

# PROTECTION AND PROMOTION OF CIVIL SOCIETY SPACE IN EUROPE

# PROTECTION ET PROMOTION DE L'ESPACE DÉVOLU À LA SOCIÉTÉ CIVILE EN EUROPE



Proceedings of the Conference organised by the  
Council of Europe Secretariat in HELSINKI,  
on 25 June 2024

Actes de la Conférence organisée par  
le Secrétariat du Conseil de l'Europe à HELSINKI,  
le 25 juin 2024

# PROTECTION AND PROMOTION OF CIVIL SOCIETY IN EUROPE /

## *PROTECTION ET PROMOTION DE L'ESPACE DÉVOLU À LA SOCIÉTÉ CIVILE EN EUROPE*

*Proceedings of the Conference*

*Actes de la Conférence*

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## Preface / Préface



*Strasbourg, 24 July / juillet 2024*

The CDDH Conference on the Protection and Promotion of Civil Society Space in Europe, held during the centenary Plenary Meeting of the Steering Committee for Human Rights (CDDH) in Helsinki on June 25, 2024, reflected on the vital role that civil society plays for the fulfilment of human rights, democracy and the rule of law. As was reaffirmed in the Reykjavík Principles for Democracy adopted at the Fourth Summit of Heads of State and Government of the Council of Europe, “civil society is a prerequisite for a functioning democracy”.

Today, as we navigate challenges ranging from democratic backsliding to the impact of global crises such as the COVID-19 pandemic, the imperative to protect and promote civil society space in Europe is more urgent than ever. Civil society organisations, human rights defenders, and national human rights institutions require an enabling legal, political, and public environment to operate freely and effectively.

This conference provided a platform for in-depth discussions on both the challenges and good practices shaping civil society space across Europe. Insights shared by expert speakers, including the keynote address by Michael O’Flaherty, the Council of Europe Commissioner for Human Rights, and contributions from representatives of international non-governmental organisations (INGOs), the European Network of National Human Rights Institutions (ENNHRI), the EU Fundamental Rights Agency (FRA), and the Council of Europe (CoE), enriched our understanding of the evolving legal and political landscape.

The event also provided an opportunity to take stock of the progress made since the adoption of the 2018 Committee of Ministers Recommendation on the Protection and Promotion of Civil Society Space in Europe (CM/Rec(2018)11). This recommendation, drafted by the CDDH in close collaboration with civil society, was a step towards safeguarding civil society space in Europe. This publication sets out the participants’ reflections on the progress since the adoption of CM/Rec(2018(11).

Finally, insights were also shared on the Council of Europe's renewed and strengthened engagement with civil society, emphasising initiatives like the 2023 Secretary General's Roadmap on civil society engagement and the role of the newly established Steering Committee on Democracy (CDDEM).

The presentations captured in this publication will inform the CDDH's ongoing work on examining the implementation of Recommendation CM/Rec(2018)11, ensuring that our collective efforts remain aligned with the evolving needs of civil society and the principles of democracy, human rights, and the rule of law.

**Christos Giakoumopoulos**

Director General, DGI Human Rights and Rule of Law

*Directeur Général, DGI Droits humains et État de droit*

A handwritten signature in black ink, appearing to read 'Christos Giakoumopoulos', with a stylized, flowing script.

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# PROGRAMME

Tuesday 25 June 2024		Mardi 25 juin 2024
<p><b>Opening of the Conference by:</b></p> <ul style="list-style-type: none"> <li>• <b>Christos GIAKOUMOPOULOS</b> Director General, DGI Human Rights and Rule of Law, Council of Europe</li> </ul> <p style="text-align: right;"><b>Keynote speech</b></p> <ul style="list-style-type: none"> <li>• <b>Michael O'FLAHERTY</b> Council of Europe Commissioner for Human Rights</li> </ul> <p style="text-align: right;"><b>PANEL 1</b></p> <p><b>Challenges in protecting and promoting civil society space in Europe</b></p> <p>Moderator: <b>Antoine BUYSE</b> Professor, Utrecht University School of Law</p> <p>Panel Discussion with:</p> <ul style="list-style-type: none"> <li>• <b>Marie STRUTHERS</b> Director, Eastern Europe and Central Asia Regional Office, Amnesty International</li> <li>• <b>Phil LYNCH</b> Executive Director, International Service for Human Rights</li> <li>• <b>Jeremy McBRIDE</b> President, Expert Council on NGO Law, Council of Europe Conference of International NGOs</li> </ul> <p style="text-align: right;"><b>COFFEE BREAK</b></p>	<p>09:30</p> <p>09:45</p> <p>10:15</p> <p>11:00</p>	<p><b>Ouverture de la Conférence par :</b></p> <ul style="list-style-type: none"> <li>• <b>Christos GIAKOUMOPOULOS</b> Directeur Général, DGI Droits humains et État de droit, Conseil de l'Europe</li> </ul> <p style="text-align: right;"><b>Discours d'ouverture</b></p> <ul style="list-style-type: none"> <li>• <b>Michael O'FLAHERTY</b> Commissaire aux droits de l'homme du Conseil de l'Europe</li> </ul> <p style="text-align: right;"><b>SESSION 1</b></p> <p><b>Les défis de la protection et de la promotion de l'espace dévolu à la société civile en Europe</b></p> <p>Modérateur : <b>Antoine BUYSE</b> Professeur, École de droit à l'Université d'Utrecht</p> <p>Discussions avec :</p> <ul style="list-style-type: none"> <li>• <b>Marie STRUTHERS</b> Directrice, Bureau régional pour l'Europe de l'Est et l'Asie centrale, <i>Amnesty International</i></li> <li>• <b>Phil LYNCH</b> Directeur exécutif, <i>International Service for Human Rights</i></li> <li>• <b>Jeremy McBRIDE</b> Président, Conseil d'experts sur le droit en matière d'OING, Conférence des OING internationales du Conseil de l'Europe</li> </ul> <p style="text-align: right;"><b>PAUSE CAFÉ</b></p>

<p style="text-align: right;"><b>PANEL 2</b></p> <p><b>Good practices for protecting and promoting civil society space in Europe</b></p> <p>Moderator: <b>Carla FERSTMAN</b> Professor, University of Essex, Law faculty</p> <p>Panel Discussion with:</p> <ul style="list-style-type: none"> <li>• <b>Gerhard ERMISCHER</b> President, Council of Europe Conference of international NGOs</li> <li>• <b>Katrien MEUWISSEN</b> Human Rights Team Leader, European Network of National Human Rights Institutions (ENNHRI)</li> <li>• <b>Andreas ACCARDO</b> Head of Unit, EU Fundamental Rights Agency</li> </ul>	<p>11:30</p>	<p style="text-align: right;"><b>SESSION 2</b></p> <p><b>Bonnes pratiques en matière de protection et de promotion de l'espace dévolu à la société civile en Europe</b></p> <p>Modératrice : <b>Carla FERSTMAN</b> Professeure, Université d'Essex, faculté de droit</p> <p>Discussions avec :</p> <ul style="list-style-type: none"> <li>• <b>Gerhard ERMISCHER</b> Président de la Conférence des OING du Conseil de l'Europe</li> <li>• <b>Katrien MEUWISSEN</b> Chef de l'équipe droits humains, Réseau européen des institutions nationales des droits de l'homme (ENNHRI)</li> <li>• <b>Andreas ACCARDO</b> Chef d'unité, Agence des droits fondamentaux de l'UE</li> </ul>
<p style="text-align: right;"><b>PANEL 3</b></p> <p><b>Council of Europe activities to support an enabling environment for civil society</b></p> <ul style="list-style-type: none"> <li>• <b>Marja RUOTANEN</b> Director General, DGII Democracy and Human Dignity</li> <li>• <b>Niklas WILHELMSSON</b> Member of the Steering Committee on Democracy (CDDEM)</li> </ul>	<p>12:15</p>	<p style="text-align: right;"><b>SESSION 3</b></p> <p><b>Activités du Conseil de l'Europe visant à soutenir un environnement favorable à la société civile</b></p> <ul style="list-style-type: none"> <li>• <b>Marja RUOTANEN</b> Directrice générale, DGII Démocratie et dignité humaine</li> <li>• <b>Niklas WILHELMSSON</b> Membre du Comité directeur sur la démocratie (CDDEM)</li> </ul>
<p style="text-align: right;"><b>Closing remarks</b></p> <p><b>Krista OINONEN</b> Chairperson of the Steering Committee for Human Rights (CDDH)</p>	<p>12:45</p>	<p style="text-align: right;"><b>Allocution de clôture</b></p> <p><b>Krista OINONEN</b> Présidente du Comité directeur pour les droits humains (CDDH)</p>



# WELCOME ADDRESS

# DISCOURS D'OUVERTURE

**Christos GIAKOUMOPOULOS**



**Keynote speech  
Michael O'FLAHERTY**



## David MILNER on behalf of Christos GIAKOUMOPOULOS

Secretary of the CDDH, Head of the Human Rights Intergovernmental Co-operation Division, DGI Human Rights and Rule of Law

*Secrétaire du CDDH, Chef de la Division de la Coopération intergouvernementale en matière de droits humains, DGI Droits humains et État de droit*

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Good morning Madame Chair, honoured guests, friends, ladies and gentlemen.

On behalf of Director General Giakoumopoulos, I have the honour of welcoming you to this conference which forms part of the 100th meeting of the Steering Committee for Human Rights, or CDDH.

I would particularly like to thank Krista Oinonen, the CDDH Chair, for hosting the event in Helsinki.

Civil society plays many important roles in democratic societies. One of these is to promote and protect human rights, democracy and the rule of law. But this in turn requires an enabling environment in which civil society organisations, human rights defenders, and national human rights institutions can operate free from fear, retaliation or intimidation.

One of the Council of Europe's strategic priorities is the promotion and protection of civil society in its member States. The Council of Europe has a long history of collaborating with civil society. From 1952, when non-governmental organisations were first granted consultative status. Through 2003, when this collaboration was intensified by granting participatory status to international non-governmental organisations.

We have seen the evolution in the CDDH – from the expectation that observers, well, observe, to a full acceptance and welcome for their technical expertise, participating as full but independent partners.

Helsinki is a fitting location for our conference. In 2019, the city hosted the meeting of the Committee of Ministers which launched the “Helsinki Process” on civil society space.<sup>1</sup> The “Helsinki Process” in turn influenced the 2023

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<sup>1</sup> [CM/Del/Dec\(2019\)129/2 - 129th Session of the Committee of Ministers \(Helsinki, 17 May 2019\)](#), “The need to strengthen the protection and promotion of civil society space in Europe”; see also reference to the “Helsinki Process” in the Secretary General's 2023 speech - [Opening](#)

[Reykjavík Declaration](#) when the Heads of State and Government from the 46 member States declared that "civil society is a prerequisite for a functioning democracy."<sup>2</sup>

Following the Reykjavík Declaration, the Secretary General issued a Roadmap for enhancing Council of Europe engagement with civil society, including youth organisations. We will hear more about this later today.

Both the “Helsinki Process” and the Reykjavík Declaration build on the 2018 Committee of Ministers Recommendation on the Protection and Promotion of Civil Society Space in Europe.<sup>3</sup>

The 2018 Recommendation was a response to, a “deep concern at the shrinking space for civil society resulting, inter alia from restrictive laws, policies and austerity measures taken recently by member States”. The text calls on member States’ governments to ensure that their national laws and practices comply with international law.

Its appendix indicates measures that States should take to ensure protection and promotion of civil society space and concludes with a call for stronger support from the Council of Europe itself. The Recommendation is an ambitious, progressive text reflecting an institutional appreciation for and commitment to civil society.

Six years have passed since the recommendation was adopted. There has been progress on some fronts – but elsewhere, challenges remain. There are persistent indicators of democratic backsliding in some areas, including restrictions on the activities of civil society.

Novel challenges have also appeared. During the Covid pandemic, for example, restrictive measures sometimes had a significant affect on the ability of civil society to operate freely and effectively.

The Council of Europe has not been blind to or silent on these challenges, which have been noted in the reports of the Secretary General on the State of Democracy, Human Rights and the Rule of Law; the work of the

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[of the First regular Exchange of views with Civil Society on the occasion of International Day of Democracy](#)

<sup>2</sup> Reykjavík Declaration, Appendix III, point 9.

<sup>3</sup> On the interconnection with the 2018 Recommendation see the Secretary General's Roadmap on the Council of Europe's Engagement with Civil Society 2024-2027, point 2 “*These political commitments build upon the decisions adopted at the 129th Session of the Committee of Ministers on “the need to strengthen the protection and promotion of civil society space in Europe” (17 May 2019, Helsinki, Finland) in light of the comprehensive [Recommendation CM/Rec\(2018\)11 of 28 November 2018 on the need to strengthen the protection and promotion of civil society space in Europe.](#)”*

Commissioner for Human Rights; the judgments of the European Court of Human Rights; and in the opinions of the Venice Commission and the Expert Council on NGO Law.

Today, we will be focusing not only on challenges, but also on good practices that have emerged since the Recommendation was adopted.

Our discussions will be enriched by the invited experts. The keynote speaker, Michael O'Flaherty, the new Council of Europe Commissioner for Human Rights; and the panelists, representing the Council of Europe bodies including the Conference of international NGOs, individual NGOs, and other international organisations, who will offer their institutional perspectives.

Taken together, our speakers will provide a wide-ranging overview of the evolving landscape in which civil society operates today.

The 2018 recommendation was drawn up by the CDDH, in close collaboration with representatives of civil society. The Committee of Ministers has now asked the CDDH to prepare a report examining the implementation of this recommendation. It has also asked the new Steering Committee on Democracy, or CDDEM, to contribute to this work. I am pleased to see the Finnish member of the CDDEM is here to tell us more about this.

Today's conference is therefore intended to provide essential material for the CDDH's work. In November, the CDDH will report to the Committee of Ministers, with observations, conclusions, and possible proposals for action.

I conclude, therefore, by looking forward to today's presentations and the surrounding discussions, and to their impact on the future work of the Council of Europe

Thank you for your attention.

## Michael O'FLAHERTY

Council of Europe Commissioner for Human Rights  
*Commissaire aux droits de l'homme du Conseil de l'Europe*

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Chairperson Oinonen,  
Distinguished members of the steering committee,  
Friends,

I apologise for not being with you physically. I had to stay in Strasbourg because of unavoidable commitments. But let me start by congratulating the Steering Committee on this 100th session.

I deeply appreciate that you chose the essential topic of standing up for the protection of civil society in the context of the newly announced review of Recommendation (2018)11 of the Committee of Ministers.

The role of civil society is absolutely essential to our shared interest in upholding the rule of law, democracy and human rights.

