on public benefit organisations continues to remain a threat to the political activity of organisations, creating a chilling effect on NGOs from speaking out on social justice issues. In addition, in the context of the escalation of violence in Israel and Palestine, there have been several cases of curtailing free expression by education and cultural institutions. Between 7 October 2023 and 31 January 2024, the ELSC recorded 139 instances of cultural stifling in Germany, including 8 instances where threats of defunding were made for expressing views on Palestine.⁹⁹ In one example, the bank account of Jewish organisation *Jüdische Stimme* was frozen by the state-owned bank.¹⁰⁰

Discrimination in access to funding

Funding challenges remain exacerbated for CSOs working with marginalised and excluded groups. For example, in **Greece**, the government has delayed the continuation of some CSO work programmes and the renewals of contracts and payments, which resulted in *Metadrasi*, an organisation providing interpretation services for migrants and refugees, reducing its interpretation services by 80 per cent. In **Denmark**, the Finance Bill has resulted in funding cuts for CSOs advocating for LGBTQI+ rights. The municipality of Copenhagen did not extend the grant of *Normstormerne*, an organisation offering educational processes on gender identity, norms, and LGBTQI+ rights, in next year's municipal budget. In **France**, as part of a recent debate on the Budget Bill for 2024¹⁰¹,

⁹⁸ <https://civicspacewatch.eu/france-police-clash-with-environmental-activists-in-sainte-soline/>

⁹⁹ <https://civic-forum.eu/wp-content/uploads/2024/04/ECF-Rule-of-Law-Submission-Repeated-repressions-of-Palestine-solidarity.pdf>

¹⁰⁰ <https://www.aljazeera.com/news/2024/4/1/we-jews-are-just-arrested-palestinians-are-beaten-german-protesters>

¹⁰¹ TF1 Info. (2023) 'Eric Ciotti veut diminuer de moitié les subventions allouées par l'État aux associations venant en aide aux réfugiés,' <https://www.tf1info.fr/politique/eric-ciotti-veut-diminuer-de-moitie-les-subventions-allouees-par-l-etat-aux-associations-venant-en-aide-aux-refugies-2274135.html>

organisations that provide assistance to migrants and refugees were threatened with funding cuts. Organisations protecting the rights of transgender people and sex workers have faced significant challenges accessing funding across Europe.¹⁰²

Bureaucracy and project funding keeps civil society in a starvation cycle

Across Europe, CSOs continue to face a growing challenge of heightened administrative demands, including inflexible reporting and budgetary adjustments, which consume significant human and financial resources and detract from the effective planning and execution of program initiatives. Funding is insufficient to sustain the operational functions of these organisations. The primary issue underlying the financial instability and sustainability of civil society is the absence of long-term programs tailored to support these organisations. All over Europe (and beyond), a combination of myths— such as that nonprofits should cost very little to run, and that all funding must be project-restricted and allocated to outputs and activities – keep civil society in a “**starvation cycle**”, which reduces their financial health.¹⁰³ When asked what changes in funding framework would be most relevant for their organisations, respondents to the FRA civic survey mentioned unrestricted core funding (58.4 per cent), longer funding cycles (45.5 per cent), higher allocation of salaries (25.7 per cent) and less complicated reporting obligations (20.3 per cent).

On a positive note, there is a growing awareness among private funders about how funding practices significantly impact on the power, voice, resilience and creativity of grantees, especially civil society organisations and social movements. Private donors are beginning to recognise the need to look into new funding models which shift the power to civil society. This includes providing core support instead of project funding; focusing on outcome instead of output; trust-based philanthropy and participatory grantmaking. While such practices have mostly been limited to the private sector, the Active Citizens Fund by the EEA and Norway Grants has experimented with some of these. For example, in Latvia a new organisational grant call has been piloted to test unrestricted core funding. Through this approach, organisations are not required to predict and plan specific activities and detail budgets over several months. Instead, funding is guided by the organisation's action plan or strategy and through mutual trust in its integrity and professionalism. Much greater strategic coordination and exchange of practices is needed between public and private donors.

