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## **STEERING COMMITTEE ON DEMOCRACY (CDDEM)**

### **GUIDANCE NOTE ON CIVIL SOCIETY PARTICIPATION IN THE INTERGOVERNMENTAL WORK OF THE COUNCIL OF EUROPE**

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## Introduction

1. Civil society actors and organisations are a vital force in modern democracies<sup>1</sup>. They engage in a wide range of activities, including contributing to discussions of public affairs, acting as public watchdogs and human rights defenders, participating in public policy development and decision-making, and providing community-based services. Civil society, particularly in its watchdog role, may have a significant impact on the proper functioning of a democratic society<sup>2</sup>.
2. In recent years, however, civil society has in some areas been facing increasing impediments to its effective participation in political and social life. There has been a rise in some parts of society in hostile discourse, as well as in online and offline abuse and harassment, disinformation, restrictive laws, policies and austerity measures<sup>3</sup> and the growing use of strategic lawsuits against public participation (SLAPPs)<sup>4</sup>.
3. Several texts of the Council of Europe highlight the importance for member States of creating an enabling environment for civil participation at national, regional and local levels<sup>5</sup> and promoting the engagement of individuals, non-governmental organisations and civil society in decision-making processes by public authorities<sup>6</sup>. According to these texts, widening the opportunities for civil participation in decision-making processes is one of the ways to achieving trust in and credibility of democratic institutions. In addition to States' commitments to support and maintain a safe and enabling environment, international organisations are well positioned to promote effective engagement with civil society and provide a platform for constructive dialogue<sup>7</sup>.

## Civil society participation in the Council of Europe work

4. Since the 1950s, the Council of Europe has been promoting civil society's involvement in its work both through the participatory status regime<sup>8</sup> and by offering specific opportunities for participation in almost all areas of Council of Europe work. These range from access to information and consultation to more active participation.
5. Overall, civil society expertise is integrated in the process of drafting instruments, preparing monitoring reports, and planning, implementing and evaluating co-operation projects. The Council of Europe often partners with civil society in the organisation of major events and co-operation activities, including in the framework of partial agreements.

<sup>1</sup> *Gorzeliak and Others v. Poland* [GC], no. [44158/98](#), § 92, ECHR 2004-I

<sup>2</sup> *Vides Aizsardzibas Klubs v. Latvia*, no. [57829/00](#), § 42, 27 May 2004.

<sup>3</sup> Recommendation [CM/Rec\(2018\)11](#) of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe.

<sup>4</sup> Recommendation [CM/Rec\(2024\)2](#) of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs).

<sup>5</sup> See appendix, especially Recommendation [CM/Rec\(2018\)11](#) on the need to strengthen the protection and promotion of civil society space in Europe; [CM/Rec\(2023\)6](#) on deliberative democracy, [CM/Rec\(2018\) 4](#) on the participation of citizens in local public life, and [CM/Rec\(2022\)6](#) on protecting youth civil society and young people, and supporting the participation in democratic processes.

<sup>6</sup> Guidelines for civil participation in political decision making ([CM\(2017\)83-final](#))

<sup>7</sup> The European Union and the United Nations have taken initiatives for meaningful engagement with civil society. [Better Regulation Agenda of 2021](#) establishes principles to ensure that EU action is developed by involving EU citizens and stakeholders in the decision-making process. The [Have Your Say portal](#) is a platform that since 2015 allows the Commission to seek evidence and feedback from citizens, businesses, and stakeholders in legislative and policymaking processes. Since 2012, citizens and civil society can propose legislative initiative to the Commission through the [European Citizens Initiative portal \(ECI\)](#). In the UN, the report of the High Commissioner for Human Rights on 'Civil society space: engagement with international and regional organizations' (A/HRC/44/25, 20/04/2020) provides an overview and recommendations for participation of civil society in the UN processes, promotion of civil space and protection of civil society actors.

<sup>8</sup> Resolution [CM/Res\(2016\)3](#) on participatory status for international non-governmental organisations with the Council of Europe provides access for some 300 INGOs with opportunities to observe, contribute or collaborate in the Organisation's activities and institutions. The Conference of International Non-Governmental Organisations of the Council of Europe (CINGO) is the representative body of all the INGOs enjoying participatory status with the Council of Europe.

