CONFERENCE OF INGOs OF THE COUNCIL OF EUROPE
CONFÉRENCE DES OING DU CONSEIL DE L'EUROPE

COUNCIL OF EUROPE
1949 - 2024
CONSEIL DE L'EUROPE

EXPERT COUNCIL ON NGO LAW
CONF/EXP(2024)1

20 March 2024

EXPERT COUNCIL ON NGO LAW

STIGMATISATION OF NON-GOVERNMENTAL ORGANISATIONS IN EUROPE

A study prepared by the Expert Council on NGO Law of the Conference of INGOs of the Council of Europe*

Based on contribution by Mr Dragan Golubović, Member of the Expert Council on NGO Law

**The opinions expressed in this work are the responsibility of the authors and do not necessarily reflect the official policy of the Council of Europe.*

Table of Contents

Introduction 3

Methodology 4

Analysis of responses 5

A. Negative attitudes to certain objectives and activities of NGOs 6
B. Major sources of stigmatisation of NGOs 10
C. Policies and practices that contributed to, or facilitated stigmatisation of NGOs 14
D. The extent and duration of stigmatisation of NGOs 43
E. Efforts of NGOs to combat stigmatisation 47
F. Potential further strategies proposed by NGOs to combat stigmatisation 51

Conclusion 52

Appendix I. Study on stigmatisation of NGOs – questionnaire 53

Introduction

1. This study is concerned with the growing trend of stigmatisation of non-governmental organisations (NGOs) in Europe, which is a factor in the shrinking space for civil society, In particular. It aims to: understand the extent to which NGOs are being stigmatised for work in support of particular causes or groups; identify which causes/groups are subject to stigmatisation and what is the underlying rationale provided by public authorities for the restrictions imposed on NGOs working in support of those causes or groups; and identify what strategies and resources may assist to combat stigmatisation of those NGOs.

2. Stigmatisation in the study refers to vilification and negative stereotyping resulting in undue discrimination or unfavourable treatment of NGOs pursuing otherwise legitimate goals, which the public authority and other societal actors may perceive as a threat to their respective political agendas or offensive to the values which they claim to stand for.

3. The study is concerned with the difficulties that these NGOs face in *addition* to those faced by all NGOs within their respective country of operation.[1]

4. The stigmatisation of certain NGOs is occurring despite the legitimacy of their activities under European and international human rights standards[2] and runs counter to the contribution that they make to the development and realisation of democracy, the rule of law and human rights.

5. Thus, as the Council of Europe (CoE) has repeatedly emphasised, NGOs play a vital role in, amongst other things, raising public awareness, policy development, monitoring government actions, highlighting human rights violations, providing humanitarian relief and care, and contributing to cultural and religious life as well as social well-being.[3]

---

[1] General information on the space for NGOs and civil society more broadly can be found in OECD, *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance*, 2022, pp. 260-272; European Commission, *A thriving civic space for upholding fundamental rights in the EU 2022 Annual Report on the Application of the EU Charter of Fundamental Rights*; European Union Agency for Fundamental Rights (FRA), *Europe's Civil Society: Still Under Pressure: Update 2022*. Opinions and reports on legislation relating to freedom of association in specific countries can be found at the websites of the Expert Council and the Venice Commission .

[2] Once established NGOs enjoy protection not only of the so-called qualified rights afforded by the European Convention on Human Rights (right to respect for private and family life; freedom of thought, conscience and religion; freedom of expression; and freedom of assembly and association – arts. 8-11), but also the protection of other rights enshrined in the Convention which otherwise pertain to legal persons: the rights to a fair trial; no punishment without law; the right to an effective remedy; prohibition of discrimination; and freedom of peaceful enjoyment of possessions – arts. Arts 6, 7, 9, 11, 13, 14 of the Convention, respectively; Article 1 of the First Protocol to the Convention). These are further discussed in Chapter III of the study, as appropriate.

[3] See *Recommendation CM/Rec(2007)14 of the Council of Europe Committee of Ministers to member states on the legal status of non-governmental organisations in Europe* (*Recommendation CM/Rec(2007)14*), preamble;

6. Most recently, the Heads of State and Government of CoE member States at the 2023 Reykjavik summit reaffirmed that "civil society is a prerequisite for a functioning democracy", and has committed 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".[4]

7. Similarly, it has been noted by the European Commission for Democracy through Law (Venice Commission) that a vibrant and diverse civil society acts as part of the checks and balances and is essential to effective democracy.[5]

8. The study is structured as follows: it first explains the methodology used, in particular the questionnaire survey used (Chapter II). Thereafter, it provides a detailed analysis of the results of the survey (Chapter III). The key findings of this analysis are summarised in the conclusion, which points to the need for an ongoing and concerted European response against the stigmatisation of NGOs (Chapter IV).