Take the specific issue of human rights. I cannot think of any element of the human rights machinery that would function without its role.

Look at the origins of human rights. There isn't a single good human rights idea that did not originate in civil society. Look at the role of intellectuals in the academies in the 20th century, in shaping of the concepts. Think of Lemkin, Lauterpacht, Higgins. The list is long.

Look at the role of civil society human rights organisations, such as Amnesty International, in the crafting of the Council of Europe and United Nations treaties on torture. I am also thinking of FIDH which proposed the idea of an international declaration of human rights as early as the 1920s.

Beyond the origins of human rights, look at how civil society is the custodian, the true guardian of human rights. How many known and unknown members of civil society have died in its defence.

I'm struck by how it is civil society that is the driving force behind the delivery of human rights every day. I think about the way in which the issues are brought to the attention of policy makers through the voice of civil society. I think of the extent to which civil society provides the deep expertise. There is role of civil society as a service deliverer. How many of the good things that happened in the period of COVID were delivered, perhaps on behalf of the state, but nevertheless by civil society. There is the essential role of civil society as the human rights monitor and critic, but not only in a kind of a negative function, but also proposing the fixes and the corrections. And finally, in this non-exhaustive list, I see civil society as the voice, the bearer

of hope, keeping alive the vision of that better world where human rights are fully respected.

It's in this spirit that it's my great privilege to work with civil society on a daily basis. Because of them, I am able to do my job and frankly, do it better.

I meet with civil society on a daily basis. For instance, I was in Paris a few days ago where I met with an astonishing network of NGOs called *Le revers de la médaille*, which has brought together hundreds of organisations engaging on human rights issues around the Olympic Games in an impressive act of advocacy and organisation. I think of all of the civil society and human rights defenders I met at the IDAHOT+ Forum in The Hague just a few weeks ago. And indeed, I think back to my first day in office when I met with young Roma activists who inspired me to take my job ever more seriously.

Now, as we've already heard, civil society is under great pressure in many different places, and this is the subject of your conference this morning. So I'm not going to go through the pressures systematically.

Instead, I'd like to share with you five of my concerns, five things that are on my mind in this broader context of pressures on civil society.

The first of these is the way in which the law is being used, in some places, in an illiberal and undemocratic way, to remove inconvenient voices. I am thinking of the so-called foreign funding laws, which have been the subject of letters from me to two governments. I think of the way law is invoked in some places to excessively restrict the human rights of expression, assembly and association, particularly in the current context of conflict.

The second concern that's on my mind as I speak this morning is the extent to which major crises in our societies have on occasion been instrumentalised to put pressure on civil society.

COVID-19 is a good example of this, and I would like to express my appreciation to FIDH for an excellent report that demonstrates exactly what I have just referred to.

The third of my five concerns, well known to us all and no doubt the subject of much attention today, is the frankly shocking level of hate and vituperation channeled towards civil society in today's society. It's online, but it's also offline. It comes from the anonymous individual, but it also comes from the senior political leader, and it seems to be something you can more or less get away with.

Another dimension of the level of hate being expressed right now is that it is profoundly gendered. It impacts women human rights defenders, women members of civil society, far more than men.

The fourth of my five concerns, which is specific to our continent, to our Europe, to our 46 member states, is the extent to which we still have a long way to go in putting in place the systems to provide shelter to human rights defenders from other countries who need us to take them in and give them with respite, even if it's just for a short period of time. In my previous position as Director of the EU Fundamental Rights Agency, we carried out research on this very issue, where we found that only eight EU member states had structured systems in place to receive such human rights defenders under their jurisdiction. I would strongly encourage all Council of Europe member states to put such systems in place everywhere so that we can welcome those in need of our protection.

I am thinking in particular of human rights defenders from Russia and Belarus, who need us now more than ever. It is not helpful that we are sealing our borders at the very moment when people in need of our protection, in need of asylum, are at our door.

The fifth and last of my concerns is a very challenging issue on which I would deeply appreciate your consideration and advice. What is civil society? Who are the human rights defenders that we must defend today? I ask this question because we see far too often today the invocation of human rights to suppress the human rights of others. I think it would be worth your and our while to reflect deeply on this issue so that we can chart an ethical and appropriate way forward.

In closing, chairperson and participants, allow me to briefly recall a pledge I made to the Conference of International Non-Governmental Organisations at the very beginning of my mandate.

I told NGOs that the protection, the defence and accompaniment of human rights defenders would be one of my very top priorities. I renew that pledge today.

I said that in delivering on that pledge, I would engage in a continuous dialogue with civil society. That remains my determination.

I pointed out to them that, to be effective in my work, I will need to work in close partnership with civil society, with the system of the Council of Europe, but also externally. I gave the pledge then, and I have since renewed it to external partners, to work very closely with the UN Special Rapporteur, Mary Lawlor, and with the Special Rapporteur under the Aarhus Convention, Michel Forst, and I look forward to deepening that cooperation.

And fourth and finally, I have pledged, and I will continue to pay very close attention to the Secretary General's 2023 Civil Society Roadmap, as well as to the content of Recommendation (2018)11 and other important outputs of the Committee of Ministers.

# PANEL / SESSION 1

## Challenges in protecting and promoting civil society space in Europe

## Les défis de la protection et de la promotion de l'espace dévolu à la société civile en Europe





## Marie STRUTHERS

Director, Eastern Europe and Central Asia Regional Office  
*Directrice, Bureau régional pour l'Europe de l'Est et l'Asie centrale*  
Amnesty International

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Thank you very much for this opportunity to participate in the CDDH's examination of the implementation of the Committee of Ministers' 2018 Recommendation (CM/Rec(2018)11) on the need to strengthen the protection and promotion of civil society space.

Amnesty International has contributed to the Council of Europe's standard setting for many years, including the drafting of human rights instruments such as the Istanbul Convention. We regularly submit third party interventions to the European Court of Human Rights and Rule 9 (2) submissions to the Committee of Ministers on their implementation. Amnesty has observer status at the CDDH, which we very much welcome, and we were observers when the Committee of Ministers' 2018 Recommendation was drafted by the CDDH.

I will describe four main human rights trends which are also challenges, and offer recommendations on how the 2018 Recommendation should be implemented further, six years after its adoption.

First, the 2018 Recommendation called for an enabling environment for human rights defenders,<sup>4</sup> and member states at the Council of Europe's 4th Summit in Reykjavik "committed to step up [its] efforts to create an enabling environment for human rights defenders, in which they and civil society can operate free from hindrance, insecurity and violence".<sup>5</sup> Europe today, however, is facing one of its darkest moments since the Council of Europe's founding 75 years ago, with wars raging and unprecedented threats posed to the pillars of the multilateral system, which are based on international law. This means that human rights defenders today face the opposite of an enabling environment, that is, stigmatisation, increased hindrance, insecurity and violence.

These defenders are at the base of our multilateral system. and they are struggling to ensure that human rights, the rule of law and democracy are upheld at the national level, with selfless dedication, increasingly risking their freedom and even their lives to do so. Examples range from their criminalization for showing solidarity with refugees and migrants, to torture and other ill-treatment against their peaceful protest, to prosecution for

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<sup>4</sup> CM Rec(2018)11, Appendix, I (a).

<sup>5</sup> Reykjavik Declaration, p. 16, Appendix III (9).

seeking access to safe and legal abortion, to the effective criminalization of free expression and independent human rights information as “fake news”, and to charges of terrorism for the legitimate exercise of human rights protection. These defenders are unique contributors to the foundation of the Council of Europe, and so we must go beyond recommendations to concrete implementation of measures to ensure a secure and robust enabling environment for them.

The Council of Europe should thus adopt an effective holistic approach to human rights defenders:

All parts of the Council of Europe should strive to eradicate restrictions to the enabling environment for human rights defenders by ensuring the implementation of relevant Court judgments concerning civil society, recommendations of the Commissioner for Human Rights, Venice Commission, and Parliamentary Assembly of the Council of Europe, including through the intervention of the Secretary General and the Committee of Ministers;

The Committee of Ministers must prioritize the implementation of judgments concerning human rights defenders and address root causes of the violations found by the Court, in particular concerning the freedoms of expression, association and assembly. A thematic debate on judgments relating to defenders, in line with the 2018 Recommendation’s call to the Committee of Ministers to accord particular attention to judgments on defenders and their enabling environment, is needed;<sup>6</sup>

It is also crucial that the Council of Europe works towards strengthening the independence and impartiality of national judiciaries, countering gender backlash, and recognising the right to a healthy environment – this is of acute importance to boost support for human rights defenders working on these critical issues; and

The Council of Europe should also include the protection and promotion of human rights defenders into Committee of Ministers’ Action Plans and into Cooperation Programmes with member states, in particular with member states where the Court has found violations against human rights defenders.<sup>7</sup>

Second, the Council of Europe ignores authoritarian trajectories at its peril. Russia’s suppression of its own civic space, in the 10 years prior to its war of aggression on Ukraine, is a textbook example of how shrinking civic space is both a symptom and enabler of authoritarianism. The 2012 Russian

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<sup>6</sup> CM/Rec(2018)11, Appendix IV (c), “paying special attention within the Committee of Ministers to the execution of judgments concerning human rights defenders and the enabling environment for human rights work.”.

<sup>7</sup> Reykjavík Declaration, Appendix 4, p. 19, committed “to scale up co-operation programmes to assist member States in the implementation of judgments”.

“Foreign Agents Law” signalled the beginning of very hard times for Russian civil society. Yet, it was only in June 2022, after Russia ceased to be a member, that the Court delivered its judgment on the cases of various NGOs around the Foreign Agents legislation, finding several violations. Amongst those NGOs was Nobel Peace prize winner Memorial and over 70 others working on the environment, migrants, LGBTI people and torture. Today, the impact of Russia’s blueprint Foreign Agents law extends to Georgia,<sup>8</sup> Hungary,<sup>9</sup> Slovakia,<sup>10</sup> and Kyrgyzstan.<sup>11</sup> In no small part thanks to Russia as well, war is a “new normal” in the Eastern Europe and Central Asia region, and its own and others promotion of “traditional” and family-oriented values” have led to a retreat of gender rights.<sup>12</sup>

The Council of Europe must take steps to curb the human rights backsliding trend across the region. It must learn from its complacency with Russia but at the same time not abandon Russian and Belarusian civil society; these two civil societies cannot be separated from a long-term solution and constructive aftermath to Russia’s aggression against Ukraine. Member states at the 2023 Reykjavik Summit “committed to strengthen cooperation with Russian and Belarusian human rights defenders, democratic forces, free media and independent civil society”.<sup>13</sup> It is critical that the member states support civil society from Russia and Belarus, including via the obtention of humanitarian and other visas, relocation and shelter programmes, and legal, medical and employment infrastructure assistance.

Ahead of the Reykjavik Summit Amnesty called on member states to affirm their good faith cooperation with Council of Europe bodies by extending standing invitations to the Commissioner for Human Rights and the monitoring mechanisms. It is unacceptable that some member states refuse to cooperate with certain Council of Europe bodies, preventing their visits and reporting. The same problem applies to NGOs who are barred from visiting and are prevented from performing their crucial duty to monitor human rights conditions, gain access to detention and migrant sites, or conduct trial observation. We also call upon the Council of Europe to

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<sup>8</sup> <https://www.amnesty.org/en/latest/news/2024/05/georgia-police-violence-intensifies-as-parliament-approves-foreign-influence-bill/>.

<sup>9</sup> <https://www.amnesty.org/en/latest/news/2017/06/hungary-ngo-law-a-vicious-and-calculated-assault-on-civil-society-2/>;  
<https://www.amnesty.org.uk/press-releases/hungary-proposed-law-targeting-civil-society-aims-silence-critical-voices>.

<sup>10</sup> <https://www.amnesty.org/en/latest/news/2024/04/slovakia-anti-ngo-law-a-full-frontal-assault-on-civil-society/>.

<sup>11</sup> <https://www.amnesty.org/en/latest/news/2024/03/kyrgyzstan-highly-restrictive-ngo-legislation-passed-by-parliament-must-be-vetoed/#:~:text=Reacting%20to%20the%20news%20of,by%20parliament%20is%20deeply%20troubling>.

<sup>12</sup> Amnesty International, *The State of the World’s Human Rights*, April 2024, pp. 50, 54, 319.

<sup>13</sup> Reykjavik Declaration, p. 6., par. 7.

maintain support to NGOs working on or in conflict zones such as Ukraine, in recognition of their indispensable efforts to provide victim-centred aid, accountability and justice.

Third, shrinking civic space and the erosion of judicial independence are mutually reinforcing. Instead of defending those who stand up for human rights, judicial systems have been deployed to cripple the enabling environment for defenders. In Belarus the authorities have abused the justice system to crack down on all dissent, including political opponents, human rights defenders, and lawyers.<sup>14</sup> In the run-up to COP29 in Azerbaijan, we've seen a blatant escalation of crackdown, leading to arrests, detention and unfounded prosecution of peaceful activists and dissidents.<sup>15</sup> In Russia, criminal courts have routinely demonstrated a profound bias against defendants and judges, have unquestioningly accepted the prosecution's evidence, including testimony given under torture, and rejected strong evidence of innocence.<sup>16</sup> Weakened judiciaries facilitate political persecution, state overreach and arbitrary rule.

National judiciaries should of course guarantee against arbitrary interference by public authorities to individual freedoms, and so serious steps must be taken by the Council of Europe to guarantee these judiciaries' independence and impartiality, including by strengthening the position of lawyers and opposing the judicial harassment of critical voices. Judges in Türkiye, Azerbaijan, Poland, Hungary and elsewhere should have no doubts about the binding nature of Court's rulings, nor fear repercussions for applying the European Convention on Human Rights.

The Secretary General should convene annual exchanges of views with human rights defenders and civil society on the challenges they face at the national level. We welcomed the initiative of the Secretary General to organise a first such exchange in September 2023, but this needs to be followed by other meetings with concrete action points concluded with and for civil society, including the recommendations provided here.

Fourth, a growing number of Court judgments indicate seriously chilling trends against human rights defenders. Defenders have had their rights restricted and in some cases their liberty, for ulterior motives (art. 18 ECHR). The most glaring example is the case of Osman Kavala, sentenced to life in prison in May 2022 despite the Court's 2019 ruling denouncing the chilling effect of his detention on human rights defenders and calling for his release. Despite infringement proceedings under Article 46.4 of the European Convention on Human Rights, Osman Kavala remains deprived of his liberty,

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<sup>14</sup> Amnesty International, *The State of the World's Human Rights*, April 2024, p. 52.

<sup>15</sup> Azerbaijan: Human rights and climate justice advocate arrested ahead of COP29 - Amnesty International, 30 April 2024.