6. Intergovernmental committees and subordinate bodies set up by the Committee of Ministers are governed by Resolution [CM/Res\(2021\)3](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods, which provides for the participation of civil society through various means, such as the participant status of the Conference of International Non-Governmental Organisations (CINGO), the observer status of civil society organisations and the organisation of hearings with civil society actors and organisations.
7. In 2019, the 129th Session of the Committee of Ministers in Helsinki resulted in a decision to strengthen the role and meaningful participation of civil society in the Organisation. This was further reiterated at the 132nd Session of the Committee of Ministers in Turin. In 2023, the process has been given further impetus by the [Reykjavik Declaration](#) adopted at the 4th Summit of the Heads of State and Government of the Council of Europe and the [Secretary General's Roadmap](#) on the Council of Europe's Engagement with Civil Society 2024-2027.
8. As stated in the Roadmap, civil society often lacks awareness and a thorough understanding of the Organisation's structures, instruments, and processes. This gap limits their ability to participate meaningfully with the Organisation. Furthermore, while civil society participation is encouraged, the institutional mechanisms within the Council of Europe may not be sufficiently developed or accessible, which in turn hinders the effectiveness of such participation. Finally, while the Organisation's efforts to communicate its work and activities to civil society are ongoing, there remains a commitment to continuously improving these efforts in order to reach and engage with relevant civil society actors and organisations more effectively.

### **Purpose, scope and definitions**

9. The purpose of this Guidance Note is to propose practical ways of strengthening civil participation in the work of the Council of Europe's intergovernmental committees and subordinate bodies set up by the Committee of Ministers by virtue of Article 17 of the Council of Europe Statute, in order to increase their transparency, inclusivity, relevance and effectiveness. Civil society contributions have the potential to positively influence policy development and standard setting work undertaken within the committees, while also enhancing the impact of the adopted texts. In this manner, the Note also aims to encourage such participation in democratic processes in member States, within their legal frameworks, in accordance with the [Reykjavik Principles for Democracy](#) and with European standards as embodied in the relevant case law of the European Court of Human Rights and Committee of Ministers' recommendations.
10. Council of Europe structures, intergovernmental committees and subordinate bodies, partial agreements, convention-based bodies and other monitoring and advisory bodies, co-operation programmes, the Parliamentary Assembly, the Congress of Local and Regional Authorities, the European Court of Human Rights, and the Human Rights Commissioner are all governed by their own statutory texts and decision-making mechanisms, and they collaborate with civil society within the scope of their mandates. This guidance should therefore be viewed as a first step in the process concerning intergovernmental committees and subordinate bodies; however, as the Reykjavik Declaration calls on the entire Organisation to reinforce its outreach to and meaningful engagement with civil society, it can serve as an inspiration for other sectors to introduce or further develop their own frameworks for civil society participation.
11. Intergovernmental committees and subordinate bodies of the Council of Europe cultivate a variety of good practices across its structures. These practices, however, should be effectively disseminated and promoted to provide maximum transparency and consistency and reduce the barriers that civil society may face in understanding and engaging with these bodies. Adopting a more systematic approach will facilitate diverse, effective, and sustainable participation of civil society in the intergovernmental activities. In addition, civil society actors should be able to expect consistency in the way similar Council of Europe bodies interact with them.
12. In this Guidance Note, the term "civil society" is used as it encompasses a broad and inclusive range of actors, including both organised and informal groups that contribute to societal development and express diverse viewpoints. However, given that the Note references several standard-setting texts that specifically use the term "non-governmental organisations" (NGOs), this

concept is also employed within that limited scope to ensure consistency with the referenced materials.

For the purpose of this Guidance note:

- “civil society” means the ensemble of individuals and organised, less organised and informal groups through which they contribute to society or express their views and opinions, including when raising issues related to human rights, democracy and the rule of law or expressing critical comments. Such organised or less organised groups may include professional and grass-roots organisations, universities and research centres, religious and non-denominational organisations and human rights defenders.<sup>9</sup>
- “non-governmental organisations” (NGOs) are a part of civil society and are voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members as set out in Recommendation [CM/Rec\(2007\)14](#) of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe. They may include, for example, voluntary groups, non-profit organisations, associations, foundations, charities or geographic or interest-based community and advocacy groups<sup>10</sup>.
- “civil participation” means the engagement of individuals, including young people and children, NGOs and civil society in public debate and the decision-making processes by public authorities. Civil participation in political decision-making is distinct from political activities which involve direct engagement with political parties and from lobbying in relation to business interests.

## Guidelines

13. To ensure equal, meaningful and effective engagement of civil society, the Council of Europe should consider strengthening its framework of internal rules and regulations, policies, and practices relating to civil society participation in the work of its intergovernmental committees and subordinate bodies.

To this end, the following should be considered:

### *Access to information*

- a. Increase the outreach to civil society throughout Europe by continuously providing information on the work of the intergovernmental committees and subordinate bodies of the Council of Europe, thereby increasing awareness, understanding and the use of their standard-setting and other texts. Organise regular consultations and exchanges of views between different Council of Europe intergovernmental structures and civil society.
- b. Ensure that civil society has effective and timely access to practical information on opportunities to participate in events and activities and generally engage in the work of the intergovernmental committees and subordinate bodies, for instance through appropriate publications on the various sectoral portals and the dedicated civil society portal.