Methodology

9. The study is based on the responses to a questionnaire which was developed by the Expert Council with input from the Directorate General of Democracy and Human Dignity of the CoE (Appendix I). It also takes account of information gathered in the course of preparing previous studies of the Expert Council.[6]

10. An open call for responses to the questionnaire was made to NGOs operating in the CoE member States, Belarus, Kosovo*[7] and Russia via the website of the Conference of International Non-Governmental Organisations (INGOs) of the CoE and the X and LinkedIn accounts of the CoE. In addition, the questionnaire was emailed to all INGOs with participatory status in the CoE and to all NGOs who had been asked to respond to a previous questionnaire distributed by the Expert Council for the purpose of an earlier

---

Revised Code of Good Practice of Citizen Participation in the Decision-Making Process (*Revised Code of Good Practice*), Conference of INGOs, 2019, Chapter 3.1; Parliamentary Assembly of the Council of Europe, *New Restrictions on NGOs Activities in Council of Europe member States*, Resolution 2226 (2018), para. 2; OSCE/OIDHR and Venice Commission, *Guidelines on Freedom of Association*, 2014, (Recommendation CM/Rec(2018)11)preamble.

[4] *Reykjavik Principles for Democracy*, Principle 9, adopted on 16-17 May 2023 .

[5] *Civil Society: Empowerment and Accountability*, 2022 https://www.venice.coe.int/WebForms/pages/default.aspx?p=Strasbourg_2022_NGOs&lang=en

[6] Expert Council, *The Legal Space for NGOs in Europe: Civil society's perception of the implementation of Council of Europe CM Recommendation (2007)14 to Member States on the Legal Status of Non-Governmental Organisations in Europe*, 2022; *The Execution of Judgments involving Freedom of Association: The Impact on Human Rights Organisations and Defenders*, CONF/EXP(2022)1, 2022; *Using Criminal Law to Restrict the Work of NGOs Supporting Refugees and Other Migrants in Council of Europe Member States*, CONF/EXP(2019)1, December 2019.

[7] All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

study, *The Legal Space for Non-Governmental Organisations in Europe*.[8] The questionnaire was also distributed by members of the Expert Council to their own networks and its existence was announced at the Civil Society Summit of the CoE.

11. Overall, fifty-five responses to the questionnaire were received. Respondents included NGOs operating in thirty-one member States[9] and the Russian federation, as well as two international NGOs. In cases of multiple responses (NGOs operating in Greece, Georgia, Malta, Spain, Sweden, Türkiye, Poland, Romania and the United Kingdom, respectively) those seem largely consistent with or complementary to each other.

12. Insofar as multiple country-specific responses to a particular issue were the same or similar to each other, they are not separately referenced as a source of information.

13. The information gathered is analysed in Chapter III of the study, with the relevant theme set out at the beginning of each section of that chapter. The responses under each theme are grouped by the similarity of the situation in particular countries, with some qualifying details included in the footnotes.

14. The responses received represent the perspective of the NGOs concerned and the analysis based on them is not necessarily a definitive account of the situation in each country. However, they do provide a sound basis to understand the country specific context, as they reflect the overall challenges faced by NGOs in the countries surveyed.

Analysis of responses

15. The analysis presented in this chapter largely draws on the structure of the questionnaire (Annex I). Nevertheless, in order to better provide the context, it is structured in the following order:

- A. Negative attitudes to certain objectives and activities of NGOs.
- B. Major sources of stigmatisation of NGOs and the underlying justifications provided for such practices.
- C. Policies and practices that have contributed to or facilitated stigmatisation of NGOs.
- D. The extent and duration of the stigmatisation of NGOs.
- E. NGOs' efforts to combat stigmatisation.
- F. Potential further strategies proposed by NGOs to combat stigmatisation.

[8] The selection of the NGOs which were requested to respond to the earlier questionnaire was made by reference to the breadth of their expertise and of their familiarity with the general situation in their country. For the current study, in the case of the United Kingdom alternate NGOs were selected due to the unavailability of the original respondents.

[9] They were: Albania; Austria; Azerbaijan; Bosnia and Herzegovina; Cyprus; Czechia; Denmark; Estonia; Finland; Georgia; Greece; Hungary; Ireland; Italy; Latvia; Malta; Republic of Moldova; Monaco; Montenegro; North Macedonia; Norway; Poland; Serbia; Slovak Republic; Spain; Sweden; Switzerland; Romania; Türkiye; Ukraine; and the United Kingdom.