<sup>16</sup> Amnesty International, *The State of the World's Human Rights*, April 2024, p. 319.

for life. Türkiye is the only Council of Europe member to have imprisoned and convicted a representative of Amnesty International: Taner Kilic, now honorary chair of Amnesty Türkiye, was convicted on groundless terrorism charges. In other cases, notably Azerbaijan, the Court has noted troubling patterns of arbitrary arrests and the detention of government critics.

The highest-level efforts by the Council of Europe must be made to ensure implementation of such judgments. The Secretary General, the Presidency of the Committee of Ministers and the President of the Parliamentary Assembly of the Council of Europe should visit Osman Kavala in prison, discuss implementation of the judgment with the most senior levels of the judiciary, and express support for the work of human rights defenders in Türkiye and elsewhere.

A few additional recommendations. The Council of Europe should ensure:

That its local offices play a more active role, not least to counter the stigmatisation of human rights defenders. The 2018 Recommendation states that local offices should “promote civil society’s, National Human Rights Institutions’ and human rights defenders’ work and give visibility to key judgments of the Court, recommendations of the Commissioner, the Venice Commission, and the Parliamentary Assembly concerning human rights defenders.”<sup>17</sup> Local office actions here could include prominent display and translation on internet sites of the Court’s judgments regarding civil society, thematic meetings with civil society, and meeting regularly with human rights defenders and civil society organisations;

Implementation of the April 2024 Committee of Ministers’ Recommendation (CM/Rec(2024)2) on the need for member states to counter the use of strategic lawsuits against public participation (SLAPPs).<sup>18</sup> Again, for such Recommendations to have meaningful impact they must be implemented at the national level, and, as with the 2018 Recommendation, this must be a collective effort starting immediately after adoption, not a post scriptum exercise;

Strengthen the Secretary General’s private office procedure on alleged reprisals against human rights defenders interacting with the Council of Europe, and publish a report on the use of the mechanism;

Create a platform for human rights defenders like that for the safety of journalists. The platform could help to compile, process and share information about human rights defenders and their safety, towards identifying trends and proposing policy responses for the protection of human

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<sup>17</sup> CM/Rec(2018)11, Appendix, IV (b).

<sup>18</sup> CM/Rec(2024)2 of the Committee of Ministers to member States on countering the use of strategic lawsuits against public participation (SLAPPs).

rights defenders, and initiate and take timely and coordinated action when necessary; and

Last, and crucially important, adopt an additional protocol to the European Convention on Human Rights to recognise the right to a clean, healthy, and sustainable environment. Over 400 civil society organizations including Amnesty have called for such a protocol, and the Court, in its 2024 *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* key judgment emphasized the role of associations in climate change related litigation.<sup>19</sup> Yet, NGOs working on environmental issues have been targeted with SLAPPs, and all manner of harassment, with individual environmental defenders facing persecution and serious threats. It's high time for member states to enable their work, support the Court against the unacceptable backlash by the Swiss Parliament, which is refusing to implement the ruling, and adopt a Protocol to the European Convention on Human Rights that effectively recognises the right to a healthy environment.<sup>20</sup>

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<sup>19</sup> Time's up: The Council of Europe must put the right to a healthy environment in law – Healthy Environment Europe, 6 May 2024.

<sup>20</sup> Lettre ouverte: S'engager pour la Convention européenne des droits de l'homme — amnesty.ch, 11 June 2024.

Thank you for the opportunity to address you on this important topic. My remarks are informed by my work with the International Service for Human Rights supporting human rights defenders and other civil society actors over the last decade. This has included consultations with over 700 human rights globally over the last year regarding their situation, protection needs and priorities.

Based on this experience, I would like to highlight five key challenges for civil society actors, particularly human rights defenders, in Europe.

#### A crisis of confidence in human rights laws and mechanisms

The first challenge is that there is a profound and potentially long-term erosion of confidence among civil society actors regarding human rights law and justice and accountability mechanisms, at the international, regional and national levels.

In our assessment, human rights law and justice mechanisms on which civil society actors rely are at a critical juncture, with the selective and inconsistent application of binding human rights law and judicial orders by States from all regions – but particularly for present purposes including Europe – undermining the legitimacy of the framework and the influence of States invoking it.<sup>21</sup>

This selectivity and abandonment of the principle of universality is seen most acutely in the response of many European States to the war in Gaza, as well as their responses to action at the International Court of Justice and the International Criminal Court. It is also evident more locally in, for example, the Swiss parliament's recent unilateral rejection of a landmark decision of the European Court of Human Rights regarding the State's climate protection obligations.<sup>22</sup> Universality is also increasingly challenged by anti-gender and anti-rights narratives and discourse.

For human rights and the rule of law to remain credible and meaningful frameworks, they must be applied in a principled and consistent way, without discrimination and without double standards.

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<sup>21</sup> See further <https://ishr.ch/latest-updates/human-rights-for-everyone-everywhere-without-double-standards-or-discrimination/>.

<sup>22</sup> See <https://www.swissinfo.ch/eng/climate-change/parliament-criticises-european-climate-ruling-against-switzerland/80447999>.

## Lack of specific laws or mechanisms on the recognition and protection of human rights defenders

The second key challenge is that, 25 years on from the adoption of the UN Declaration on Human Rights Defenders, no European state has comprehensively enshrined the Declaration in national law, although a number have developed diplomatic guidelines on the protection of defenders abroad,<sup>23</sup> with Finland most recently updating its guidelines in 2023.<sup>24</sup>

This is in contrast to other regions, with a number of States in Africa, Asia and Latin America all developing and enacting specific national laws on the recognition and protection of human rights defenders, as well as establishing or designating protection mechanisms.<sup>25</sup>

While such laws are, of course, not in and of themselves sufficient to ensure a safe and enabling environment for civil society, they have been identified by the UN Special Rapporteur on Human Rights Defenders as a critical element contributing to such an environment.<sup>26</sup>

At the regional level, the European Court of Human Rights is also yet to take the positive step taken by the Inter-American Court in the landmark case of *CAJAR v Colombia* in recognising an autonomous right to defend human rights.<sup>27</sup>

At the national level, we urge European States to develop and enact specific laws on human rights defenders in line with both the Declaration on Human Rights Defenders and the recently released Declaration +25.<sup>28</sup> At the regional level, we urge Europe to establish a comprehensive protection mechanism for defenders at risk.

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<sup>23</sup> See <https://ishr.ch/defenders-toolbox/resources/strengthening-diplomatic-initiatives-for-the-protection-of-human-rights-defenders-2/>.

<sup>24</sup> See <https://ishr.ch/latest-updates/finland-new-guidelines-will-strengthen-protection-of-human-rights-defenders/>.

<sup>25</sup> See <https://ishr.ch/defenders-toolbox/national-protection/>.

<sup>26</sup> Report of the Special Rapporteur on the situation of human rights defenders, UN Doc. A/HRC/31/55 (2016), para 113.

<sup>27</sup> Members of the Corporation Lawyers Collective “José Alvear Restrepo” (*CAJAR*) v Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No 506, 18 October 2023, paras 972-980 (wherein the Court recognizes an autonomous right to defend human rights): ‘This autonomous right can be effectively violated beyond the particular infringement of certain rights, such as those concerning life, personal integrity, freedom of expression, freedom of assembly, freedom of association, judicial guarantees and judicial protection (to which should be added the right to movement and residence), and without necessarily declaring all of these to be violated in a specific case. Thus, the content of the right incorporates the effective possibility of exercising freely, without limitations and without risk of any kind, different activities and tasks aimed at the promoting, monitoring, promoting, disseminating, teaching, defending, claiming or protecting universally recognized human rights and fundamental freedoms’.

<sup>28</sup> See <https://ishr.ch/25-years-un-declaration-on-human-rights-defenders/>.



## Restriction and criminalisation of protest

The third key challenge is that of increasing restrictions on, and even the criminalisation of, peaceful assemblies and protests, particularly those expressing solidarity with Palestine, and those seeking to protect the environment and challenge certain business interests.

In a number of European States, protests expressing solidarity with Gaza, and calling for an end to and accountability for apartheid and genocide, have been restricted, repressed and even criminalised. According to UN human rights experts, States have used and misused laws and measures 'related to countering terrorism, hate speech or anti-Semitism, public order or national security' to impose undue restrictions against civil society actors, human rights defenders and protesters.<sup>29</sup>

In Germany, Human Rights Watch and others have condemned the use of laws usually used to combat serious organised crime to seek to prosecute 'Last Generation' climate activists engaged in acts of protest and civil disobedience to defend the environment.<sup>30</sup> The UN Special Rapporteur on Environmental Human Rights Defenders under the Aarhus Convention, Michel Forst, meanwhile, has made clear that non-violent acts of civil disobedience should be understood as a legitimate exercise of the rights to freedom of expression, association and assembly.<sup>31</sup>

'The repression that environmental activists who use peaceful civil disobedience are currently facing in Europe is a major threat to democracy and human rights,' according to Forst. 'The environmental emergency that we are collectively facing, and that scientists have been documenting for decades, cannot be addressed if those raising the alarm and demanding action are criminalised for it,' he says. 'The only legitimate response to peaceful environmental activism and civil disobedience at this point is that the authorities, the media, and the public realise how essential it is for us all to listen to what environmental defenders have to say.'<sup>32</sup>

## Restriction and criminalization of humanitarian assistance to people on the move

A fourth key challenge is the continued and worsening restriction and criminalisation of the provision of humanitarian aid, assistance and solidarity to people on the move, especially at or near European borders.

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<sup>29</sup> <https://www.ohchr.org/en/statements/2024/02/israelopt-enabling-human-rights-defenders-and-peaceful-protests-vital-achieving>.

<sup>30</sup> <https://www.hrw.org/news/2024/05/28/germany-prosecutes-environmental-defenders>.

<sup>31</sup> <https://unece.org/climate-change/press/un-special-rapporteur-environmental-defenders-under-aarhus-convention-releases>.

<sup>32</sup> <https://unece.org/climate-change/press/un-special-rapporteur-environmental-defenders-under-aarhus-convention-releases>.

Migrant rights defenders and civil society groups working with migrants in European States including France, Greece, Hungary, Italy, Latvia and Poland, among others, have faced smears, surveillance, prosecution, and even imprisonment.<sup>33</sup>

Together with other civil society organisations, ISHR is currently advocating at the UN Human Rights Council to mandate an independent international mechanism to undertake a global investigation into deaths, enforced disappearances, torture and other grave human rights violations faced by people in transit across international borders, as well as the criminalisation of those who provide them with aid and assistance in line with human rights law.<sup>34</sup>

We call on all European States to stop punishing solidarity; compassion is not a crime.

### Transnational repression

Finally, while largely emanating from outside Europe, the worsening trend of transnational repression against human rights defenders and other civil society actors is the fifth key challenge.

In short, for the purpose of this briefing, transnational repression is action taken by a State or its proxy that is intended to prevent or punish dissent, critique or human rights monitoring, reporting and advocacy in relation to that State from abroad. It may be targeted directly against human rights defenders, journalists or activists engaged in such activities, or indirectly by targeting their families, representatives or associates.<sup>35</sup>

In Europe, States including China, Egypt, Russia and Saudi Arabia are among the worst and most prevalent perpetrators of this practice, with violations ranging from extrajudicial executions, to enforced disappearances, to surveillance, smears and harassment.<sup>36</sup> Saudi Arabia's efforts to secure the deportation of Saudi human rights activist Abdulrahman al-Khalidi from Bulgaria is one current example of transnational repression,<sup>37</sup> while a May 2024 Amnesty report documented the extent of surveillance, harassment

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<sup>33</sup> Report of the Special Rapporteur on the situation of human rights defenders, 'Refusing to turn away: human rights defenders working on the rights of refugees, migrants and asylum-seekers', UN Doc. A/77/178 (2022).

<sup>34</sup> <https://ishr.ch/latest-updates/hrc-should-urgently-respond-to-the-global-pattern-of-deaths-torture-and-other-grave-human-rights-violations-at-international-borders/>.

<sup>35</sup> See further <https://www.hrw.org/news/2024/06/12/qa-transnational-repression>.

<sup>36</sup> See <https://www.hrw.org/report/2024/02/22/we-will-find-you/global-look-how-governments-repress-nationals-abroad>.

<sup>37</sup> <https://ishr.ch/latest-updates/bulgaria-should-not-deport-saudi-activist-abdulrahman-al-khalidi-and-should-immediately-release-him/>

and retaliation by China against students in Europe and North America for their activism.<sup>38</sup>

In addition to refraining from all acts of transnational repression, it is vital that all European States cease supporting or acquiescing in acts of transnational repression (such as through mutual legal assistance, extradition or refoulement to States engaged in the persecution of defenders), refuse to provide the tools of transnational repression (such as spyware and arms), and build community awareness and law enforcement capabilities to recognise, report and respond to acts of transnational repression.

Thank you.

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<sup>38</sup> <https://www.amnesty.org/en/latest/news/2024/05/china-overseas-students-face-harassment-and-surveillance-in-campaign-of-transnational-repression/>.

## Jeremy McBRIDE

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Conference of International NGOs

*Président, Conseil d'experts sur le droit en matière d'ONG,  
Conférence des OING du Conseil de l'Europe*

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I am very pleased to take part in this panel and give the Expert Council on NGO Law's perspective on some of the challenges faced in protecting and promoting civil society space in Europe.

Certain points already raised have been addressed in some detail in its thematic reports. In particular, those concerning the [Execution of Judgments involving Freedom of Association](#), the [Stigmatisation of Non-Governmental Organisations in Europe](#) and, just out last Friday, Civil society support to refugees and other migrants in Europe: The need to end the backlash on civil society space, which details the problem of criminalising humanitarian assistance and other support, as well as overly restrictive regulatory frameworks.

Furthermore, although the execution of judgments affecting civil society was rightly noted as problematic, it would also be desirable for cases involving them to be given greater priority in the determination of cases by the European Court of Human Rights in view of their significance for the functioning of a democratic society.

There are, however, some other problematic issues in protecting and promoting civil society space that I would like to address.

In the first place, there is still a problem at the national level of taking on board the standards adopted within the Council of Europe despite the participation of member states in their elaboration.

A good example, as revealed in the Expert Council's study, [The Legal Space for NGOs in Europe](#) is that such a significant instrument as [Recommendation CM/Rec\(2007\)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe](#) is not only insufficiently well-known by NGOs in many member states but its content is not being taken into account by the authorities in some of them.

This is particularly regrettable since the Recommendation not only complements the legal obligation under Article 11 of the European Convention on Human Rights but also it gives greater precision to what that obligation entails than might be discerned from individual judgments of the European Court of Human Rights.