¹⁰² Interview with TGEU and ESWA

¹⁰³ <https://humentum.org/blog-media/new-findings-show-how-funders-need-to-break-the-ngo-starvation-cycle/>

CERV: what needs to be strengthened?

European funding is an important source of support for civil society, the most valuable being the European Social Funds, Erasmus Programme and the Citizens, Equality, Rights and Values Programme (CERV). In particular, the CERV aims to address the general lack of national public funding for civil society organisations or projects working on human rights, democracy, the rule of law, transparency and similar topics relevant for the functioning of a democratic society. The system of **national intermediaries**, which distributes funding at national level, is an important innovation towards decentralised access to funding at the national level, enabling grassroots organisations – including in rural and remote areas – to access European funding. This helps to overcome politicised and arbitrary disbursement of funding from certain member states. It is fundamental to ensure this programme continues and the budget is at least sustained, or increased, as the challenges to rights and values in Europe are not going to subside in the near future.

Nevertheless, there are important challenges and limitations that need to be overcome in order for this measure to meet its full potential and nurture the sector.

Firstly, as explained above, **core unrestricted funding** aimed at sustaining and developing the operational capacities of organisations for multiple years is crucial for flexibility and adaptability. Currently, this support is provided by a four-year Framework Partnership Agreements (FPA). However, the FPAs are organised as project grants through action-oriented “work packages” and “deliverables”, with a yearly application and reporting cycle. This approach is counterproductive, costly and resource-consuming, and it is challenging to reflect organisational needs while following the logic of the application. This structure should be reconsidered, through dialogue with civil society and taking stock of the lessons learned from the Active Citizens Fund pilots.

Secondly, **the administrative burden and complexity of the application and reporting procedures** are greater for EU funding, including the CERV, compared to national and private funding. With regards to the CERV operating grants programme, the first half of the year must be dedicated to periodic reporting for the year N-1, ongoing reporting for the year N and application for the year N+1. This exacerbates existing challenges that keep civil society in the starvation cycle. Additionally, these funds are only accessible to experienced NGOs with strong infrastructure to apply for and manage such complex procedures, de facto excluding many organisations in Europe. Organisations led by excluded groups such as religious minorities, migrants and youth are disadvantaged, given that they tend to rely on volunteers.

The system of intermediaries under the **Union Values’ strand** is designed to reduce these barriers by requiring regranteeing organisations to shoulder the administrative burden and simplifying the procedures for small grantees. However, it therefore places a great burden on intermediary organisations, which are required to take over the responsibilities that are normally assumed by the

European Commission including the selection of projects, monitoring, and reporting. This is particularly the case when 1) assessing potential conflict of interests, 2) detecting and preventing irregularities and fraud, and 3) detecting and remedying reputational risks, especially the “non-respect of EU values by the member organisation”. Additionally, the system requires regranting organisations to carry out rather invasive inquiries to comply with the requirements of the due diligence process.¹⁰⁴ The requirement regarding the “non-respect of EU values” is particularly concerning as it is vague and therefore leaves room for discretionary interpretation of what “European values” means. Organisations that are critical of the authorities and European policies, as well as those led by excluded groups, are particularly vulnerable to these arbitrary interpretations, as has been witnessed in some member states such as France, with regards to the respect of “republican values”.

Thirdly, to ensure the success of the CERV, it is fundamental that the funding must be accessible for CSOs advocating for excluded and marginalised groups. This requires an intersectional approach in the preparation of calls for applications, selection and evaluation processes. To date, the process ensures strong gender mainstreaming but does not use an intersectional lens.

Other weaknesses of the programme include the high co-funding requirement and unrealistic unit costs.

¹⁰⁴ Information from the ENAR Internal briefing on the European Commission re-granting scheme.

The way forward: Recommendations

Promoting a thriving European civic space requires a shared commitment of European institutions and member states. In order to do so and respond to the challenges and gaps described above, European institutions should launch a **proactive European strategy towards open civic space and resilient civil society**. The European Civil Society Strategy should give genuine political recognition to the crucial role played by CSOs in giving substance to EU's democratic values, which should drive all EU policies, not just those on democracy and fundamental rights. Additionally, the strategy should set a long-term vision on how to develop European civil society and expand civic space.