A. Negative attitudes to certain objectives and activities of NGOs.

16. The survey revealed that stigmatisation was found with respect to NGOs pursuing a broad range of goals and activities. These include: assistance providers to asylum seekers and refugees;[10] advocates for LGBTIQ+ rights,[11] the rights of religious minorities;[12] Roma rights;[13] ethnic minorities rights;[14] women's rights;[15] promoters of the rule of law, human rights and democracy;[16] watchdog NGOs (anti-corruption and investigative journalism);[17] environmental NGOs;[18] and assistance to victims of domestic violence.[19]

17. NGOs involved in research and advocacy with respect to crimes committed in national and regional conflicts and/or teaching history;[20] those advocating for political reconciliation[21] and constitutional changes;[22] and professional associations (unions of teacher and doctors) opposing the government's agenda[23] were also reported to have been subject to stigmatisation.

18. The scope of objectives and activities of NGOs subject to stigmatisation was neatly summarised by several respondents.

19. Thus, a respondent from *Türkiye* reported:

> Rights-based organisations, associations and foundations working on rights of LGBTIQ+ and women, protection of minority rights or NGOs working in certain regions, human rights defenders, journalists, academics, refugees, women, and LGBTIQ+ rights advocates, dissident writers, and social media users…are subjected to discriminatory treatment and penalties in various forms.[24]

---

[10] Cyprus; Greece (respondent 1, 3-4); Hungary; Malta; Slovak Republic; Sweden; Poland; Türkiye, respondent 2; United Kingdom, respondent 2.

[11] Albania; Republic of Moldova; France; Italy; Türkiye; Russian Federation; Slovak Republic; Serbia; Sweden (respondent 1); Spain, respondent 1; Poland, respondents 2-4; United Kingdom, respondents 2-3; International NGO, respondent 1.

[12] Türkiye; International NGO as regards the rights of Muslim Youth (respondent 2); United Kingdom respondent 1; Georgia; Sweden (respondent 1).

[13] Cyprus; Slovak Republic.

[14] Türkiye – Kurdish rights, respondents 2 and 5; Romania – Hungarian rights (respondent 1); Spain – Catalan speaking minority (respondent 2); United Kingdom, respondent 1 (Northern Ireland), in reference to Irish speaking community and ethnic minority groups.

[15] Austria; Greece (respondent 2); Georgia (respondent 2); Republic of Moldova; Türkiye, respondents 2-3, 5; Poland, respondents 1, 3 and 4; United Kingdom, respondent 1 (Northern Ireland).

[16] Hungary; Republic of Moldova; North Macedonia; Türkiye, respondents 2-3; Serbia; Poland; Russian Federation, United Kingdom, respondent 2.

[17] Georgia, respondent 1; Hungary; Republic of Moldova; Montenegro; Serbia; Slovak Republic.

[18] Czechia; Finland; Serbia; Sweden; and Switzerland.

[19] Russian Federation.

[20] Serbia; United Kingdom, respondent 2.

[21] Cyprus.

[22] United Kingdom, respondent 1.

[23] Poland, respondent 3, in reference to the previous government.

[24] Respondent 2.

20. A respondent from *Hungary* noted:

> Hungarian NGOs engaged in defending the rule of law, carrying out anti-corruption work as well as providing assistance to refugees and migrants are exposed to aggravated legislative, administrative and media attacks. NGOs that regularly contribute with reports or submissions to international human rights and rule of law mechanisms or carry out strategic litigation in front of the Court of Justice of the European Union (CJEU) or the European Court of Human Rights (ECtHR) are the main targets of anti-NGOs narrative portraying these civil actors as foreign agents.

21. In respect of *Serbia*, it was observed:

> There are several types of NGOs that are treated less favourably than others. These include NGOs that focus on the environment, LGBTIQ+ rights, and anti-corruption. However, among these, NGOs dealing with the past often times face the most significant pressures and attacks. They become targets of various forms of harassment, including online threats, smear campaigns, physical attacks against their property, and legal actions related to public assemblies.
>
> The primary reason for such treatment, in many cases, is the nature of their activities and the statements they make regarding civilian casualties of war and the accountability of those responsible. For instance, NGOs that commemorate the genocide in Srebrenica or strive to remove murals dedicated to Ratko Mladic, the convicted commander of the Bosnian Serb army responsible for that crime, often attract intense opposition.
>
> In the case of environmental NGOs, their less favourable treatment is often a result of their activities, such as organising protests and roadblocks to raise awareness about pressing environmental issues. Unfortunately, these actions make them vulnerable to targeted campaigns of misinformation and harassment.