This is likely to be the case with more recent standard setting instruments, such as 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. Certainly, there is hardly any take-up of its exhortation to ensure that legislation, in particular on freedom of association, peaceful assembly and expression, is drafted and applied in conformity with international human rights law and standards and, where appropriate, seek advice from the Commissioner for Human Rights, the Venice Commission, the Expert Council and other bodies of the Council of Europe.

Secondly, Recommendation CM/Rec(2007)14 is very clear about the legitimacy of NGOs undertaking research, education and advocacy on issues of political debate, regardless of whether the position taken by them is in accordance with government policy or requires a change of law. Nevertheless, the undertaking of such activities by NGOs is still being circumscribed by measures adopted by member states to preclude them from being involved in activities that are seen as “political”, notwithstanding that engaging in debate about public policy issues – whether ones of local, national or international concern and whether done individually or collectively – is at the very heart of democracy and is thus not something that should only be undertaken through political parties.

Thirdly, even where NGOs can contribute to issues of political debate in a non-party sense without restrictions or proscriptions, the possibility of them doing so needs also to be examined in the light of *increased demands within member States for transparency* on account of the tendency to characterise such activities as lobbying rather than advocacy.

At present, Recommendation CM/Rec(2007)14 recognises as admissible only limited requirements for NGOs regarding transparency, essentially to report on their accounts and activities and to have their accounts audited but then only where they are in receipt of some form of public support.

Consideration could well be given to the manner in which application of the concept of lobbying to be applied to the advocacy activities of NGOs. Certainly, their position does not seem to have been entirely satisfactorily resolved in the [Recommendation of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making](#).

Thus, it includes NGOs within organisations or bodies representing professional or other sectoral interests (para. 3(c)) for which legal regulation is said to be appropriate. At the same time, its fourth paragraph also specifies that the legal regulation of lobbying activities should not, in any form or manner whatsoever, infringe the democratic right of individuals to either express their opinions and petition public officials, bodies and institutions, whether individually or collectively or campaign for political change and change in legislation, policy or practice within the framework of legitimate political activities, individually or collectively.

Certainly, this would appear to suggest that there was a need to adopt a less exacting approach to the way non-profits – i.e., NGOs - are regulated in this context when compared to that applicable for-profit organisations. However, there is not really any substantive guidance for member states as to what that might mean in practice.

Fourthly, and closely linked to the preceding point, is the continued adoption of disproportionate transparency requirements for civil society organisations, which can result in possible disincentives for participation by NGOs in processes leading to the adoption of laws and policies. There seems little doubt that this could well be the consequence of requirements to disclose detailed personal information about board members of NGOs and of those providing financial support for their activities, especially where these are individuals rather than foundations, particularly where these are then made publicly available.

Moreover, in approaching the issue of transparency requirements, there is a need for greater clarification as to when these are actually justified. There is a tendency for some measures being adopted to be based on the assumption that transparency is in itself a legitimate objective when in fact any measure amounting to an effective restriction on the exercise of the right to freedom of association must serve one of the legitimate aims set out in paragraph 2 of Article 11 of the European Convention on Human Rights. As a result, it might be made clearer that transparency for its own sake is not something that can be expected of NGOs, even though in practice most are more than happy to be transparent about their activities and how these are funded.

In this connection, there needs to be concern about the supposedly malign influences behind NGO activities which are being increasingly asserted, leading to particularly oppressive restrictions on the ability of civil society to function. A particularly egregious example of the latter can be seen in the adoption of so-called *foreign agent laws* that target NGOs on account of the source of their funding regardless of the actual nature of the activities undertaken by those NGOs. This is so even when the funding comes from bodies to which the state concerned belongs and is, itself, a recipient of funding from them.

Such laws have rightly been found incompatible with Article 11 of the European Convention<sup>39</sup> and are being condemned by both the Council of Europe<sup>40</sup> and the European Union.

Fifthly, the implementation of standards elaborated in respect of money laundering and terrorist financing by the Financial Action Task Force that are supervised by it and Moneyval often takes place in a manner that does not take account of the need for a risk assessment so that only those NGOs that are most likely to be used for the purpose of money laundering and terrorist financing are the ones targeted by the requirements to be followed. This tendency to over-regulate because it is less demanding for the authorities is

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<sup>39</sup> See the ruling of the European Court of Human Rights in *Ecodefence and Others v. Russia*.

<sup>40</sup> In opinions of the [Venice Commission](#) and the [Expert Council](#).

not, however, confined to the problem of money laundering and terrorist financing. It would be useful, therefore, if in addition to existing standards on the supervision of NGOs some guidance was provided as to the approach to be followed where the activities might need to be regulated, ensuring that this does not conflict with the need to provide an enabling environment for them or go beyond what is genuinely necessary.

A point made by the European Court of Human Rights in *Ecodefence and Others v. Russia* when finding Russian foreign agent legislation incompatible with Article 11 of the European Convention on Human Rights was that no effort was made to address *the problem of funding* for those NGOs that ceased to seek it from foreign sources so as to avoid being labelled as foreign agents. Securing access to funding is a perennial problem for NGOs, which is only exacerbated by cutting off or discouraging access to particular sources of it.

Recommendation CM/Rec(2018)11 gives some encouragement for member states ensuring access to resources to support the stable funding of civil society organisations but does not indicate what this requires to be done. Certainly, greater specificity would be welcome as almost a quarter of member states do not seem to recognise charitable or public benefit status for NGOs and the grounds recognised in some others are quite limited.

Moreover, a problem that can follow where direct public funding is provided to NGOs, usually for undertaking various services on behalf of the State. In such cases, the NGOs concerned might then find that their freedom to engage in public advocacy is curtailed for fear of losing that funding or it is actually lost because of they have made statements pointing to shortcomings in aspects of public policies. Such a situation is rather short-sighted since service providers are often best placed to identify issues requiring attention, even if speaking truth to power can be embarrassing for the latter.

Sixthly, the environment in which NGOs exist and operate is increasingly becoming online. However, not all member states have caught up with this and that was a practical problem faced by NGOs during the Covid-19 pandemic when they were faced with the impossibility of convening meetings to adopt their accounts and reports. There is thus a need for recognition that NGOs should be free to hold meetings of their governing bodies online when this seems to them to be appropriate or desirable.

The online sphere of activity is also not considered in Recommendation CM/Rec(2007)14 and it could, for example, point to ways in which it could create a more enabling environment for NGOs not only in their interactions with members but also with public authorities, even at the stage of their formation. Account might also be taken of the possible need for some recognition to be given to entirely virtual entities.

Seventhly, the activities of many NGOs are not confined to the member state in which they are established as they often have *a cross-border dimension*. There is some recognition of this in Recommendation CM/Rec(2007)14,

providing for the possibility of authorisation being given by a member State for foreign NGOs to operate there and there is protection for the cross-border activities of minorities in the Framework Convention for the Protection of National Minorities. Neither compare with the more generous provisions in the [European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations](#), which only 12 member States have so far ratified. There is a clear need to promote the ability of all NGOs to operate on a pan-European basis should they wish to do so.

Finally, in view of their relocation as a result of the war of aggression against Ukraine and the repression in Belarus and Russia, many NGOs have faced difficulties in continuing to operate outside these states. These have often been addressed in an ad hoc manner which is not always adequate or consistent. As these seem unlikely to be exceptional situations, consideration needs to be given as to how address, in a coherent and helpful manner, the problem of receiving on a temporary basis NGOs from other states and facilitating their operation while they remain there.



## PANEL / SESSION 2

### Good practices for protecting and promoting civil society space in Europe

### Bonnes pratiques en matière de protection et de promotion de l'espace dévolu à la société civile en Europe



## Gerhard ERMISCHER

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*Président de la Conférence des OING du Conseil de l'Europe*

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This panel has been tasked with giving good practice examples. As my co-speakers I feel a bit aquert to just talk about good practices while we bemoan the fact of democratic backsliding and human rights deficits all over Europe (and globally). So, I would like to start on a more general question: what can make democracies more resilient, how can societies become better equipped for protecting their democratic rights.

And my answer would be twofold:

- First: a truly vibrant civil society is the best protection you can have for democracy and human rights.
- And Second: this civil society also needs protection itself, and that needs an independent guardian of these rights. A formal guardian, which is an independent judiciary, and an informal guardian, which is a free and independent press / media.

A strong and vital civil society is the basis of a truly democratic society. I could personally experience such a strong civil society in Poland during my first mandate, when we were linking up with civil society organisations to fight against laws which were intended to limit the access of civil society to schools and introduce a curriculum that was no longer based on the values of the Council of Europe but on a reactionary and chauvinistic ideology. It was fascinating to experience this civil society fighting back against democratic backsliding and the willpower and determination shown by those activists. And quite many of them had not been activists before but had decided that it was now time to stand up for their values.<sup>41</sup>

But what to do if there is no culture of a strong independent civil society raising its voice with confidence and vigour? You cannot just induce that from the outside but on the long term this is most and for all a question of culture and of education. A determined education for democracy is the basis for acquiring a resourceful civil society. In this the Council of Europe was very good, developing programmes and implementing them in member states successfully. For instance, in Bosnia and Hercegovina such programmes had a most positive effect after the war helping to build up a new civil society and to foster reconciliation and understanding.

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<sup>41</sup> links to communications on this issue: Webinar with Polish teachers, unionists, and NGO representatives on Changes in Polish Education Law, Webinar on the Developments in Polish Education Law and Emergency Measures for Ukrainian Students in Polish Schools, Open letter from the President of the Conference of INGOs to the Government of Poland.

Such processes are long term, they need continuity and patience. Unfortunately, due to financial restrictions, many of these programmes had to be cut back again and already achieved positive results were lost consequently. In our recent country visit to Bosnia and Hercegovina the complaints of young people for a lack of democratic and inclusive education were very loud and we could see the negative effect of measures cut short, long before they could truly take roots.<sup>42</sup> There is a lesson to be learned to be consequent and keep up the effort to achieve as cultural change is a marathon, not a sprint.

It needs also to be understood what even the most vital civil society can achieve with protests and manifestations. Finally, there complaints have to stand up in court and the ultimate test comes in the elections. When parties with authoritarian tendencies are elected and re-elected their power consolidates and fighting back becomes ever more difficult. This is why truly fair elections are of the utmost importance. Not just elections that are formally correct in the final process of voting, but fair in the long uprun to the elections, providing equal chances in the media and without harassment of candidates through unfair judicial measures. There lies the value of a free press and independent judiciary.

For the judiciary, like so many other aspects of democratic life, the COVID-19 crisis was a litmus test. It did highlight existing problems and show in a nutshell which solutions were working well or not. It was for a good reason that the CDDG at the time was evaluating anti COVID measures in the member states and put a focus on the reactivity of the judiciary. I spent the first lockdown in Germany, the second in Austria and so could see the reactions in both my home countries myself. And it was good to see how courts reacted and found, after quite a short time, new ways of communications, opening online gates for complaints of citizens and how they would react to overshooting measures taken by the government and administration.

In Austria the Court of Constitution finally decided to divert from one of its key principles, never to give verdicts on laws no longer in place. As most of the measurements taken during the pandemic crisis were of a temporal nature, they were mostly already defunct again when complaints had run their course through the instances and had finally arrived at the constitutional court. But the Court decided to investigate these cases and give verdicts, as it saw them as of a general interest and that it was important to learn from mistakes in this exceptional crisis to avoid similar reactions in future crisis. I believe it was also important for a process of reconciliation after an

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<sup>42</sup> Link to the report Bosnia and Herzegovina - Conference of INGOs (coe.int).

emergency that had widened the already existing gaps in society and opened new rifts.<sup>43</sup>

The Council of Europe, as an international intergovernmental organisation, provides standards, rules and guidelines, it provides its own last line of defence in the European Court of Human Rights and it creates programmes to support civil society in the member states. In all that it is a top-level organisation, and we have to understand that a vibrant civil society has to grow up from the ground – that the heart blood of a resilient democratic society are the many small local and regional associations, the grass-roots organisations doing hands-on work in the field on a daily basis. Big international organisations are not normally very good in linking up with those grass-roots organisations. The creation of field offices was an important step by the Council of Europe to get closer to the ground.

When it comes to an institutionalised connection with civil society, the Council of Europe provides participatory status to International Non-Governmental Organisations, or the EU likes to interact with big international NGOs that can afford offices and staff in Brussels. As the Conference of INGOs we ourselves are not very close to the ground level. Therefore, during our own reform process, we opened opportunities for NGOs who can not enjoy participatory status to interact with us, participate in our committees and to meet with them on their own playing field. With the help of some member states, like Andorra, Finland, and Croatia, we have developed a new type of field visits where we meet those organisations, we normally do not reach even during our more official country visits. And to so on a more equal footing, e.g. by providing interpretation for these meetings, to allow representatives to express themselves in their own language, as language is a very effective barrier to participation.

In my work with the Conference of INGOs I could meet quite some of these organisations which really make a difference. As I am personally attached to the European Landscape Convention I might mention here one example from Italy, an association which was recommended by the European Landscape Award. Libera is an association that takes on land confiscated by the Mafia in Sicily and Southern Italy in a special programme called Libera Terra. Changes in the Italian law made the confiscation of property from organised crime easier, but especially with confiscated land it begs the question: what to do with it? As few people dare to touch this land in fear of repercussions. Libera does, it develops sustainable economic projects, with respect for the landscape and local traditions, provides jobs in areas that are deprived of good job opportunities and shows that the vicious circle of crime, violence and corruption can be broken. Its members do so at great personal risk. But they manage to slowly change culture and prejudices by creating

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<sup>43</sup> For examples (in German) COVID-19: Entscheidungen des Verfassungsgerichtshofes 2021 | Parlament Österreich.

alternatives and simply by not succumbing to the violence and permanent threat of organised crime.<sup>44</sup>

We must learn from the example of the grass-roots organisations facing challenges on an everyday basis in the field. We need to be bold as the Council of Europe and live up to expectations. Especially in a body as the CDDH, which has the task to draft new standards in the field of Human Rights and protecting our democratic societies. This is the core task of the Council of Europe. We have heard a lot about today being a dark moment in the history of democratic Europe, maybe the darkest time in the history of the Council of Europe. As a historian I have different perspective. The Council of Europe was founded on the still smouldering ruins of a Europe devastated by fascism and war in the shadow of the emerging cold war and the threat of total nuclear annihilation. These were not happy times indeed. The promise made creating the Council of Europe was to help the free states of Europe to develop into truly democratic societies, to protect the rights of its citizens and to be a beacon for human rights, democracy, and rule of law.

