

GERMANY

Key trends in 2023

- 🔍 Freedom of peaceful assembly under pressure: through new laws, decisions by assembly authorities and police action.
- 🔍 Interference in journalists' work, far-right intimidation tactics, excessive surveillance, and threats targeting marginalised groups challenge the work of civil society.
- 🔍 Continued lack of specific forums for dialogue between the state and civil society at federal or state level.

Targeted recommendation:

- 🔍 Fundamentally update the fiscal framework for non-profit organisations

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Summary

In the 2023 Rule of Law Report the European Commission recommended Germany to “Advance with the plan to create a legal basis for a right to information of the press as regards federal authorities, taking into account European standards on access to official documents.” No progress has been made and challenges in this regard remain. The federal Freedom of Information Act of 2006, which is supposed to give citizens access to documents issued by federal authorities (and thereby guarantee transparency), contains too many exceptions (repeatedly used to reject inconvenient requests); the provision of information is sometimes refused or subject to a fee. Although the current federal government has promised to update the law and rectify its shortcomings, it has not yet begun to take action. Some federal states have their own laws of varying quality (others have none). There is a need to step up efforts.

The Commission also recommended Germany to reform the law on non-profit organisations in such a way that organisations have legal certainty as to which purposes are recognised as charitable and enable them to obtain tax-exempt status. There has been no further progress to date, and it is unclear when the legislators will deal with it.

In some areas, the work of CSOs has become more difficult (particularly in sea rescue in the Mediterranean). Freedom of peaceful assembly has come under pressure in a number of ways: through new legislation, decisions by assembly authorities and police action. Other obstacles to civil society activities include interference in journalists’ work, far-right intimidation tactics, excessive surveillance, and threats targeting marginalised groups. However, civil society is also (legally) defending itself against these constraints. The absence of clear legal guidelines on what qualifies as charitable continues to be a burden for CSOs – particularly in connection with political activity. On the one hand, they lack financial planning security; on the other, they may be forced to limit themselves in their political activities. Funding has also presented challenges in other aspects: due to cuts in state budgets and the decline in donations, civil society has to rely on less funding. Regarding civil society’s political participation, the establishment of new formats for dialogue between civil society and the state, which would improve cooperation and the quality of decision-making, is still pending.