22. A respondent from *Malta* detailed challenges his organisation – which was established in the wake of the assassination of Daphne Caruana Galizia in October 2017, in order to organise civil society's campaign for truth and justice in her case, promote the rule of law, document and expose corruption, and protect democracy – has faced in pursuing its goals:

> As an organisation we have been explicitly targeted by the government and the ruling party in systemic attempts to discredit us and to exclude us from public discourse. On several occasions, exponents of the government, including the prime minister, have made statement falsely accusing the organisation and its leaders of a range of imaginary crimes such as 'betraying the country's effort against Covid' when the organisation protested against the abandonment of migrants lost at sea or of 'using every method to intimidate the judiciary' into ruling against the government.
>
> The official statements from ministers, led by the prime minister, are backed up by systemic mischaracterisation on media owned or controlled by the ruling party. Despite having a relevant role in public discourse on corruption and related issues the public broadcasting stations ignore our participation except on rare occasions which they perceive as opportunities to undermine our credibility. When we delivered a press conference outside the offices of the public broadcaster complaining of this we were punished with harassment by the police.[25]

[25] Respondent 1. The name of the NGO was omitted from the quote.

23. A respondent from *Sweden* observed:

> Since the current Swedish government came to power last year, there has been an increasing pressure on civil society. The government has targeted civil society with both populistic rhetoric and extensive budget cuts. Although the government is hostile towards civil society organisations in general, ethnic organisations has been unproportionally targeted. There is no real definition to what constitutes an ethnic organisation, but the term includes organisations that base their existence on a specific ethnicity or nationality. This includes organisations such as diaspora organisations and minority groups, but also organisations that work with non-Swedish cultural heritage, minority rights and languages.[26]

24. It is worth noting that NGOs reported to have been subject to stigmatisation pursue legitimate *objectives* and that their ability to operate freely and advocate for their goals is protected by both the right to freedom of association and the right to freedom of expression.

25. With respect to the former, freedom of association pertains to both informal and formal associations, i.e., those with legal entity status.[27] Associations must be able to determine their own objectives and the means and activities they use to achieve those objectives insofar as they are consistent with the requirements of a democratic society.[28] There is a principle of presumption in favour of the lawful formation, objectives and activities of associations.[29]

26. In addition to the requirement on States not to interfere with the right to freedom of association without legitimate justification,[30] States also have a positive obligation to ensure the effective enjoyment of the right to freedom of association.

27. This obligation is particularly important for NGOs advocating for minority groups and more broadly for those holding views which may be considered hostile or unpopular with the government or the public at large.[31]

28. In addition, the European Court of Human Rights (ECtHR) generally considers the relationship between Article 10 (freedom of expression) and Article 11 (freedom of assembly and association) of the European Convention on Human Rights (ECHR) as one

---

[26] Respondent 1.

[27] Council of Europe, *Fundamental Principles on the Status of Non-Governmental Organisations in Europe*, 13 November 2002, Principle 5; Venice Commission, and OSCE/ODIHR, *Joint Guidelines on Freedom of Association*, paras. 38, 48 with references to the ECtHR case law; Expert Council, *Conditions of Establishment of Non-Governmental Organisations,* paras. 15-19 with further references.

[28] *United Communist Party of Turkey and Others v. Turkey* [GC]*,* no. 19392/92, 30 January, 1998, para. 57. *Recommendation CM/Rec(2007)14*, principle 11.

[29] Venice Commission and OSCE/ODIHR, *Joint Guidelines on Freedom of Association*, Principles 1, 4, paras. 26, 29.

[30] Although the right to freedom of association is not absolute, national authorities are in all circumstances bound by the obligation to enforce any interference with that right only if it is provided by law, pursues a legitimate aim and is necessary in a democratic society. See *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], no. 41340/98. , 31 July, 2001, paras. 47, 86.

[31] *Zhdanov and Others v Russia, nos.* 12200/08, 16 July 2019, paras. 139, 162-163.

between the general law (*lex generalis*) and the special law (*lex specialis*),[32] given that the "protection of opinions and the freedom to express them is one of the objectives of freedom of assembly and association". [33]

29. Freedom of expression affords NGOs protection to engage freely in matters of public debate and advocate for positions contrary to government policy or the views of others, or which may be considered offensive by some. This is consistent with the broad protection the Convention affords to freedom of expression, given the positive obligation of a State to ensure tolerance in public discourse and political life, as one of key features of a democratic society. [34]

30. In addition, in assessing any interference with Article 10, in connection with Article 11 of the Convention, States are under an obligation to act in a manner consisted with the role of NGOs as "watchdogs" expressing their expert opinion on matters of public interest.[35]