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<sup>9</sup> Idem.

<sup>10</sup> Idem.

### *Modalities of engagement*

- c. Introduce a framework of values and responsibilities regarding the modalities of civil society participation in the work of Council of Europe's intergovernmental committees and subordinate bodies, outlining the roles and responsibilities of the Organisation and civil society in terms of, for example, access to documents, transparency, confidentiality, accountability and civil society's protection from harm.
- d. Encourage all intergovernmental structures to put in place policies and strategies on the participation of civil society in the framework of their mandates, with specific criteria based on their needs and particularities, as well as to follow and review progress in the implementation of those policies. Those criteria should be transparently communicated to civil society, along with expectations regarding the nature and level of engagement, as well as any conditions or limitations. To ensure consistency of policies, develop a template document that committees can adapt to their specific requirements.
- e. Inform civil society about the possibility to participate as observers in intergovernmental committees and subordinate bodies in accordance with Resolution [CM/Res\(2021\)3](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods and disseminate promising practices, with a view to promoting the transparency and inclusivity of committees' work.
- f. Underline the importance of the participatory status, based on Resolution [CM/Res\(2016\)3](#) on participatory status for international non-governmental organisations with the Council of Europe, as a channel for engagement of international non-governmental organisations (INGOs) with the Council of Europe, and the role of their Conference as a forum for consultation and cooperation of civil society working with the Council of Europe. Explore possible needs of INGOs to review the criteria and procedure for granting and withdrawing the participatory status with a view to clarifying further the requirements and expectations related to the status, including its implications and opportunities for participating in intergovernmental activities.
- g. Seek input from civil society regarding any legal, administrative, financial and practical restrictions or barriers that impede their ability to participate in the work of Council of Europe's intergovernmental committees and subordinate bodies and consider implementing targeted measures to address these challenges and continuously improve civil society participation.
- h. Encourage member States to engage in regular dialogue with civil society at the national and other relevant levels, with a view to exchanging views on current matters related to the activities of the Council of Europe. In addition, invite member States to consider including civil society representatives, where deemed appropriate, as part of their delegations to intergovernmental committees and subordinate bodies.

### *Working methods of intergovernmental committees and subordinate bodies*

- i. Engage in timely and transparent public consultations in policy development and standard setting to ensure that standard-setting processes are open to civil participation. Where appropriate, include civil society throughout the entire cycle of development of a legal instrument, policy or strategy. Ensure that the relevant procedures take account of the committees' resources and provide for appropriate timeframes, procedural clarity and sufficient information to make public participation meaningful and efficient.
- j. Provide adequate feedback to civil society that has participated in consultations; systematically share the results of intergovernmental work with civil society partners and include them in the overall dissemination of the results to the public.
- k. Where appropriate, include provisions in standard-setting instruments that encourage member States to involve civil society in a manner appropriate for their system of governance in the development of national or subnational regulatory instruments that implement Council of Europe standards and/or in the evaluation of their impact.

### *Equality and inclusion considerations*

- l. Ensure that the procedures for civil society participation are accessible, open, and inclusive without discrimination on grounds of real or attributed personal characteristics or status such as “race”<sup>11</sup>, colour, language, religion, nationality, national or ethnic origin, age, disability, sex, gender identity and sexual orientation. Additionally, transversal and intersectional perspectives including gender, youth, children’s rights, rights of people with disabilities, and Roma and Travellers issues should be duly included in engagement strategies and processes, to ensure an adequate participation, whenever relevant, of civil society working for or with persons in vulnerable or marginalised positions. The procedures for engagement should be organised through adapted and accessible mechanisms both online and offline and take due account of the specific needs and requirements of different groups, accommodating as much as possible their linguistic, cultural, practical and other needs. The websites of the Council of Europe’s intergovernmental committees and subsidiary bodies should be accessible, including to people with disabilities.
- m. Encourage the exchange of good practices among various organisational intergovernmental structures, especially with the goal of reaching out to groups whose voices may not be heard but are relevant to increasing the outreach and effectiveness of Council of Europe’s work, such as those that protect the rights of women, children, young people, older persons, persons with disabilities, national minorities, speakers of regional or minority languages, migrants, LGBTI individuals, and others at risk, such as environment defenders or whistleblowers.