The Council of Europe has done a sterling job in that. It has done what is its primary function: to set standards and to create instruments to implement them. Based on its core convention, the European Convention of Human Rights, backed up by the European Court of Human Rights the Council of Europe has delved into practically alle areas of life and created instruments to aid the citizens of Europe to defend their rights: from the Social Charter to conventions on health, culture, cultural heritage, education, equality, protection of children, against torture or human trafficking – there seems to be no aspect of human life not covered by and instrument of the Council of Europe.

The Council of Europe managed to draft groundbreaking instruments like the Bern Convention, that set standards in nature protection and developed through time taking into account new scientific standards. It was a model for others and has inspired developments in nature and environment protection. When the Iron Curtain fell the Council of Europe experienced a period of rapid enlargement which finally led to the coverage of nearly all geographical Europe (and beyond). In the euphoria of the time, it was believed that this process was final, irreversible and would continue for ever. We were not prepared for the backlash we experience today. A backlash that forces us to come back to the values and strategies of the founding era of the Council of Europe.

It seems that we have experienced a shift of priorities in the enlargement process: from content to coverage. To cover all of Europe through its membership seemed to have become more important than to implement our values. The full invasion of Ukraine by Russia and the expulsion of Russia

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<sup>44</sup> About (libera.it).

as a result of this act of aggression needs to remind us that this is a value-based organisation. The success of a new instrument should not be measured by the number of signatures, but by its value and strength. Even a convention not signed, but strong in its purpose and determination, can have a positive effect and will be used by civil society as a benchmark. A weak instrument may find more states willing to sign it but it also sets a bad example and opens the door to misuse and undermining the rights of European citizens. We need to find our way back to the determination and consequence of the founding days of this great institution to ensure its value and purpose for the future.

## Katrien MEUWISSEN

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### Introduction

ENNHRI is the European Network of National Human Rights Institutions, representing all National Human Rights Institutions (NHRIs) across the Council of Europe and encompassing a membership in nearly all CoE Member States. For almost 30 years, ENNHRI has been observer to the CDDH. It is a pleasure to be invited to speak at this conference, at occasion 100th meeting of the CDDH, on a topic of vital importance to all of us: 'the promotion and protection of civil society space in Europe'

In 2018, ENNHRI participated as observer to the drafting of the CM Recommendation on civil society space in Europe. Already in 2018, the CM expressed its 'deep concern at the shrinking space for civil society', and 'the considerable and increasing number of serious threats faced by human rights defenders'. We heard from the former panel how pertinent, and even more urgent the promotion and protection of civil society space has become.

The Recommendation 5 years ago recognised the relevance of NHRIs to contribute to civil society space and advance the protection of human rights defenders. NHRIs are independent public authorities, established by constitution or law with a broad mandate to promote and protect human rights. NHRIs are pluralistic bodies: the wide diversity of civil society therefore is reflected in their institutional set-up as well as in their daily cooperation with civil society. NHRIs' active contribution to vibrant civic space is thus part of their DNA and is crucial for their own effective functioning. In the increasingly challenging context we are witnessing across the Council of Europe for pluralistic civil society and human rights defenders, the need for NHRIs, -in addition to governments and regional organisations such as the CoE- to further step up their role in the 'promotion and protection of civil society space in Europe' becomes even more important.

### Structure of the presentation:

I will structure my presentation as follows:

First, I will briefly develop on the importance of deepening our understanding of the current complex challenges for civic space and HRDs in Europe through monitoring and reporting, to better serve as early warning and to

strengthen and amplify good practices, while turning the overall current negative trends around.

Next, following the structure of the CM Recommendation, I will in turn address:

- the national legal, political and public environment for civil society and HRDs;
- the promotion and recognition of the key value of civil society; and
- national measures needed to protect civil society space.

For each, I will briefly flag overall trends and provide good practice examples. The good practice examples are illustrations taken from ENNHRI's data collection, including our [online HRD resource](#) which is collecting over 40 NHRI good practices in the promotion and protection of civic space.

While the overall trends are negative, I make a recommendation for the future for each of the aspects, which can inform the further review of the implementation CM Recommendation later this year, and the need for renewed political commitment to fundamentally advance implementation.

#### Deepen monitoring to understand and address increasingly complex and urgent challenges

Since 2020, ENNHRI has launched joint reporting with its members on the situation of rule of law across the Council of Europe which includes a dedicated section on civil society and human rights defenders. While the country-specific reporting of our members shows trends impacting on civic space in CoE Member States, the ENNHRI joint report identifies regional trends. The challenges and overall negative trends outlined in the former panel, are largely resonated by NHRIs through [ENNHRI's reporting](#).

In a European context with increasingly complex challenges for civil society and HRDs to carry out their vital work, more in-depth monitoring and reporting is needed, better adapted to particular contexts and varied lived experiences of HRDs -especially those in particularly vulnerable situations- while allowing for more early warning of new trends. On the basis of their official human rights mandate and role, NHRIs are well-placed to contribute to such deeper monitoring and reporting.

For example, the Belgian NHRI (FIRM) conducts [in-depth research](#) into pressures faced by HRDs in country. This included asking public human rights bodies and civil society organisations about their experience with threats and attacks over a two year period. The research shows that about half of the respondents indicate to have faced intimidation and aggression due to their work, especially legal intimidation. Through its research, FIRM



envisages to enhance awareness about challenges for HRDs in Belgium, and inform follow-up actions to address these.

While challenges to civic space and HRDs become increasingly more complex and diverse -including through increased online attacks and the use of AI- more in-depth monitoring and reporting is needed, better adapted to particular contexts and varied intersectional lived experiences of HRDs - especially those in particularly vulnerable situations- to better serve as early warning, to inform tailored responses to new and emerging challenges, and to collect and amplify good practices.

### Advance national legal frameworks and enabling political/public environment for civil society and HRDs

ENNHRI's annual reports confirm the overall insufficient engagement of law- and policy makers with HRDs and CSOs. Even worse, increasingly, laws and policies emerge which undermine and even criminalise the work of civil society and human rights defenders. Despite the negative trends observed, NHRIs have also identified some good practices which show positive way forwards in the spirit of the 2018 Recommendation on civil society space.

In Moldova, December 2023, the Law on children rights has been adopted, which includes the recognition, empowerment and protection of child human rights defenders. The Law was informed by a [working group including civil society organisations](#), and the NHRI. The NHRI [continues its advocacy](#), in cooperation with civil society, for a dedicated Law on human rights defenders, providing a legal framework for promotion and protection of all HRDs.

Thus, building on good practice examples, the review of this CoE Recommendation should entail recommitment and concrete advancing by CoE MS of the legal, political and public environment for civil society and HRDs to thrive, including their active participation.

### Promote and recognise the key value of civil society

The CM Recommendation emphasises the importance of explicitly recognising the legitimacy of human rights defenders and publicly supporting their work and key value for a pluralist, democratic society. This recommendation stands in stark contrast with the increasing defamation and disinformation about HRDs, which is also reported by NHRIs. One way in which HRDs can be promoted and recognized is through the awarding of prizes. This is also an activity undertaken or supported by NHRIs. In [Georgia](#), notably, the NHRI has nominated HRDs under threat for international prizes, including the CoE's Vaclav Human Rights Prize, to elevate the international attention and support for the HRD. In [Denmark](#), the NHRIs' Council annually

awards an HRD. Candidates are nominated through a public consultation and by the media, with the NHRI acting as the secretariat for the Council jury.

Another CM key recommendation is to ensure access to resources to support the stable funding of human rights defenders. Again, sadly, the overall trend reported here is negative, with funding becoming more limited and conditional, including through legislation aimed at targeting foreign funding and increasing administrative burdens for registration of NGOs. An extremely worrying trend which targets also beyond limiting funds, the undermining of public trust in such NGOs. Luckily, some CoE states provide key funding to civil society in Europe, such as Iceland, Liechtenstein and Norway through the EEA and Norway Grants. [NHRIs can also support](#) CSO's access to funding by calling against policy and legislative initiatives with negative repercussions on CSO's access to funds, as has been done for example by the NHRIs in Croatia and Ireland. Moreover [in Ireland](#), the NHRI supports a grants scheme and awards projects to empower the advocacy and work of civil society in Ireland.

As is showcased already through this conference, the review of the CM CoE Recommendation should be embraced as an occasion to further promote civil society and HRDs and acknowledge the key added value they bring across the CoE. In the same vein, Member States and the CoE should also further support stable funding for CSOs and HRDs.

Develop and strengthen national and regional measures to protect civil society space, the awareness about and interconnections between these NHRIs, among others, have reported that HRDs in over half of the CoE Member States increasingly are the target of threats, attacks, hate speech and smears. This is the case particularly for HRDs that work on issues of individuals which find themselves already in a more vulnerable situation, such as those defending reproductive rights, LGBTQ + rights, migrants' rights or the environment.

In a context of increasingly polarised societies, it becomes even more important to speak out in support of civil society and HRDs and to prioritise addressing defamation and hate speech, online and off-line. The CoE plays an important role here in relation to the development of relevant standards, monitoring of national contexts, and enforcing rights (through the ECtHR). At national level, NHRIs contribute to addressing this. For example, the Belgian NHRI (Unia), has as first [strategic priority](#) to stand up for inclusion and democracy in a more polarised society, including by addressing hate speech.

As included in the CM Recommendation, the independence of the judiciary and respect for the rule of law are essential prerequisites to enable protection of HRDs and effective remedies for defenders whose rights are being violated. It also recognises the role of NHRIs in protecting HRDs, and contributing to accountability for violations, including through their

investigatory and complaints-handling roles. For example, in [Armenia](#), the NHRI deploys rapid response teams to investigate the observance of human rights during demonstrations, including through visiting police stations where demonstrators are detained.

In some CoE member states, governments are setting up or supporting dedicated HRD protection programmes. In [Germany](#), in 2020, the German Foreign Office launched the Elisabeth-Selbert-Initiative. This is a protection programme open to human rights defenders from outside the EU, who face threats due to their work. The initiative consists of three main elements, including on-site assistance, grants for temporary relocation within home countries or regions, and grants for temporary relocation to Germany. The programme was put to use in 2021, and the German NHRI nominated a member for the selection committee and has been calling for activation of the programme in relation to Afghani HRDs in the aftermath of the takeover by the Taliban. In [Finland](#), the Finnish Foreign Service has developed guidelines for supporting human rights defenders abroad. Moreover, the Ministry of Foreign Affairs has funded several INGOs to develop activities protecting human rights defenders. At the same time, the NHRI has recommended to authorities to also establish a national mechanism to assist and protect human rights defenders in country.

Thus, building on some good practice examples in place, the review of this CoE Recommendation should develop momentum to further strengthen national and regional HRD protection mechanisms, -including NHRIs and HRDs-, and the awareness about and interlinkages between those.

Some of the actions foreseen in the CoE SG roadmap on civic space are significant steps in this respect, and should be continued to be prioritised.

Let me conclude by reminding that, in the increasingly challenging context we are witnessing across the Council of Europe today, it is even more important for all of us - government representatives, regional organisations, civil society and NHRI representatives - to further step up our role in the 'promotion and protection of civil society space in Europe'. The review of the implementation of the CM Recommendation should be embraced by all of us as a moment to take stock and do more to implement the commitments made.

## Andreas ACCARDO

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The CDDH Recommendation on civil society space (CM/Rec(2018)11), although 6 years old, is strikingly pertinent still today. Striking in the positive, in that it was very advanced when it was drafted – and striking also in the negative, in the sense that we have seen less improvements in civic space since 2018 than we may have wished for, or expected, at the time.

The EU Agency for Fundamental Rights (FRA) has observer status with the CDDH. Since 2016 the agency has been providing input from its own work on civic space in the EU. Since 2018 FRA publishes every year a report on civic space developments – highlighting challenges as well as good practices across EU Member States and in three EU Accession States holding observer status at FRA (Albania, North Macedonia and Serbia).<sup>45</sup>

FRA collects data and provides analysis on civic space developments along four pillars:

- 1) **Regulatory framework:** any laws that have an impact – positive or negative – on civic space.
- 2) **Access to resources:** this concerns both the availability of funding, as well as the accessibility and effectiveness of what and how is being funded.
- 3) **Safe space and protection:** the threats and attacks that organisations and activists experience due to their human rights work. FRA's monitoring shows that there are many varied attacks on organisations and activists – with subsequent detrimental impact on human rights work.
- 4) **Access to decision-making:** this is about participation and consultation. In many Member States, there are still no binding rules on when, how and whom governments should consult. Civil society is reporting lack of transparency in consultations, and problems with timing: being asked for input too late in the process, and not having sufficient time for input.

A cross-cutting concern in this context is the capacity and resilience of organisations – and of individual activists and human rights defenders – to continue with their human rights work, even under civic space pressures.

While many challenges persist, we also see increasing efforts and good practices.

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<sup>45</sup> For an overview of FRA's work on civic space, see: FRA website, Civic space.

This intervention will follow the logic of the recommendation, starting off with the national legal framework and political environment, moving to national measures to protect and promote civil society space, before ending with some short conclusions.

## **1) National legal framework and political and public environment to protect and promote civil society space**

### **1.1. “Ensure an enabling legal framework and a conducive political and public environment...”** (*Recommendation, Appendix, notably points I a,b,c,g*)

FRA’s work consistently shows challenges for civil society in the legal framework, which can be both intended or unintended: In addition to freedom of association, assembly and expression, this includes areas such as lobby law, transparency law, charity law, or tax law, as well as negative side effects of counter-terrorism legislation as well as anti-money laundering laws. This would concern also the lack of certain laws – for instance lack of binding rules on participation and consultation. The Agency’s Fundamental Rights Report 2024 highlighted some of the restrictions imposed on civil society organisations as regards their freedom of association, assembly and expression, as well as threats and attacks they face. It also highlights promising practices where they exist.<sup>46</sup>

The European Commission has launched several infringement procedures and won cases against EU Member States at the European Court of Justice on the issue of civic space, including on a foreign agents law<sup>47</sup> and on academic freedom<sup>48</sup>.

At the same time, a range of positive measures have been taken to improve the legal framework in the Member States and at the EU level. FRA has observed positive developments such as efforts to modernise existing rules, ease bureaucratic requirements for CSOs, and improve registration systems and rules on public benefit status. For instance, public benefit status is conferred on CSOs pursuing designated activities related to the common good, and usually grants CSOs state benefits and/or tax benefits. Other positive developments are regulatory efforts to promote the work of associations in sports, culture, and volunteering.<sup>49</sup>

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<sup>46</sup> FRA (2024) Fundamental Rights Report 2024.

<sup>47</sup> Court of Justice of the European Union 18 June 2020, Commission v. Hungary, Case C-78/18.

<sup>48</sup> Court of Justice of the European Union 6 October 2020, Commission v. Hungary, Case C-66/18.

<sup>49</sup> FRA (2022), Europe’s Civil Society-Still under Pressure.