31. The watchdog role of NGOs is considered by the ECtHR as "essential in a democratic society", and "similar to the role of the press as defined in its established case-law."[36] Thus, NGOs enjoy the same level of protection with respect to Article 10 as other parts of civil society, including the press and journalists.[37]

32. Freedom of expression also affords protection to individuals acting in the capacity of legal representatives or authorised members of an NGO: they must not be subject to sanctions because of expressing their opinions on behalf of an NGO,[38] nor must such sanctions be imposed on an NGO instead.[39]

---

[32] *Ezelin v. France*, no. 11800/85, 26 April 1991, para. 34. *Hakim Aydın v. Türkiye* , no. 4048/09, 26 May 2020, para. 41.

[33] *Öllinger v. Austria*, no. 76900/01, 29 June, 2006, para. 38.

[34] *Recommendation CM/Rec(2007)14*, principle 12; *Zhdanov and others v Russia,* para. 158; *Bayev and others v Russia,* nos. 67667/09., 20 June 2017, para. 81; *Handyside v United Kingdom, no.* 5493/72, 7 December 1976, para. 49. The notable exceptions from the broad protection afforded by Article 10 include incitement of violence (*Sürek v. Turkey* [GC] (No. 3) no. 23927/94, 8 July 1999, para. 40); hate speech, including the one directed towards minorities (*Vejdeland and Others v. Sweden*, no. 1813/07, 9 February 2012); and dissemination of ideas promoting racism, Nazi ideology and holocaust denial (*PETA Deutschland v. Germany*, no. 43481/09, 8 November 2012; *Honsik v. Austria* (dec.), no. 25062/94, 18 October 1995).

[35] *Vides Aizsardzības Klibs c. Lettonie*, no 57829/00, 27 May 2004, para. 42.

[36] *Ibid*. para. 40.

[37] *Ibid*; *Radio Twist, A.S. v. Slovakia*, no. 62202/00, 19 December, 2006, para. 48.

[38] *Trade Union of the Police in the Slovak Republic and Others v. Slovakia*, *no.* 11828/08, 11 February 2013, para. 55; *Palomo Sánchez and Others v. Spain* [GC], no.28955/06, 12 September 2011, para. 52; *Straume v. Latvia*, no. 59402/14, 2 September 2022, paras. 89-90.

[39] *United Communist Party of Turkey and Others v. Turkey,* para. 57. See para 75 of *Recommendation CM/Rec(2007)14* which makes it clear that the "officers, directors and staff of an NGO can only be made liable to the NGO, third parties or all of them for professional misconduct or neglect of duties". As pointed by the Expert Council, this sets "a high threshold for them incurring any liability and it is thus likely to be an exceptional occurrence". Expert Council, *Sanctions and Liability in Respect of NGOs*, OING Conf/Exp (2011) 1, January 2011, para. 21.

B. Major sources of stigmatisation of NGOs

33. All respondents to the survey identified more than one source of stigmatisation in their respective countries. Notable exceptions included respondents from *Azerbaijan*, *Ukraine* and *Finland* who rather pointed to the general problems facing NGOs in their respective countries, which are not directly related to stigmatisation.[40]

34. No cases of stigmatisation were reported in respect of *Estonia*, *Latvia*, *Monaco* and *Norway*,[41] while in *Czechia* only sporadic cases involving a small number of pro-Russian NGOs and groups were noted.[42]

35. The most frequently cited source of stigmatisation of NGOs was found to be public authorities or high-ranking politicians from ruling parties;[43] followed by the pro-government media outlets or those otherwise promoting or espousing populist and xenophobic views;[44] and certain segments of the public: those opposing LGBTIQ+ rights;[45] having unsympathetic view of asylum seekers and migrants;[46] holding biases

[40] Thus, a respondent from *Azerbaijan* pointed to the generally restrictive legal environment for the establishment, operations and funding of NGOs; a respondent from U*kraine* noted the discriminatory treatment of NGOs in the legislation governing money laundering and terrorism relative to the one of other private legal entities subject to the same legislation; and a respondent from *Finland* noted the generally restrictive legal environment for raising funds by NGOs.

[41] The response from *Norway* was incomplete, however. A respondent from *Estonia* noted that: "There is no systematic less favourable treatment towards a group of CSOs or areas. There is typical conservative, liberal discussion among our society but there are no cases based on what we could say some group of CSOs (NGOs, our remark) are less favoured".

[42] Those NGOs and groups were reported to be the victims of few minor incidents, physical and verbal abuse in public, due to their support to the Russian aggression against Ukraine and generally anti-democratic stance.