### *Safeguarding measures*

- n. When engaging with international, national, regional and local civil society, be mindful of contextual risks, diverse protection needs and unique challenges faced by different groups, including those related to security; additionally, uphold the principles of confidentiality and “do no harm”<sup>12</sup>.
- o. In all of the guidance, planning and engagement with civil society, ensure that the process and outcomes safeguard the three fundamental, interdependent, and inalienable principles of democracy, human rights and the rule of law, including by ensuring that all parties involved respect, promote and protect these core principles. The rules for granting participatory status with the Council of Europe ([CM/Res\(2016\)3](#)) and observer status with intergovernmental committees ([CM/Res\(2021\)3](#)) are in place to ensure engagement in intergovernmental work only with civil society actors and organisations that respect and defend those core principles. While critical voices must always be heard, there can be no engagement with actors and organisations that have clearly shown that they do not respect those principles.
- p. Civil society participating in the work of intergovernmental committees and subordinate bodies should be able to express their views and perspectives, including critical ones, freely and without fear of repercussions, in accordance with their right to freedom of expression as enshrined in Article 10 of the European Convention on Human Rights.

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<sup>11</sup> Since all human beings belong to the same species, the Committee of Ministers has rejected, in Recommendation [CM/Rec\(2022\)16](#) on combating hate speech, theories based on the existence of different “races”, using the term “race” merely to ensure that those persons who are generally and erroneously perceived as “belonging to another race” are not excluded from the protection provided for by the concerned document. The term “race” is used for the same purpose in this document.

<sup>12</sup> In this connection, also see the [Private Office procedure on human rights defenders interacting with the Council of Europe](#) introduced for the purpose of investigating alleged reprisals against human rights defenders as a consequence of their interaction with the Council of Europe.

## Appendix: Selected Council of Europe Reference Texts

### Council of Europe Conventions

- Convention for the Protection of Human Rights and Fundamental Freedoms ([ETS No. 5](#))
- European Social Charter (revised) ([ETS No. 163](#))
- European Charter of Local Self-Government ([ETS No. 122](#)) and Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority ([CETS No. 207](#))
- European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations ([ETS No. 124](#))

### Recommendations and guidelines of the Committee of Ministers

- Recommendation [CM/Rec\(2007\)14](#) on the legal status of non-governmental organisations in Europe
- Recommendation [CM/Rec\(2018\)11](#) on the need to strengthen the protection and promotion of civil society space in Europe
- Recommendation [CM/Rec\(2023\)6](#) on deliberative democracy
- Recommendation [CM/Rec\(2022\)6](#) on protecting youth civil society and young people, and supporting their participation in democratic processes
- Recommendation [CM/Rec\(2018\)4 on the participation of citizens in local public life](#)
- Recommendation [Rec\(2003\)3](#) on balanced participation of women and men in political and public decision making
- Recommendation [CM/Rec\(2012\)2](#) of the Committee of Ministers to member States on the participation of children and young people under the age of 18
- Guidelines for civil participation in political decision making ([CM\(2017\)83-final](#))

### Resolutions of the Committee of Ministers

- Resolution [CM/Res\(2021\)3](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods
- Resolution [CM/Res\(2016\)3](#) on participatory status for international non-governmental organisations with the Council of Europe
- Resolution [CM/Res\(2010\)5](#) on the status of Council of Europe Offices
- Resolution [Res\(2003\)9](#) on the status of partnership between the Council of Europe and national NGOs

### European Commission for Democracy through Law (Venice Commission)

- Venice Commission and OSCE-ODIHR Joint Guidelines on Freedom of Association ([CDL-AD\(2014\)046](#))

### Parliamentary Assembly of the Council of Europe (PACE)

- [Recommendation 2134 \(2018\)](#) "New Restrictions on NGO Activities in Council of Europe member States" (and [Resolution 2226 \(2018\)](#))

### Congress of Local and Regional Authorities

- [Revised European Charter on the Participation of Young People in Local and Regional Life](#)
- Resolution [385\(2015\)](#) "Fostering active citizenship by building partnerships with civil society"

### Secretary General

- Secretary General's Roadmap on the Council of Europe's engagement with civil society 2024-2027 ([SG/Inf\(2023\)28](#))
- [Report of the Secretary General's First Regular Exchange of Views with Civil Society](#) (15 September 2023)

### Conference of International Non-Governmental Organisations (CINGO)



- [Code of Good Practice for Civil Participation in the decision-making process](#)
- [Guidelines for Conference of INGOs' Representatives to the Council of Europe Steering Committees](#)
- Report of the CINGO Expert Council on NGO Law on [the legal space for non-governmental organisations in Europe](#), civil society's perception of the implementation of Council of Europe CM Recommendation (2007)14 on the legal status of non-governmental organisations in Europe (2021)
- Study of the CINGO Expert Council on NGO Law [on stigmatisation of non-governmental organisations in Europe](#)