The **Commission Vice President responsible for civic space and dialogue with civil society** should have appropriate means to oversee the implementation of the strategy at the European and national level, ensuring coherence between EU actions that aim to expand civic space, and enabling civil society participation in different policy areas. It should also include proactive diplomatic support to civic actors under pressure and timely follow-up on civil society complaints on attacks, using the public and diplomatic means at their disposal, in dialogue with civil society organisations. The European Civil Society Strategy should include the pillars outlined below, which were developed by civil society actors from across Europe as well as donors and representatives of European and international institutions in a two-day participatory process.

The following sections build on these collective civil society proposals and recommendations in four key areas of EU action.¹⁰⁵

¹⁰⁵ These include **CSO joint statement Civil Society on the Frontline - 5 points for EU action 2019-2024 (2019):** <https://civilsocietyeurope.eu/wp-content/uploads/2019/08/CIVIL-SOCIETY-ON-THE-FRONTLINE-2019-FINAL.pdf>; **Recommendations for a Comprehensive European Policy and Strategy on Civil Society (2020):** <https://www.environmentalpartnership.org/environmentalpartnership.org/files/89/897c5fe9-0f5d-45ad-a3ff-0a2196fbc2fa.pdf>; **final output of the Civil society convention for the future of Europe (2022):** <https://civilsocietyeurope.eu/civil-society-convention-on-the-future-of-europe/thematic-clusters/>; **Study on The implications of the COVID-19 pandemic on fundamental rights and civic space (2022):** <https://www.eesc.europa.eu/it/our-work/publications-other-work/publications/implications-covid-19-pandemic-fundamental-rights-and-civic-space>; **the final report of the Conference on the Future of Europe in the chapter on European democracy (2022):** https://wayback.archive-it.org/12090/20220915201021/https://prod-cofe-platform.s3.eu-central-1.amazonaws.com/2po250fn174z62m8g8c9ya9e62m7?response-content-disposition=inline%3B%20filename%3D%22Book_CoFE_Final_Report_EN_full.pdf%22%3B%20filename%2A%3DUTF-8%27%27Book_CoFE_Final_Report_EN_full.pdf&response-content-type=application%2Fpdf&X-

1. Enable civil society to carry out its democratic mission

The strategy should define civil society at the European level and set political priorities to develop its capacities and support it when facing attacks. The strategy and the definition of civil society should be grounded on Articles 2 and 11 of the TEU and embedded in international human rights standards, recognising the diversity of not-for-profit actors in terms of structures, modus operandi, scope and actions. It should also identify civil society organisations as key actors for European democracy, resilient societies, a just green and digital transition and for the European social economy.

The **European rule of law cycle** should contribute to an enabling environment at the national level by:

- 🔍 Monitoring, documenting and analysing challenges faced by civil society in a fully-fledged, stand-alone pillar on the enabling environment for civil society and human rights defenders¹⁰⁶. The deficiencies and obstacles to a free and vibrant civic space identified in the annual Rule of Law Reports and the FRA civic space reports should be addressed by putting forward concrete country recommendations with targets and deadlines, as well as European policies in relevant areas.
- 🔍 Monitoring member states' implementation of the European Commission's recommendations on civic participation and the European Council's conclusions on civic space. This should include monitoring the adoption of dedicated action plans, or equivalent initiatives for fostering a safe and enabling civic space and effective participation of civil society organisations.
- 🔍 Creating a permanent alert mechanism which constantly feeds into the European Commission's European Rule of Law mechanism, allowing for a fast response. Such an alert mechanism should lead to a rapid (re)assessment of the situation, allowing for timely and concrete reaction at the EU level, such as recommendations, dialogue and sanctions.
- 🔍 Ensuring NHRIs comply with the Paris Agreements and have appropriate resources. It is a positive step that the Rule of Law Report addresses specific recommendations to member states in this sense, and it will need to lead to enforcement measures if they remain unaddressed.

Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Credential=AKIA3LJJXGZPDFYVOW5V%2F20220915%2Feu-central-1%2Fs3%2Faws4_request&X-Amz-Date=20220915T200910Z&X-Amz-Expires=300&X-Amz-SignedHeaders=host&X-Amz-Signature=9da6e64b707df344c8772d076bc07e818cd0e1e0b662480f30d2f367446042e8 , Recharging Advocacy for Rights in Europe (RARE)'s document on "an European strategy for civil society: recognition, inclusion, protection": [RARE_Policy_Paper_for_Brussels_final.docx \(stiftung-mercator.de\)](#); Civil Liberties Union for Europe's "Bringing human rights and Article 2 values to life: the roles, challenges and solutions for civil society", How can we enable, protect and expand Europe's civic space, to strengthen democracy, social and environmental justice? Recommendations for the European Commission (2023): <https://civic-forum.eu/wp-content/uploads/2023/02/Recommendations-European-Convening-on-civic-space.pdf>.
¹⁰⁶ see the European Parliament draft report https://www.europarl.europa.eu/doceo/document/LIBE-PR-704642_EN.pdf

The European Commission should **ensure that European laws and policies are coherent with the aim of securing an enabling space for civil society and do not lead to negative side effects** related to their implementation. This requires:

- 🔍 Systematically involving the Fundamental Rights Agency in structured ex-ante fundamental rights impact assessments of all EU policies. This should involve the intersectional collection of evidence from a broad range of stakeholders, particularly from excluded communities, including migrant and racialised communities. If CSOs are regulated or affected by EU policies directly or indirectly, the European Commission should ensure that these policies are grounded in international human rights standards;
- 🔍 The EU should review all EU legislation and policy – as well as related national transpositions – regarding immigration, organised crime, anti-money laundering and counter-terrorism for its impact on the rights of migrants, racialised communities and human rights defenders. Where such instances are identified, the European Commission should provide remedies, such as through appropriate guidelines on how to interpret EU law (especially in the area of money laundering and terrorist financing) and ad hoc exemptions. The European Commission should repeal the proposed directive which aims to “introduce common transparency and accountability standards in the internal market for interest representation activities carried out on behalf of third countries” and the new Migration Pact.
- 🔍 The EU institutions must address loopholes in recent legislation, such as the AI Act and the EU Media Freedom Act, to prevent member states from exploiting national security exemptions and fundamental rights safeguards to target civic actors.

2. Protect civil society and human rights defenders against attacks

The European institutions and member states must step up their efforts to ensure the protection of civil society from harassment, intimidation and attacks. It is crucial that such efforts are grounded in an intersectional analysis and adapt to the needs of the specific groups that require protection. Efforts to protect specific groups, such as racialised communities and LGBTIQ+ individuals, should integrate the need to support their organisations and take into account the specific challenges that activists from these groups face for their human rights actions.

The EU institutions should:

- 🔍 Adopt **guidelines for the protection of civil society and human rights defenders** based on the EU External Action Service’s Guidelines on Human Rights Defenders and the recommendation on the protection, safety and empowerment of journalists. In particular,

building on the anti-SLAPP directive and recommendations, procedural safeguards to grant an early dismissal of manifestly unfounded court proceedings against public participation should be extended to cases of criminalisation of human rights actions. They should also aim to provide other remedies against abusive court proceedings criminalising the defence of human rights, including requiring claimants to bear all the costs of the proceedings, providing compensation for damages as a result of abusive court proceedings, and imposing effective, proportionate and dissuasive penalties on the party who initiated abusive court proceedings. They should also explicitly prohibit any form of intimidation or harassment directed at civic actors through digital means and technologies. The use of spyware to monitor the communications of rights defenders, activists, civil society actors, lawyers, journalists and their sources should be prohibited in the EU.