Some examples:

- In **Finland**, the legislature passed an amendment to the Associations Act. It allows associations to hold exclusively virtual meetings, including also general meetings of members of an association, of its executive committees. This enables decisions to be made without the physical presence of (prospective) members.<sup>50</sup> Similarly, in **Estonia**, an amendment allows legal entities, including CSOs, to hold general and management meetings online.<sup>51</sup>
- In **Latvia**, a new accounting law allows volunteers to perform accounting functions in associations and foundations, and smaller organisations to have simplified accounting processes.<sup>52</sup>
- There have been attempts to modernise existing rules and ease bureaucratic requirements for CSOs in **Bulgaria**<sup>53</sup> and **Luxembourg**.<sup>54</sup>
- **Belgium** is making regulatory efforts to better support the work of associations in sports and culture.<sup>55</sup>
- In **Denmark**, measures to reduce the administrative burden related to data protection for CSOs have been proposed<sup>56</sup> whereas in **Romania** amendments were enacted to simplify administrative procedures for the registration and operation of associations and foundations.<sup>57</sup>
- **Austria** is investing in modernising and digitalising the administrative system governing the civil society sector.<sup>58</sup>

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<sup>50</sup> Finland, Act amending the Associations Act (Laki yhdistyslain muuttamisesta), 8 July 2022.

<sup>51</sup> Estonia, Estonian Parliament (Riigikogu) (2020), Tsiviilseadustiku üldosa seaduse ja teiste seaduste muutmise seadus (elektrooniliste võimaluste laiendamine koosolekute korraldamisel ja otsuste vastuvõtmisel) 180 SE, 20 April 2020.

<sup>52</sup> Latvia, Saeima, Accounting Law (Grāmatvedības likums), 10 June 2021.

<sup>53</sup> Bulgaria, National Assembly (Народно събрание) (2021), Bill for amendment and supplement to the Non-Profit Legal Entities Act 154-01-56 (Законопроект за изменение и допълнение на Закона за юридическите лица с нестопанска цел), 28 April 2021; Bulgaria, National Assembly (Народно събрание) (2021), Bill for amendment and supplement to the Non-Profit Legal Entities Act 46-154-01-46.

<sup>54</sup> Luxembourg, Government of the Grand Duchy of Luxembourg, Ministry of Justice (2021), 'Sam Tanson presented the new legal framework for associations and foundations' ('Sam Tanson a présenté le nouveau cadre légal pour les associations et fondations'), statement, 13 July 2021.

<sup>55</sup> De Federatie (2021), 'The die is cast: A final regulation for association work as of 1 January 2022' ('De kogel is door de kerk: Een definitieve regeling voor het verenigingswerk vanaf 1 januari 2022'), 8 December 2021.

<sup>56</sup> Denmark, the Danish Parliament (Folketinget) (2020), Proposal for resolution B139 (beslutningsforslag B139).

<sup>57</sup> Romania, Government of Romania (2000), Government Ordinance regarding associations and foundations (Ordonanță nr. 26 din 30 ianuarie 2000 cu privire la asociații și fundații), 31 January 2000.

<sup>58</sup> Austria, Federal Ministry of the Interior (2020), 'Innenminister Karl Nehammer forciert Digitalisierung des Vereinswesens', press statement, 16 September 2020.

- In **Lithuania**<sup>59</sup> and **Slovakia**<sup>60</sup> rules and procedures related to associations' registration have recently been revised to promote transparency and trust in the sector.

1.2. **“Ensure that the various forms of hate crime, including acts of violence, hate speech and public incitement to hatred and violence, are prohibited...”** (*Recommendation, Appendix, point I d*)

Hate crime and illegal hate speech are widespread in the EU. The Framework Decision on Racism and Xenophobia defines a common criminal law approach to racist and xenophobic hate speech and hate crimes. However, 16 years after its adoption, 12 EU Member States have not yet fully and correctly incorporated its provisions into national law and the European Commission is running infringement procedures against them.<sup>61</sup>

Against this background, several Member States have introduced amendments in compliance with the provisions of the framework decision<sup>62</sup> and many are developing measures improving access to justice for hate crime victims and enhancing capacities of criminal justice systems to detect, investigate and prosecute hate crime and hate speech.<sup>63</sup>

- **Finland** has set up a Citizens' panel on freedom of expression to discuss measures that should be taken in Finland to protect people who are in the public eye because of their professions from hate speech and to safeguard free expression of opinion. The Citizens' Panel is a deliberative method in which a number of ordinary citizens discuss a social issue after in-depth familiarisation and produce recommendations for decision-makers or a wider audience. Different sociodemographic groups and regions were represented in the composition of the Citizens' Panel, which proposed a total of 25 measures to prevent hate speech and online shaming.<sup>64</sup>
- Similarly, the **European Commission** has recently organised a European Citizens' Panel on Tackling Hatred in Society. 150 randomly selected citizens from all 27 EU Member States developed

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<sup>59</sup> Lithuania, Parliament of the Republic of Lithuania (Lietuvos Respublikos Seimas) (2020), Amendment of Law on Charity Foundations (Labdaros ir paramos fondų įstatymo pakeitimas), 1 June 2020; Parliament of the Republic of Lithuania (2020), Amendment of Law on Associations (Asociacijų įstatymo pakeitimas), 1 June 2020.

<sup>60</sup> Slovakia, Law no. 346/2018 Coll on the register of non-governmental non-profit organizations and on amendments to certain acts, 27 November 2018.

<sup>61</sup> See notably: FRA (2023), Fundamental Rights Report — 2023 (europa.eu), chapter 4.

<sup>62</sup> FRA (2023), Fundamental Rights Report — 2023 (europa.eu), page 99-100.

<sup>63</sup> See FRA's online Compendium on practices against hate crime.

<sup>64</sup> Finland, Ministry of Finance, Ministry of Justice and Åbo Akademi University (2021), Citizens' Panel on the Freedom of Expression: Recommendations for measures to be taken in Finland to protect people in public professions from hate speech and to safeguard free expression of opinion.



a series of recommendations on combating hate speech and hate crime, which aim to feed into upcoming Commission initiatives.<sup>65</sup>

### 1.3. “Ensure that everyone can effectively participate in decision-making...” (*Recommendation, Appendix, points l e, f*)

Participation – both in the development of laws and policies and in their implementation – remains patchy across the EU. Key challenges that CSOs face include difficulties caused by the timing of consultations, a lack of outcomes and feedback, and weaknesses in the consultation process itself.<sup>66</sup>

At the same time, participation is maybe the area in which the biggest positive changes could be noted in the past years – both on national and EU levels.

At national level, recent challenges such as the COVID pandemic as well as the arrival of large groups of displaced Ukrainians were in many countries a catalyst for increased public sector – civil society cooperation. This is – to give just one example – specifically visible in **Romania** where public authorities and CSOs found new ways of working together in the face of the arrival of Ukrainian refugees. A cooperation platform with hundreds of CSOs was set up, and working groups to implement the national action plan coordinating measures to support the integration of Ukrainians had significant participation of civil society.<sup>67</sup>

Indeed, quite a number of EU Member States further improved their work or even introduced new methodologies and/or new bodies for improving consultation and cooperation with civil society. Some examples:

- **Finland** runs since years an Advisory Board on Civil Society Policy (KANE), tasked with promoting dialogue between civil society and public administration and enhancing the operating conditions of civil society. What makes it unique is in particular its mixed composition - representatives of CSOs, research organisations, businesses, ministries and other authorities – and the good and trusted cooperation at equal level.<sup>68</sup>
- The **Czech** Government Council for Non-Governmental Non-Profit Organisations adopted a methodology for non-governmental non-profit organisations to take part in in working and advisory bodies and in preparing administrative documents. It contains recommendations on appropriate conditions and resources for the meaningful participation of

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<sup>65</sup> European Commission, European Citizens’ Panel on Tackling Hatred.

<sup>66</sup> See notably: FRA (2023), Protecting civil society, chapter 5.

<sup>67</sup> Franet, Human European Consultancy (2022), An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory – Romania, Vienna, FRA, p. 9.

<sup>68</sup> Finland, Ministry of Justice, Advisory Board on Civil Society Policy.



both the state and NGOs. It applies to ministries' and other central administrative authorities' development of public policies, strategic materials, and legislative and other non-legislative materials<sup>69</sup>

- In **France**, an Independent Commission on Relations between Journalists and the Police was set up in 2021. It was tasked with proposing measures to better reconcile the work of journalists and the police during demonstrations or law enforcement operations.<sup>70</sup>
- **Belgian** authorities adopted the National Action Plan to Combat Gender-based Violence (NAP) 2021–2025 in November 2021. The NAP establishes a national platform representing civil society to ensure its independent monitoring and give advice during its evaluations. Civil society associations selected as members of the platform will benefit from structural funding for the fulfilment of their mandates.<sup>71</sup>
- In **Latvia**, a new local government law establishes mechanisms to ensure civic participation in the work of local governments.<sup>72</sup>
- In **Spain**, a permanent collaboration agreement was signed between state authorities and the Third Sector Platform, which represents more than 28,000 CSOs working on social rights in Spain. The agreement was signed as part of the IV Open Government Plan 2020–2024.<sup>73</sup>
- **Austria** changed its rules regulating consultation procedures, resulting in significant extension in scope and better time frames for consultation with CSOs on bills that ministries and members of parliament submit.<sup>74</sup>
- The **Italian** National Recovery and Resilience Plan provides for the establishment of a Permanent Advisory Board including CSOs.<sup>75</sup>

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<sup>69</sup> Franet, Institute of Sociology of the Czech Academy of Sciences (2022), An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory - Czechia.

<sup>70</sup> Government of France (Gouvernement), 'Setting up of the Independent Commission on Relations between Journalists and the Police' ('Mise en place de la Commission indépendante sur les relations entre journalistes et forces de l'ordre'), 7 December 2020.

<sup>71</sup> Franet, Fundamental Rights Research Centre (FRC), Vrije Universiteit Brussels (VUB) (2022), An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory -Belgium.

<sup>72</sup> Franet, Latvian Centre for Human Rights, An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory - Latvia.

<sup>73</sup> Spain (2021), Resolution of the Secretary of State for Civil Service, which publishes the collaboration agreement between the General State Administration and the Third Sector Platform, for the inclusive communication of open government (Resolución de 10 de diciembre de 2021, de la Secretaría de Estado de Función Pública, por la que se publica el Convenio de colaboración entre la Administración General del Estado y la Plataforma del Tercer Sector, para la comunicación inclusiva del gobier), Boletín Oficial del Estado No. 299, 15 December 2021, pp. 153817–153823.

<sup>74</sup> Austria (2021), Amendment to the Act on the National Council's Rules of Procedure 1975 (Bundesgesetz, mit dem das Geschäftsordnungsgesetz 1975 geändert wird), Federal Law Gazette I No. 63/2021, 31 March 2021.

<sup>75</sup> Italy, Presidency of the Council of Ministers (Presidente del Consiglio dei Ministri) (2021), The National Recovery and Resilience Plan (Piano Nazionale di Ripresa e Resilienza), 30 April 2021.

- **Poland** promoted wide public consultations on the National Recovery Plan following the mobilisation of civil society. This successfully ensured CSOs' more prominent role in monitoring the distribution of recovery and resilience funds.<sup>76</sup>

Finally, **NHRIs** also have an important role in facilitating CSOs' and other human rights defenders' participation in decision making and policy making.<sup>77</sup>

At the **EU level**, there are three recent noteworthy initiatives:

- (1) The European Commission has issued a recommendation to Member States on participation, which builds inter alia on the Council of Europe's Guidelines for civil participation in political decision making.<sup>78</sup>
- (2) The EU organised the Conference on the Future of Europe<sup>79</sup>, and is following up with various EU citizens panels (such as the one on hate mentioned above);<sup>80</sup>
- (3) The European Commission's Better Regulation Agenda<sup>81</sup> with its Better Regulation Guidelines<sup>82</sup> and a Toolbox<sup>83</sup>, which set out minimum standards for EU institutions' consultations in the EU's own law and policymaking.

Organisations representing groups and persons at risk of exclusion are facing heightened challenges in participation. However, some positive developments can be noted here as well. For instance, authorities in many Member States reported to FRA that Jewish communities have been participating in the development and implementation of national strategies on combatting antisemitism.<sup>84</sup> Similarly, the European Commission recommends involvement of racialised communities in the development and implementation of national action plans against racism.<sup>85</sup>

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<sup>76</sup> Portal Funduszy Europejskich (2021), 'Krajowy Plan Odbudowy – podsumowanie konsultacji', 12 April 2021.

<sup>77</sup> European Network of National Human Rights Institutions (2023), State of the rule of law in Europe - 2023.

<sup>78</sup> European Commission (2023) Recommendation (EU) 2023/2836 of 12 December 2023 on promoting the engagement and effective participation of citizens and civil society organisations in public policy-making processes.

<sup>79</sup> European Commission, Conference on the Future of Europe.

<sup>80</sup> European Commission, European Citizens' Panels.

<sup>81</sup> European Commission, Better Regulation agenda.

<sup>82</sup> European Commission, Better Regulation Guidelines.

<sup>83</sup> European Commission (2023 edition), Better Regulation Toolbox.

<sup>84</sup> FRA (2023), Antisemitism in 2022. Overview of antisemitic incidents recorded in the EU (europa.eu), p. 25.

<sup>85</sup> European Commission (2022), Common guiding principles for national action plans against racism and racial discrimination.

1.4. “Establish effective, independent, pluralistic and adequately funded NHRIs (...) or (...)strengthen them ...” (*Recommendation, Appendix, point I h*)

To have a well-functioning and fully independent National Human Rights Institution (NHRI) is relevant for the civic space. Often NHRIs and CSOs stand in vivid interaction and cooperate, as a recent FRA data collection shows (not yet published). In fact the Paris Principles relating to the Status of National Institutions state that the composition of the NHRIs needs “to ensure the pluralist representation of the social forces (of civilian society) involved in the protection and promotion of human rights” in order to enable the effective cooperation with “[NGOs] responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists”.<sup>86</sup>

NHRIs play a crucial role in the protection and promotion of human rights on the national level and they form an important element in the national systems of checks and balances, thereby exemplifying the close link between fundamental rights and the rule of law.

Since the publication of its 2020 report on NHRIs<sup>87</sup>, FRA has been regularly tracking the accreditation status and the mandates of NHRIs across the EU. These updates show how the tasks of NHRIs are developing with various tasks being of relevance to the civic space. For instance, the **Greek** National Commission for Human Rights has a new mandate in the context of monitoring compliance of the use of EU funds with the EU Charter of Fundamental Rights, a “horizontal enabling condition” under the Common Provisions Regulation for eight major EU funds.