[43] Albania; Austria (gender justice); Belgium; Bosnia and Herzegovina (Republic of Srpska – one of two entities in BiH); Cyprus; Greece; Denmark; France; Georgia; Hungary; Ireland; Italy; Finland; Malta; Montenegro; North Macedonia; Russian Federation; Romania; Serbia; Slovak Republic; Sweden (in case of ethnic minority NGOs – respondent 1, as well as Muslim NGOs and climate activists – respondent 2, which also provided responses for Belgium, where it resides); Poland, in reference to the prior government and the President, as well as local authorities; Türkiye; and United Kingdom. In case of *Spain,* public authorities were cited as a major source of stigmatisation of NGOs advocating for the right of LGBTIQ+ groups (respondent 1) and the full recognition of the rights of the Catalan speaking minority (respondent 2). A survey carried by an international NGO advocating for transgender equality in *Spain, Russian Federation, the United Kingdom, Germany, Norway, Armenia, Georgia, Montenegro, Netherlands, Estonia, Serbia, Portugal, Malta, Romania, Bulgaria, Croatia, Denmark, and Switzerland* (respondent 1) identified public authorities as a major source of stigmatisation of NGOs working on that particular issue.

[44] Belgium; Bosnia and Herzegovina (Republic of Srpska); Denmark; Greece; Georgia; Cyprus; Hungary; Italy; Malta; Republic of Moldova; Slovak Republic; Poland (respondents 2-4); Russian Federation; Serbia; Spain (respondents 1-2); Türkiye; United Kingdom; International NGO, respondent 1; International NGO advocating for the rights of Muslim Youth and student organisations (respondent 2).

[45] Albania; France; Hungary; Georgia, respondents 1-3; Poland; Russian Federation; Serbia; Spain (respondent 1); Türkiye, (respondents 2-4); United Kingdom - respondent 1 (England, Wales, Scotland).

[46] Belgium. Greece, respondent 1; Hungary; Italy. The responses received did not indicate whether those hostile public views pertain to all asylum seekers, those coming from certain countries or irregular migrants only.

against the Muslim population;[47] and being hostile towards the values underpinning the CoE.[48]

36. NGOs that aligned themselves with the government self-proclaimed "illiberal" views and agenda (government organised NGOs - GONGOs) were reported to also have been a source of stigmatisation of organisations whose goals are more aligned with the values of democracy, human rights, and the rule of law.[49] The phenomenon of those GONGOs forming global alliances with similar illiberal political movements in the United States, in attempt to influence political and public life in Europe, was also reported.[50]

37. Additional sources of NGO stigmatisation cited in the survey included opposition political parties with anti-democratic, homophobic or pro-Russian stances;[51] traditional churches and religious organisations;[52] far right extremist groups,[53] including those affiliated with those churches and organisations;[54] and private corporations.[55]

38. As regards public authorities as a source of stigmatisation, the following was reported in respect of *Greece*:

> The Ministry of Migration and Asylum launched an attack last summer against HumanRights360 following an incident at the land borders with Türkiye (Evros river). It started in August of 2022 when a group of refugees found itself trapped on an islet between the Greek and Turkish borders of Evros. Four NGOs, among them HR360, launched a series of advocacy actions aiming at their rescue with positive outcome. However, because of speaking out for what they witnessed, these organisations were targeted by the authorities within the broader ongoing well-orchestrated 'campaign' of the state against NGOs providing assistance to migrants. In November 2022 the authorities stepped up its attack against HR360 by demonising its acceptance of foreign funding for regranting and HR360 founders' personal financial situation. The public prosecutor launched a preliminary investigation which to this moment, hasn't produced any outcomes. No information has been disclosed about the findings, neither has any criminal process been initiated. The situation in which HR360 finds itself can be described as a 'limbo', with huge administrative and financial consequences and a severe impact on staff's morale.[56]

---

[47] Belgium; International NGO (respondent 2); Hungary; respondent 2 from Sweden noted that according to a national survey published in 2022 more than one third of the adult Swedish population believes that Islam and Muslims pose threats to "Western civilization".

[48] Czechia. The respondent noted "small, but verbally aggressive part of the population", which is sympathetic to the Russian political agenda.

[49] Türkiye, respondent 1; Hungary.

[50] Hungary.

[51] France and Italy (homophobic stance); Republic of Moldova (pro-Russia stance).

[52] Poland, with respect to the Catholic Church (respondent 2); Russia, with respect to the Orthodox Church and Islam faith organisations in the Caucus region.

[53] Greece, respondents 1-2; Georgia, respondent 2; Serbia; Türkiye, respondent 2; United Kingdom; International NGO, respondent 1.