- Support the **creation of national civil society protection hubs or an EU mechanism to protect civil society and human rights defenders**, which should be built on the example of the existing external EU human rights defenders' mechanism protectdefenders.eu to support civil society abroad. The protection mechanism or hubs should be established by consortiums of diverse civil society organisations¹⁰⁷ and NHRIs. A mechanism should enable rapid response to support human rights defenders (HRDs) that face immediate risk. A 24/7 hotline, run by independent civil society organisations on behalf of and financed by the EU institutions, could provide a wide range of measures, including legal representation, medical costs, protection measures, communication and psychological support, and relocation. It is crucial that this action, whether through a mechanism or protection hubs, is completely independent from interference from member states and EU institutions and not subject to a restrictive understanding of who can benefit from such protection on the basis of vague notions of "national security" or "European values".
- Support the establishment of an **early warning mechanism** building on the projects piloted under the CERV grants. The EU institutions should endorse the mechanisms developed by civil society and adequately respond to the alerts received. On the basis of such alerts, EU institutions should engage with member states requesting a **public reaction** to complaints registered on such a platform, explaining measures adopted to address the complaints. Additionally EU institutions, and in particular the **Commission Vice President responsible for civic space and dialogue with civil society**, should provide proactive support of civic actors under pressure and timely follow-up to civil society complaints registered on the platform, via public and diplomatic means at their disposal (such as communications, country missions, public statements, and infringement procedures) in dialogue with civil society organisations.

3. Foster real dialogue and meaningful participation

¹⁰⁷ See opinion 5, PROTECTING CIVIC SPACE IN THE EU, FRA 2021.

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European civil dialogue is an essential element of European participatory democracy, which is distinct from, but complementary to, forms of citizen engagement. Beyond consultations, **civil dialogue should be recognised and organised on an equal footing to social dialogue in EU policy-making, in all areas of EU action and along all policy cycles. The European institutions should adopt a civil dialogue agreement to ensure structured participation of civil society in all EU policy-making processes.**¹⁰⁸ This should include:

-  **Co-programming¹⁰⁹ and participatory design of public policies:** Civil society should be involved in the initiation of legislation, including identifying which needs should be addressed and what are the appropriate policy solutions, and in the preparation of the European Commission work programme. Such involvement is already happening at the national level through supervisory committees involving civil society organisations, among other partners.¹¹⁰ Civil society should also be involved throughout the policy cycle, including in the design, implementation and assessment of policy. For this purpose, permanent civil dialogue structures should be established in each European Commission DG, following the example of positive practices in DG EMPL, DG Trade and DG AGRI. One member of the cabinet of the President of the European Commission should be responsible for cross-sectoral dialogue, and there should be a dedicated unit within the Secretariat General coordinating the civil society (or civil dialogue) units within each DG and reporting to the Commission President and Vice President in charge of civic space and civil dialogue.
-  **Sectoral dialogue:** The Commission should engage in dialogue with civil society before submitting policy proposals on the possible direction of Union action and on the content of the envisaged proposal, as is the case for social dialogue, as well as the feasibility and impact assessment.
-  **Cross-sectoral dialogue:** The EU should establish an annual summit enabling civil society to contribute to the political dialogue on the direction of EU action and policies, in the context, for example, of the State of the Union.
-  **Interinstitutional coordination on the implementation of Article 11.2 TEU:** Permanent civil dialogue structures should also be established in the European Parliament and European Council.

The civil dialogue agreement should clearly define the scope, levels and phases of the European civil dialogue as well as instruments and outcomes.

4. Build the resilience of the civic sector through truly empowering funding policies

¹⁰⁸ See opinion 4, PROTECTING CIVIC SPACE IN THE EU, FRA 2021.

¹⁰⁹ See, for example, coprogrammazione and coprogettazione in Italy: <https://www.cantiereterzosettore.it/la-co-programmazione/>

¹¹⁰ Following Commission Delegated Regulation (EU) No 240/2014 of 7 January 2014: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014R0240>

Truly empowering funding policies aim to shift the power to communities and those representing them, to ensure they respond to and meet real needs. EU funding policies for civil society should embed human rights grant-making principles¹¹¹ and learn from other funders' best practices such as trust-based philanthropy¹¹², "funding for real change"¹¹³, and participative grant making¹¹⁴ to ensure real empowerment and strengthening of civil society. The following recommendations should be embedded in funding for civil society, particularly the **CERV programme**:

- Develop inclusive and participatory funding and budgeting:
 - Negotiations on the multiannual financial framework and the definition of key funding programmes at the EU and national levels, and towards third countries, should include civil society through structured dialogue.
 - Funding policies, including thematic priorities, accessibility, reporting and evaluation should be designed together with civil society.
 - A bi-annual structured dialogue should be put in place between relevant European Commission DGs and beneficiaries of EU funding, who should have a say on the agenda of the meetings, in order to provide space for feedback and adjustments of the funding programmes (i.e. in face of crises, inflation...). Best practices of such dialogues are already taking place through the Humanitarian Partnership Watch Group between the DG ECHO of the European Commission and humanitarian CSOs¹¹⁵, as well as through the Programming Committee on Youth at the Council of Europe level.¹¹⁶
- Reduce the administrative burden and cost of applying and reporting. Application procedures should be simplified, for instance by introducing 2-step applications and differentiated co-funding levels and administrative procedures based on the type of applicants and the size of grants. Written reporting should be simplified, and institutions should invest in evaluation approaches focused on dialogue and learning. The level of administrative procedures required should be proportionate to the amount funded and the annual budget of the organisation.
- Replicate the "cascading grants" model of regranting through national CSO intermediaries beyond the CERV, to other EU funding programmes, such as the structural funds, in order to overcome government interference.
- Support organisational development, fair salaries (including by rising personnels costs in project funding) and good working conditions (including eligibility of sick and maternal payments,

¹¹¹ <https://www.hrfn.org/wp-content/uploads/2016/11/Principles-English-Sept-2020.pdf>

¹¹² <https://www.trustbasedphilanthropy.org/>

¹¹³ <https://www.fundingforrealchange.com/>

¹¹⁴ https://okotars.hu/sites/default/files/epa_grantmaking_final_web.pdf

¹¹⁵ <https://voiceeu.org/humanitarian-partnership-watch-group>

¹¹⁶ <https://www.coe.int/en/web/youth/programming-committee>

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severance and other payments if necessary) so that self-care and community care are at the heart of internal working cultures.¹¹⁷

- 🔍 Cover the full and fair costs of administration and financial management, including in project grants (at least 20% overheads), and reduce the co-funding rate.
- 🔍 Move towards truly multi-annual, unrestrictive core funding practices¹¹⁸ by overcoming the yearly application and reporting cycle for multiannual funding, which is counterproductive for multiyear commitments, costly and resource-consuming.
- 🔍 Ensure thematic priorities and funded activities cover civil society's needs, including services for the protection and care of activists (e.g. access to psychologists, legal costs, and training on digital, physical and psychological safety,) networking and coalition building, and strategic litigation.
- 🔍 Support in crisis situations through ongoing emergency grants.
- 🔍 Embed intersectionality in the preparation of calls for applications, selection and evaluation processes. For example, the selection of project evaluators should take into account the need to ensure and foster a diversity of experiences, with a particular preference for evaluators who have lived experience on the topic being addressed and different types of discrimination which the CERV aims to eradicate.

¹¹⁷ <https://www.hrfn.org/wp-content/uploads/2016/11/Principles-English-Sept-2020.pdf>

¹¹⁸

https://static1.squarespace.com/static/607452f8ad01dc4dd54fc41f/t/629e7f6e63704d64040cc554/1654554478550/6+Grantmaking+Practices+of+TBP_June+2022.pdf



About European Civic Forum

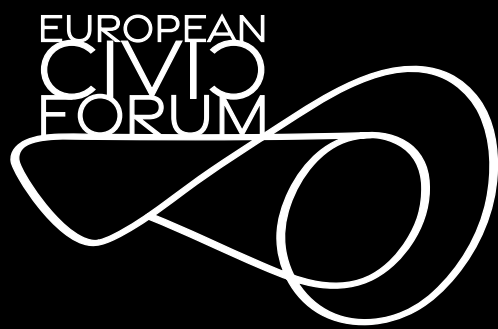
European Civic Forum (ECF) is a pan-European network of more than 100 associations and NGOs across 30 European countries,

Founded in 2005 by our member organisations, we have spent nearly two decades working to protect civic space, enable civic participation and build civil dialogue for more equality, solidarity and democracy in Europe.



About Civic Space Watch

Civic Space Watch collects findings and analyses from actors in Europe on the conditions for civil society to operate, capturing national and trans-European trends in civic space. Through ongoing monitoring of social media and regular contact and interviews with a strong network of members and partners on the ground, we strive to provide easy access to resources and improve information sharing within civil society across Europe.



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