However, there is still a handful of EU Member States without an accredited NHRI. In its rule of law report 2023, the European Commission states: “In the four Member States that have so far not established an NHRI in line with the UN Paris Principles, varying degrees of progress have been made and the 2022 report recommendations have been only partly implemented. In Italy, draft laws were tabled to create an NHRI by providing additional powers to the existing Data Protection Authority, as well as proposing to create a separate entity through a constitutional change. In Czechia, an amendment to entrust the Ombudsperson with the authority of an NHRI is in preparation. However, there was no progress in Malta on establishing an NHRI, nor in Romania on obtaining accreditation for the existing NHRI.”<sup>88</sup>

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<sup>86</sup> Paris Principles, UN General Assembly resolution 48/134, 20.12.1993.

<sup>87</sup> FRA (2020), Strong and effective national human rights institutions – challenges, promising practices and opportunities.

<sup>88</sup> European Commission (2023), Rule of Law report, COM(2023) 800 final, 5.7.2023.

## 2) National measures to protect civil society space *[Recommendation, Appendix, II]*

FRA's annual civic space consultations clearly show the extent to which EU civil society is experiencing threats and attacks across all Member States – and the impact that these have on human rights work. Protection of civil society space must come from various angles: legal protection including access to justice and protection from SLAPPs, physical protection, digital security, health and mental health, etc.

There are since a few years increased efforts to improve protection also inside the EU.

On legal protection, the **Irish** Department of Justice conducted a review of civil liability for defamation in light of the potential for SLAPPs, informed amongst others, by a public consultation and symposium also involving CSOs themselves. It recommended an anti-SLAPP mechanism and the removal of the ban on legal aid for defamation cases, and the use of a public interest defence, the removal of juries and the reduction of legal costs and delays in such cases. Further proposals include “measures to encourage prompt correction and apology” and making it easier to “disclose the identity of an anonymous poster of defamatory material”.<sup>89</sup>

An EU Directive on the Protection of whistleblowers (ie persons who report breaches of Union law) entered into force in 2019.<sup>90</sup> More recently, the EU legislature adopted a directive requiring Member States to take measures against strategic lawsuits against public participation (SLAPPs) in cross-border cases.<sup>91</sup>

A range of donors have started funding measures for (holistic) security – including a few Member States.

Holistic security encompasses different aspects of security: physical, psycho-social, digital, legal.<sup>92</sup> The most pronounced of these efforts in the EU was the recent protection grants to increase resilience by the Open Society Foundations – Europe and Central Asia (OSECA), which started in 2022 to provide targeted funding aimed at increasing the resilience of CSOs, helping activists to continue their work in a safer environment. The funding was provided in the form of a special ‘security top up’ that is added to grants provided to grantees, which allowed them to carry out work needed to

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<sup>89</sup> Ireland, Department of Justice (2022), Report on the review of the defamation act 2009, Dublin, Department of Justice.

<sup>90</sup> European Commission, Protection for whistleblowers.

<sup>91</sup> European Parliament and Council (2024), Directive (EU) 2024/1069 of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings (‘Strategic lawsuits against public participation’).

<sup>92</sup> See for instance: Tactical Tech, Holistic Security Manual.

increase their organisational preparedness and to support their security and well-being of staff.<sup>93</sup> (Now with OSFs withdrawal from Europe, it is yet unclear if/who will take over this important security support.)

A separate but noteworthy issue in the context of civic space is the protection of human rights defenders from third countries by relocating them temporarily or permanently to EU countries. So far only 12 EU Member States have dedicated national initiatives for human rights defenders' relocation in place: Czechia, Estonia, Finland, France, Germany, Ireland, Latvia, Lithuania, the Netherlands, Poland, Spain and Sweden. In addition, there are city-led, academia-led or civil society-led initiatives in additional countries. However, for each and every of these initiatives, defenders face great difficulties in accessing visa.

Once in the EU, relocated defenders from outside the EU are facing a range of challenges, notably also in terms of the possibility to continue their human rights work – which constitutes a yet unrecognised civic space challenge in itself. This is about the possibility to apply for and receive funding, the possibility to set up and register an NGO, work permits, capacity building, trauma relief and protection, as well as the threat of transnational repression.<sup>94</sup> Also, most of the existing relocation programmes are temporary (3-6 months) and defenders who will only be able to return to their home countries in the medium term are therefore typically forced into the asylum route – which means that neither during application nor with holding asylum status can they really continue working on human rights issues in their home countries, since they are prohibited from connecting in person with their constituencies and communities.<sup>95</sup>

### **3) National measures to promote civil society space [Recommendation, Appendix, III]**

“Promotion” in the sense of the Recommendation has two meanings: financial and political support.

#### **3.1. Access to resources [Recommendation, Appendix, I i and III a,b]**

Access to resources is a persistent concern for civil society work. According to FRA's latest civic space consultation, only 19% of responding organisations say that funding concerns do not threaten their work at all.

Improvements are needed both in *what* to fund, as well as *how* to fund.

<sup>93</sup> FRA (2023), Protecting civil society, chapter 4.2.

<sup>94</sup> FRA (2023), Protecting human rights defenders at risk: EU entry, stay and support, chapter 2.3, and ECNL (2024), Global Nonprofits Guide.

<sup>95</sup> FRA (2023), Protecting human rights defenders at risk: EU entry, stay and support.

Regarding *what* to fund, there is an important conceptual distinction for donors to make between, on the one hand, supporting activities to foster human rights and values *implemented* by civil society, and on the other hand, supporting activities that *strengthen CSOs themselves and the enabling environment*.

Donors increasingly recognise the need for funding beyond ‘service provision’ and beyond ‘projects’, rather focusing on strengthening civil society under pressure as such, not only in third countries but also at home. This includes increased funding for capacity building, organisational development, community engagement and constituency building, cooperation/network building/peer exchange, as well as operating grants.

FRA has noted a number of good practices. Notably the European Commission’s Citizens, Equality, Rights and Values Fund (CERV) has been innovative and instrumental in funding civil society activities that support participation, litigation, advocacy, and notably there was recently also a dedicated funding call to support the civic space as such. Under this call, CERV is amongst others funding two new projects on monitoring the civic space in the EU.<sup>96</sup> In parallel, the Commission is funding civic space monitoring EU-externally under a different funding stream.<sup>97</sup>

Also the EEA and Norway Grants have put considerable efforts into focusing their funding for civil society - in the 15 EU Member States within their remit – towards better supporting civil society organisations as such.<sup>98</sup> The Council of the EU has just greenlighted the agreement on the EEA and Norwegian Financial Mechanisms for 2021-2028, which again will include a large civil society fund.<sup>99</sup>

To FRA’s knowledge, only few State donors have yet made this shift, such as for example in Germany and Sweden.

Good practices in this area of funding for civil society under pressure often come from private donors/foundations. Some examples:

#### Funding for cooperation

Civitates is a philanthropic initiative promoting democracy and civic space in the EU. One of Civitates’ focus areas is “civic power”. This is encouraged by supporting cross-sectoral coalitions that operate at national level. Civitates’ work aims at building organisations’ resilience and their capacity to stand up against the deterioration of democratic values and civic space.<sup>100</sup>

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<sup>96</sup> European Commission, Citizens, Equality, Rights and Values Programme (CERV)..

<sup>97</sup> European Commission (13 June 2024), European Union and Civil Society sign landmark partnership to promote space for civil society globally.

<sup>98</sup> EEA and Norway Grants, Civil Society.

<sup>99</sup> Council greenlights agreements on the EEA and Norwegian Financial Mechanisms for 2021-2028.

<sup>100</sup> Civitates (civitates-eu.org).

To some extent, also both CERV and the EEA and Norway Grants are funding cooperation and network building as well. More funding for cooperation and peer exchange especially also across borders would be important.

### Building Institutions and Networks (BUILD)

The Ford Foundation's "Building Institutions and Networks (BUILD)" initiative is a grant-making approach focused on helping social justice organisations become stronger and more resilient. Grantees are provided with five years of general operating support, combined with targeted organisational strengthening support - strategy, knowledge, and resources to achieve impact.<sup>101</sup>

### Training for CSOs on tackling smear campaigns

The Civil Liberties Union for Europe offers dedicated training and capacity-building activities to CSOs enabling them to defend themselves against smear campaigns. The training is based on Liberties' guide to messaging for CSOs facing smear campaigns. The Oak Foundation funded the development of the guide. Liberties offers training to CSOs free of charge with the support of the Oak Foundation and the European Commission's CERV program.<sup>102</sup>

The second aspect in access to funding is *how* the funding is being implemented and how accessible that is. The way in which funding is implemented is as crucial to strengthen civil society under pressure as the type of work funded.

When asked about their views on necessary changes to funding implementation, CSOs in FRA's consultation point to a range of issues: core/infrastructure funding instead of project funding (the EEA and Norway Grants recently piloted a new approach to core funding, which was considered very promising by grantees); longer funding cycles; reducing bureaucracy in application and in reporting; no co-funding requirements; higher allocation for salaries; and higher allocation for administrative cost.

## **3.2. Enabling environment and supporting the legitimacy and capacity of defenders [Recommendation, Appendix, III c,d]**

Beyond a conducive legal framework, an overall 'enabling environment' is needed.

An overall good practice has been established by the Open Government Partnership (OGP), in which many Council of Europe member states are participating. The OGP is a multilateral initiative that aims to secure concrete

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<sup>101</sup> Ford Foundation, Building institutions and networks.

<sup>102</sup> Butler, I. (2021), How to talk about civic space: A guide for progressive civil society facing smear campaigns, Berlin, Civil Liberties Union for Europe.



commitments from governments to promote transparency, empower citizens, fight corruption and harness new technologies to strengthen governance. The OGP is overseen by a steering committee which includes both representatives of governments and CSOs. Firstly, for the process of developing and implementing its national action plans, the OGP has developed advanced “Participation and Co-Creation Standards” that could serve as a blueprint for potential national level guidelines on participation and co-creating more generally. Secondly, on substance, OGP’s national action plans increasingly include commitments concerning the civic space – with an independent reporting mechanism evaluating progress on these commitments.<sup>103</sup>

The OECD offers comprehensive ‘civic space scans’ for individual countries and subsequently provides detailed analysis and recommendations. So far three EU Member States - Finland, Portugal and Romania – have participated in this helpful process.<sup>104</sup>

**Finland** has just adopted a new civil society strategy, which is remarkable not just in content but also because of the inclusive process of how it came about.<sup>105</sup> Furthermore, since some years Finland is holding regular “Civil Society Academy Days” where public officials learn about civil society and its work.<sup>106</sup> *[I am sure my co-speaker from Finland will explain all of this in more detail.]*

## Conclusions

While there is still a long way to go for a fully enabling environment in the EU, there have been promising developments in a number of areas across the EU over the past years – both at national and EU levels.

Recommendation CM/Rec(2018)11 remains a useful and comprehensive tool for promoting a more conducive legal and policy framework and protect civic space against threats.

FRA stands ready to contribute to the CDDH further work in this area and to provide advice to States on how to strengthen the enabling environment.

In our work, we have increasingly come to appreciate that beyond the legal, policy and financial framework, there is an additional dimension that needs

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<sup>103</sup> Open Government Partnership (2022), OGP Participation and Co-Creation Standards.

<sup>104</sup> For more information, see OECD (2020) Civic Space.

<sup>105</sup> Finland, Ministry of Justice (2024),

[https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/165691/OM\\_2024\\_22\\_ML.pdf?sequence=1&isAllowed=y](https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/165691/OM_2024_22_ML.pdf?sequence=1&isAllowed=y).

<sup>106</sup> Finland, Ministry of Finance (valtiovarainministeriö/finansministeriet), Open Government: National Action Plan for 2019–2023, 24 September 2019.



attention - and that is the strength, resilience and capacity of the civil society sector as a whole. This comprises four components:

- the capacity, resilience and preparedness of organisations as such;
- the strength and skills of individual activists and defenders;
- the trust and cooperation within the sector (and with allies outside the sector); and
- the quality of the engagement of the sector with constituencies.

Going forward, it will be key to continue cooperation and paying attention to five areas :

1. Improving the legal, policy and financial frameworks;
2. Monitoring the situation to identify where more action is needed but also to prevent a regression on what has been achieved;
3. Developing effective ways of support and protection of the civil society space based on monitoring data;
4. Creating spaces for mutual learning between States and with civil society;
5. And finally, investing in the resilience of the civil society sector, organisations and activists themselves.

In September 2024, FRA will hold an expert workshop on civic space monitoring and protection, to which we have invited key partners from the EU and international organisations, including the CDDH secretariat, civil society, NHRIs and others.

We look forward to our continued cooperation.

Thank you for your attention.

## PANEL / SESSION 3

**Council of Europe activities to support an enabling environment for civil society**

**Activités du Conseil de l'Europe visant à soutenir un environnement favorable à la société civile**



## Marja RUOTANEN

Director General, DGII Democracy and Human Dignity

*Directrice Générale, DGII Démocratie et dignité humaine*

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At the 4th Summit in Reykjavik, the Heads of State and Government of the Council of Europe recommitted to the values of the organisation: human rights, rule of law and democracy. Democracy is one of the three, interdependent pillars on which not only the Council of Europe, but European public order rests and we are witnessing how, even in certain parts of Europe, democratic norms and institutions are dismantled. Civil society included.

To counter this alarming trend the member States took a strong stance adopting, as part of the Declaration, the Reykjavik's Principles for Democracy. They represent the core values that underpin European democratic systems. And civil society is a prerequisite of democracy, as the member States declared in Reykjavik. Together with other principles, such as those governing elections and free media, civil society highlights the notion of participatory democracy. Other principles, such as the separation of powers and the operation of democratic institutions and the fight against corruption, pertain to the sphere of the rule of law. The Principles thereby capture the interdependent and mutually reinforcing relationship between democracy, human rights and the rule of law.

Genuine and effective democracy can be fostered by nurturing these key features and by ensuring political commitment to follow through on them. The Summit accomplished to put the political will, and now the CoE will put the action. To this end, let me highlight first the structural changes we made to respond to the challenges to our democracies, and, second, focus more on the actions to strengthen the organisation's engagement with civil society.

### **New structures**

A few examples of how we are prioritising action on democracy and to this purpose we also restructured the way we work through the reorganisation of the Directorate General for Democracy and Human Dignity. Within the Council of Europe, our Directorate General is the main guardian of principles and policies relating to democracy, its institutions and processes.

Work on democratic participation, including of women and girls, civil society, elections, as well as on freedom of expression and the media, safety of journalists, is carried out by the new "Freedoms" Department in the Directorate General. We are also working on a reference framework for a youth perspective, which is to involve young people more closely in the

discussions on the future of the Organisation. Our education strategy, likewise, aims to ensure that everyone will be able to fully play their part in democratic processes.