[54] Greece, with respect to the groups affiliated with the Orthodox Church promoting "family values" at the expense of women rights (respondent 2); Russia, with respect to certain Muslim organisations operating in the Caucus region; Poland, in reference to the Catholic Church (respondent 2); France.

[55] Switzerland; Albania, no specific context provided.

[56] Respondent 2.

39. An international NGO dealing with issues facing Muslim youth and student organisations cited "discriminatory practices through policies and lack of support" as one of the two major sources of stigmatisation, based on the inputs received from thirty-one network members operating in twenty-one European countries.[57]

40. It is noteworthy that *public authorities* were identified as a major source of stigmatisation both with respect to their actions as well as the lack thereof, i.e., the failure to protect the legitimate rights of NGOs.[58]

41. The survey also suggests that the major sources of stigmatisation should not be viewed separately, but rather that they are intertwined. Thus, a respondent from *Türkiye* observed:

> Both the government's hate speech targeting LGBTIQ+s and the discrimination practices and hate speech by certain segments of the society through the government-controlled media on the grounds of being against morality and family structure are strengthened.[59]

42. Similarly, it was reported in respect of *Sweden*:

> Shortly we published its assessment of the Tidö Agreement, in which we criticised the agreement for not aligning with Sweden's international commitments to human rights, its constitution, and fundamental principles of the rule of law, we received criticism from prominent representatives of the Sweden Democrats through social media. They accused us of being politically biased and suggested that our state funding be immediately withdrawn.
>
> Receiving such allegations from politicians has become a frequent occurrence, also through the mainstream media. Other organisations that have expressed their concerns and criticisms have also been subjected to attacks and accusations of political bias. This includes the Nature Conservation Society and several labour unions, such as LO, TCO, and SACO.
>
> This type of public criticism and threats against civil society organisations is new in a Swedish context but has long been prevalent in other countries, where it has ultimately resulted in the undermining of democracy and the rule of law.[60]

---

[57] Respondent 2.

[58] Türkiye; Serbia; Romania; Russian Federation; United Kingdom, respondent 1 (Northern Ireland); International NGO, respondent 1 in reference to the situation in *Malta, Russian Federation, the United Kingdom, Germany, Georgia, Armenia, Netherlands, Serbia, Portugal, Bulgaria,* and *Montenegro.* See Section C. for more details.

[59] Respondent 4, respondent 1.

[60] Respondent 2; quotation was slightly edited for clarity. To further illustrate this point, in a recent case, a prominent watchdog organisation in *Serbia,* published a report alleging the widespread irregularities in the recently held general and local elections. The report was subsequently presented in the German Bundestag. Following these events, President of the Republic suggested that this organisation was acting in foreign interests, alluding to the fact that it was being funded by the governments of the United States, Sweden and United Kingdom, while a prominent member of the ruling party – and a lawyer – called on his X account for members of the organisation to be "arrested", for spreading false information and disturbing the public; https://n1info.rs/vesti/zbog-napada-na-crtu-vucicu-stigla-nova-opomena-iz-berlina/, https://vreme.com/vesti/posle-nemaca-i-amerikanci-kritikuju-vucica-zbog-napada-na-crtu/ and https://www.021.rs/Info/komentari/364654.

43. A respondent from *Malta* also observed that the way the media reported on public authorities making disparaging statements towards NGOs seems to generally have an adverse impact on public perception of NGOs.[61]

Justifications provided for stigmatisation

44. Respondents from seventeen countries did not provide specific information about the grounds of stigmatisation,[62] and therefore the survey offers a limited insight into this issue.

45. Those who did provide pertinent information however indicated that the most common grounds justifying stigmatisation of NGOs by either public authorities or media outlets included: protection of traditional family and religious values and morale;[63] protection of children;[64] national values;[65] protection of national security and public order;[66] protection from foreign interference;[67] and the need to ensure the cultural integration of migrants.[68]

46. A respondent from *Greece* reported that the concept of "traditional family values" has impacted adversely not only on the LGBTIQ+ population, but also on women's rights:

> In the area of women's rights, neo-conservative and alt-right groups (close to the church) promote the need to preserve stereotypical family values. Using the demographic 'problem' as a vehicle and based on an 'anti-gender' ideology, they have been pursuing a pro-life agenda aiming to jeopardise women's sexual and reproductive rights and the right to abortion. Moreover, lobbies of men usually with economic power…who perceive that their rights are affected in divorce cases influence legislative choices in the field of family law using the pseudo-concept of 'parental alienation'.[69]

47. In respect of *Türkiye*, the need to observe *Financial Action Task Force* (*FATF) Recommendations* was also invoked as a ground for discrimination of human rights

