

SAFE AND ENABLING CIVIC SPACE

Recommendation on the legal status of
civil society organisations in Europe



COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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Introduction

Civil society organisations (CSOs) are fundamental to the development, realisation and protection of democracy, the rule of law and human rights. They play a vital role in promoting public awareness, enabling participation in public life and securing the transparency and accountability of public authorities. They represent the interests of social and professional groups and often complement public efforts in providing social and other services. Yet, for several years now, the space for civil society to engage and operate is shrinking across Europe. Restrictive laws, policies and measures aim at stifling critical voices, while CSOs and human rights defenders increasingly face threats and violence, both offline and online.



An enabling environment for civil society organisations

Council of Europe member states have committed to protect freedom of association and to refrain from unnecessary, unlawful or arbitrary interferences with the rights of CSOs. At the same time, they are also under a **positive obligation** to actively promote an environment in which these organisations can operate safely, without harassment, intimidation, stigmatisation and violence.

A new Recommendation to member states to enhance the protection and promotion of civic space

The new Recommendation on the legal status of civil society organisations in Europe updates Recommendation [CM/Rec\(2007\)14](#) on the legal status of non-governmental organisations in Europe and complements other Council of Europe standards designed to facilitate the participation of CSOs in public life, to support and promote the fulfilment of their activities and to protect the human rights and individual freedoms of their member, staff and volunteers.

The new Recommendation contains measures related to:



Basic principles, definitions and freedom to determine the objectives of CSOs



Establishment of CSOs, membership and legal personality



Management of CSOs



Funding, property and public support.



Accountability, transparency, supervision, liability and participation in decision making



Foreign CSOs

The Recommendation is accompanied by an Explanatory Memorandum with guidance on how to implement it and relevant case law of the European Court of Human Rights (ECtHR).



Key features of the new Recommendation on the legal status of civil society organisations



Basic principles,
definitions and
objectives of CSOs

It generalises the use of the term “civil society organisations” instead of “non-governmental organisations”, reflecting current practice in regional and international law. This change acknowledges the true nature of these organisations, which are established by individuals independently of public authorities and should not be defined in opposition to governmental bodies.

It recognises the diverse ways in which CSOs can operate – varying in size, finances and reliance on volunteers or employed staff, as well as forms of operation that may take place exclusively online. CSOs may be known under various designations, such as associations, charities, foundations, non-profit corporations, organisations, societies, trusts and unions. However,

it is their actual nature rather than their formal designation that will bring them within the scope of the Recommendation.

It clarifies that CSOs should be able to undertake research, education and advocacy on issues of public debate even if they disagree with governmental policy or propose changes to the law. Characterising their positions, ideas or intended goals as “political” cannot be used to restrict CSOs’ research, education and advocacy. Also, advocacy related to international standards should not be regarded as the representation of any form of foreign interests.



Establishment of CSOs, membership and legal personality

It establishes that the grounds for granting or refusing legal personality, if this process is not automatic, should be appropriately precise and objective. The requirements should not be overly burdensome, and costs should be set at a level that does not discourage the formation and functioning of CSOs.



Management of CSOs

It recognises that CSOs can determine their own internal management and decision making and clarifies when a person can be disqualified from acting as an officer of a CSO.



Funding, property and public support

It includes a new provision on funding from foreign sources. The receipt of funding from outside the member state in which a CSO is established or operates cannot, in itself, be considered unlawful or pursuing inadmissible objectives. Furthermore, attaching the label of a “foreign agent” to any CSO receiving funds from foreign entities has been considered by the ECtHR as unjustified and likely to have a strong deterrent and stigmatising effect on their operation.

It broadens the notion of public support to CSOs to include not only the provision of public funding but

also other forms of support such as tax exemptions or access to facilities or infrastructure. At the same time, the receipt of public support should not lead to restrictions on the exercise of freedom of expression or on the ability of CSOs to undertake advocacy on issues of public debate, except for possible limitations that may arise from rules on public benefit status or the funding of elections and political parties.



**Accountability,
transparency,
supervision, liability
and participation
in decision making**

It clarifies in what situations CSOs can be required to make publicly available reports on their accounts and an overview of their activities. Such disclosure requirements should be proportionate and, as a rule, be limited to annual obligations.

It provides for the possibility for the equal, inclusive and effective participation of CSOs in all phases of the political decision making, including in the monitoring and evaluation of policy implementation.



Foreign CSOs

It includes a new section addressing the situation of CSOs that need to relocate or operate in exile, aiming to facilitate their continued operation.

Selected Council of Europe standards and reference documents

- ▶ Recommendation [CM/Rec \(2017\)83](#) on guidelines for civil participation in political decision-making.
- ▶ 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
- ▶ Recommendation [CM/Rec\(2022\)6](#) of the Committee of Ministers to member States on protecting youth civil society and young people
- ▶ Secretary General's Roadmap on the Council of Europe's Engagement with Civil Society 2024-2027- [SG/Inf\(2023\)28](#)

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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.

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