But the Directorate General also works towards building citizens' trust and inclusive societies. That is on policies promoting equality and respect for diversity in all of its forms, including gender equality, LGBTI rights and effective participation and inclusion of minorities, including Roma and travellers in society.

We also monitor action against racism, discrimination and intolerance in Europe; the implementation of states' commitments to prevent and combat human trafficking, violence against women and domestic violence. We safeguard the rights of persons belonging to national minorities and the use of regional or minority languages.

Intergovernmental committees, monitoring bodies and cooperation programmes implement all these activities and to operationalise more effectively the Principles for Democracies we welcomed a new kid in the bloc, the Steering Committee for Democracy, CDDEM.

The CDDEM is the result of a common endeavour to put democracy front and centre of the Council of Europe action to counter backsliding. Its creation is timely and underscores that nurturing democracy in Europe is a shared responsibility. It also witnesses the Organisation's determination to better support democracy through intergovernmental cooperation.

This Committee will focus on promoting and facilitating thematic exchanges and good practices among Council of Europe member states to develop common policy responses to the democratic challenges and collectively implement measures aimed at reinforcing democratic institutions and processes.

It will also cooperate with other intergovernmental committees, like yours, contributing to the review of the implementation of 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 you are working on.

And it will also cooperate with the Venice Commission and the Parliamentary Assembly, Congress, to deliver a coherent strategy for strengthening democracy and good governance throughout the continent.

To this end, the CDDEM has been entrusted with several major tasks: operationalising the Reykjavik Principles for Democracy through the development of parameters, but also supporting a safe and enabling environment for civil society, enhancing democratic participation and the integrity of elections, and looking into the impact of artificial intelligence on democratic processes.

Countering backsliding is first and foremost the responsibility of governments, but civil society contributes too.

### **Meaningful Engagement with Civil Society**

From the outset, the CoE has been promoting civil society's involvement in its work by offering participatory status to NGOs and specific opportunities for participation in almost all areas of Council of Europe work. These range from access to information, consultation, to more active participation.

Civil society expertise is integrated in the process of drafting instruments, preparing monitoring reports, planning, implementing and evaluating co-operation projects. The CoE often partners with civil society in the organisation of major events and co-operation activities, including in the framework of partial agreements.

Since 2019, through a series of ministerial decisions, to which the [Reykjavik Declaration](#) has been given further impetus, the CoE has endeavoured to strengthen the effective and meaningful engagement of civil society. The [Secretary General's Roadmap](#) on the Council of Europe's Engagement with Civil Society 2024-2027 embodies this effort with respect to the work of the Organisation. CDDEM, as already mentioned, is also preparing a Guidance Note on civil society participation.

The 2023 Secretary General Roadmap for the engagement of the COE with civil society aims at shaping a policy for widening and deepening the meaningful engagement with civil society organisations (CSO), including youth CSO, in all aspects of the Council of Europe's intergovernmental work: standard-setting, monitoring and cooperation.

The preparation of the Roadmap has been a transversal and inclusive process, involving all relevant CoE sectors to benefit from their experience, and taking into account the needs and suggestions from civil society itself.

The Roadmap articulates, on the one hand, the modalities of meaningful engagement with CSOs by aiming at 1/ improving awareness-raising and communication on CoE priorities and activities; 2/ knowledge and capacity-building on CoE, including through training; 3/ enhancing CSOs' contribution to standard-setting and monitoring, through consultation and providing

feedback on its participation; 4/ developing further participation in cooperation programmes.

On the other hand, the Roadmap aims at reinforcing the institutional framework for CSOs' engagement by 1/ improving the working methods of the different parts of the organisation through cross-fertilisation of best practices and 2/ ensuring regular exchange with SG, CM informal exchange of views, PACE hearings and ECtHR meetings with CSO.

Work has already started to develop an implementation plan of the Roadmap. The goal is to take stock of the current practices and experiences within the organisation in collaborating with civil society, discuss challenges, and innovative approaches and develop practical internal guidelines. Several intergovernmental committees, monitoring bodies and co-operation programmes have developed good practices to varying degrees, but gaps and inconsistencies remain. A more systematic approach will contribute towards engagement with civil society allowing for a more active, diverse, effective, wider and more sustainable participation.

As part of its role to support member States, CDDEM is preparing a Guidance Note to enhance the Council of Europe's intergovernmental sector's engagement with civil society in order to benefit from the latter's input and expertise and to enhance citizen and civil society participation in democratic processes. All of this in accordance with European standards as embodied in the relevant case law of the European Court of Human Rights and Committee of Ministers' recommendations.

The purpose of the note is to lay out the general framework for the Organisation's intergovernmental bodies' meaningful involvement with civil society. It is to contain general principles, such as access to information, transparency, inclusiveness, but also removal of obstacles, enhanced procedure to participate, principles that will be further operationalised by the different sectors of the organisation.

We are also considering introducing a code of conduct regarding the modalities of civil society's engagement with the Council of Europe intergovernmental sector, defining the roles and responsibilities of both the Organisation and civil society in terms of, for example, access to documents, confidentiality, and civil society's protection from harm.

## Niklas WILHELMSSON

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Thank you for inviting me to speak at this conference and present the newly established Steering Committee on Democracy – CDDEM – and its focus on protection, promotion and meaningful engagement with civil society.

The new steering committee has been established as a result of a commitment made by the Council of Europe's Heads of State and Government at their [4th Summit in Reykjavik](#)<sup>107</sup> in 2023. At the Summit, European leaders expressed concern about democratic backsliding on the continent. They resolved to step up efforts to safeguard democracy<sup>108</sup>. The CDDEM was set up to support these efforts through intergovernmental collaboration.

The CDDEM has a broad mandate and will promote a holistic understanding of democracy as both a political system and a culture of participation. Its objectives are to analyse democratic challenges, exchange experiences and practices, and develop standards to strengthen the functioning of democratic systems, institutions and processes.<sup>109</sup> This holistic approach is intended to complement and further Organisation's sectoral work on individual components of democracy, and, to this end, the Steering Committee will collaborate closely with its sectoral counterparts.

I wish to highlight two aspects of the committee's work that are relevant to the topic of this conference. Its first important task in this biennium is to develop parameters to facilitate the application and implementation of the [Reykjavík Principles for Democracy](#).

The Reykjavík Principles encompass ten key elements of democratic systems, including free and fair elections, independent and effective parliaments and other democratic institutions, an independent judiciary, separation of powers, freedom of expression, and anti-corruption measures.

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<sup>107</sup> The [Fourth Summit of Heads of State and Government of the Council of Europe](#) was held in Reykjavík, Iceland, on 16-17 May 2023.

<sup>108</sup> [Reykjavík Declaration](#), page 5.

<sup>109</sup> [Terms of Reference](#) of the Steering Committee on Democracy (CDDEM).

Several Principles underline the importance of meaningful citizen participation in public and political life, as well as the role of civil society for a functioning democracy and building democratic future<sup>110</sup>. Concretely, the Principles include member states' commitment "to supporting and maintaining a safe and enabling environment in which civil society, as well as human rights defenders, can operate free from hindrance, insecurity and violence."<sup>111</sup>

The future parameters will be based on the standards of the Council of Europe as enshrined in its conventions and treaties, the ECtHR case law, Committee of Ministers' and monitoring bodies' recommendations and other relevant documents. The CDDEM will analyse the existing standards that underpin each of the Reykjavík Principles and formulate concrete parameters on the basis of which the strengths and weaknesses in democratic systems can be assessed.

Our steering committee will consult with all relevant other committees and bodies in the process of elaboration of the parameters. We are only starting our work. Once the CDDEM has determined an appropriate format for the parameters and has developed a draft document, we will welcome input and suggestions from the Steering Committee for Human Rights. We will also consider how to best involve other interested and concerned parties in the process, notably civil society organisations and actors.

In addition to this broader perspective on democracy, the CDDEM has been assigned a number of specific topics on which it is expected to work. One of them – that our committee will be actively pursuing in this biennium – is work on the protection and promotion of civil society space and on the promotion of the participation of citizens in political decision-making.

Civil society plays a key role in the development and realisation of democracy and human rights in Europe and beyond. Civil society organisations and actors engage in a diverse range of activities; they contribute to discussions of public affairs, act as public watchdog, human rights defenders, and also participate in public policy development and decision-making. However, in recent years civil society has faced restrictions and challenges in its ability to participate effectively in political and social affairs.<sup>112</sup>

As we have heard in earlier panels, criticism can stem from genuine concern, but more often than not, restrictions on civil society activities seek to prevent their legitimate efforts to participate in public life and ensure the transparency

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<sup>110</sup> [Reykjavík Principles](#) 1, 8, 9 and 10.

<sup>111</sup> Principle 9.

<sup>112</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.



and accountability of public authorities. In fact, Recommendation<sup>113</sup> which we are discussing today, on strengthening the protection and promotion of civil society space in Europe, is a response to the restrictive legislation and policies adopted in several Council of Europe's member states.

The legal and political, as well as the socio-economic and technological environments in which civil society operates, have changed profoundly in recent decades. Today, many civil society organisations operate online. Furthermore, many of them have a cross-border dimension. As lobbying laws evolve, there is a lack of clarity regarding the distinction between advocacy activities and the concept of lobbying, as well as related transparency requirements. Civil society may have more funding opportunities, but in some countries, it is also subject to over-regulation of funding or legislation on foreign influence. Also, many organisations in Europe have been forced to relocate as a result of the Russian aggression against Ukraine and the repression in Belarus and Russia.

These changes have led the Committee of Ministers to entrust the CDDEM with the task of updating Recommendation [CM/Rec\(2007\)14](#) on the legal status of non-governmental organisations in Europe<sup>114</sup>. The committee will carefully evaluate which provisions of the existing recommendation remain valid and which need updating or revising. Special emphasis will be placed on preserving and improving the current levels of protection. It is crucial that the new instrument does not diminish the existing protections. The committee's objective is to ensure that the new standard upholds or elevates the current standards to provide robust protection for civil society.

Civil society has also contributed significantly to the work of the Council of Europe. As Marja Ruotanen, Council of Europe's Director General of Democracy and Human Dignity, explained, civil society expertise and partnerships with the Organisation provide an important perspective for the various activities, but a comprehensive policy is needed to streamline and strengthen the engagement with civil society organisations, as well as to allow them to express their needs and expectations from the Council of Europe.

The CDDEM's second task linked to civil society participation is to create a Guidance Note laying out the basic lines and principles for how civil society can better engage with the Organisation's intergovernmental sector.

The CDDEM has yet another task in this area, the one that is discussed here today. Our committee is to contribute to the implementation review of

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<sup>113</sup> Ibid.

<sup>114</sup> Recommendation [CM/Rec\(2007\)14](#) of the Committee of Ministers to member States on the legal status of non-governmental organisations in Europe.

Recommendation [CM/Rec\(2018\)11](#) entrusted to the CDDH. Based on the discussion at the first CDDEM meeting, I wish to underline that the committee is fully prepared to support the review and take all necessary steps to support the CDDH and complement your efforts with additional input. To add to today's discussions, I would like to reiterate that the CINGO<sup>115</sup> Expert Council on NGO law has prepared in recent years a number of thematic and country studies<sup>116</sup> which can provide useful in relevant sources of information about normative frameworks for civic space, as well as individual legal and other measures that are affecting civil society.

To conclude, I wish to extend my heartfelt congratulations to the CDDH and its Chair, Krista Oinonen on the occasion of your 100<sup>th</sup> plenary meeting. Reaching this milestone is a testament to your dedication, commitment, and the collective efforts of all members who have contributed to your committee's success over the years. It is my sincere wish that the CDDEM, too, will one day have the honour of celebrating such an occasion.

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<sup>115</sup> [Conference of International Non-Governmental Organisations \(INGOs\)](#).

<sup>116</sup> [Expert Council on NGO Law - Conference of INGOs \(coe.int\)](#).

# CLOSING REMARKS

# ALLOCUTION DE CLÔTURE



## Krista OINONEN

Chairperson of the Steering Committee on Human Rights (CDDH)  
*Présidente du Comité directeur pour les droits humains (CDDH)*

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We all have some homework to do after this conference.

We need to keep this excellent recommendation alive; we need to follow up on its implementation, translate it to minority languages, and distribute it.

We heard several good practices today.

I want to highlight what the Council of Europe Commissioner for Human Rights said today as our keynote speaker: change will not happen without civil society. Civil society is a source of inspiration, the voice and bearer of hope.

With these words, I conclude this conference.”

**A**mid increasing concerns over the shrinking democratic space for civil society and challenges posed by global crises such as the COVID-19 Pandemic, the protection and promotion of civil society space in Europe is paramount. This publication presents the proceedings of the CDDH Conference on the Protection and Promotion of Civil Society Space in Europe, held in Helsinki on 25 June 2024. It offers a comprehensive overview of the challenges and best practices highlighted at this important event, held during 100th Plenary Meeting of the Steering Committee for Human Rights (CDDH), with contributions from the Council of Europe Commissioner for Human Rights, international non-governmental organisations (NGOs), the European Network of National Human Rights Institutions (ENNHRI), the EU Fundamental Rights Agency (FRA), and Council of Europe bodies (CoE).

**F**ace aux préoccupations croissantes concernant le rétrécissement de l'espace démocratique de la société civile et les défis posés par les crises mondiales telles que la pandémie de COVID-19, la protection et la promotion de l'espace dévolu à la société civile en Europe sont primordiales. Cette publication présente les actes de la Conférence du CDDH sur la protection et la promotion de l'espace dévolu à la société civile en Europe, qui s'est tenue à Helsinki le 25 juin 2024. Elle offre une vue d'ensemble des défis et des bonnes pratiques abordés lors de cet événement important, qui s'est tenu lors de la 100<sup>e</sup> réunion plénière du Comité directeur pour les droits humains (CDDH), avec des contributions du Commissaire aux droits de l'homme du Conseil de l'Europe, d'organisations non gouvernementales internationales (ONG), du Réseau européen des institutions nationales des droits de l'homme (ENNHRI), de l'Agence des droits fondamentaux de l'UE (FRA), et des organes du Conseil de l'Europe (CoE).



[www.coe.int](http://www.coe.int)

The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

Le Conseil de l'Europe est la principale organisation de défense des droits humains du continent. Il comprend 46 États membres, dont l'ensemble des membres de l'Union européenne. Tous les États membres du Conseil de l'Europe ont signé la Convention européenne des droits de l'homme, un traité visant à protéger les droits humains, la démocratie et l'État de droit. La Cour européenne des droits de l'homme contrôle la mise en œuvre de la Convention dans les États membres.