[61] Respondent 2.
[62] This pertains to responses from Austria; Azerbaijan; Albania; Belgium; Bosnia and Herzegovina (Republic of Srpska); Finland; France; Denmark; Czechia; Ireland; Malta; North Macedonia; Moldova; Montenegro; Romania; Slovak Republic; and Switzerland.
[63] Greece (respondent 2); Georgia (respondent 2); Italy; Hungary; Poland, respondents 2-4; Serbia; Spain, respondent 1; Russian Federation; Türkiye; International NGO, respondent 1.
[64] Türkiye, respondent 4 with respect to restrictions imposed on LGBTIQ+ NGOs.
[65] Poland, respondent 3; United Kingdom, respondent 2.
[66] Greece, respondents 1, 3-4; Hungary – protection against irregular migration; Georgia (respondent 2); Serbia – justification for the frequent bans on public assembly hosted by NGOs promoting LGBTIQ+ rights, in particular; Sweden (respondent 1); Türkiye, respondents 1-2, 4: Poland (respondents 1, 3-4); United Kingdom, respondent 2; International NGO (respondent 2). In case of Cyprus, this seems to pertain to discrimination of NGOs advocating for the faster rapprochement between the Turkish Cypriot and Greek Cypriots communities. In Türkiye this pertains to NGOs advocating for religious and ethnic minority, including the Kurdish minority (respondents 1, 5).
[67] Bosnia and Herzegovina (Republic of Srpska); Georgia, respondent 1; Hungary; Russian Federation.
[68] Sweden, respondent 1.
[69] Respondent 3.

defenders (see below and under Section C. for more details),[70] while in respect of *Poland* restrictions on NGOs were reported to have been imposed on the ground of the need to "fight against the alleged legacy of communism and Marxism".[71]

C. Policies and practices that contributed to, or facilitated stigmatisation of NGOs

48. Respondents identified a number of policies and practices related to stigmatisation of certain NGOs. These included: 1) restrictive legislation, such as restrictions imposed on NGOs providing services to asylum seekers and migrants; on the recipients of foreign funds; advocates for LGBTIQ+ rights; and on advocates for human rights in general; 2) lack of effective legal protection for certain NGOs; 3) media smear campaigns targeting specific NGOs; 4) physical attacks against leadership and members of certain NGOs; 5) limited access to public funds for certain NGOs; 6) exclusion of certain NGOs from the decision-making process of certain NGOs; and 7) other instances of stigmatisation.

49. The overall challenges associated with the various forms of stigmatisation which are further discussed below were aptly illustrated in a response from *Scotland*:

> In Scotland (…) less favourable treatment of LGBTIQ+ groups is exemplified in campaigns of misinformation, lobbying of politicians for the removal of funding, direct and indirect harassment, lack of public support from governments, threats of physical attack, targeted litigation, attempts to discredit the reputation of organisations or suggest that their activities are criminal or morally irreputable, concentrated online attacks, attempts to interfere with research or campaigning, counter-protesting, headline coverage of misinformation and extensive media spin, association between crimes committed by LGBTIQ+ individuals and organisations that represent them or legislation related to them, labelling as extremists, criminals, or paedophiles.[72]

1) *Restrictive legislation*

50. The survey identified a range of legislative initiatives seeking to restrict activities of certain types of NGOs. This section provides an overview of those initiatives in light of pertinent international and European standards.

51. In several countries it was reported that NGOs providing *assistance to asylum seekers and refugees* were confronted with new legislation hampering their abilities to operate.

52. This was elaborated in some detail in a response from *Greece*:

> Legislation negatively impacting on the ability of NGOs to conduct their human rights and/or humanitarian work in a safe environment, without undue obstacles, has been introduced at two levels: the first impacting in a broad manner on all NGOs working in the field of international protection, migration and social integration; the second impacting specifically on those engaged in search and rescue (SAR) operations. Namely:

[70] Respondents 1, 4.
[71] Respondent 3.
[72] United Kingdom, respondent 3 (Scotland).

Registry of NGOs

Since 9 September 2020, pursuant to Joint Ministerial Decision (JMD) 10616/2020, NGOs wishing to operate in the fields of international protection, migration and social integration in Greece need to be enrolled in the 'Registry of Greek and Foreign Non-Governmental Organisations (NGOs)' and the 'Registry of Members of Non-Governmental Organisations (NGOs)' established by the Greek Ministry of Migration and Asylum (MoMA). Enrolment is a precondition in order to be allowed to implement actions in the specific fields (art. 2 of JMD 10616/2020); in order to be eligible to receive national or EU funds for the purposes of providing material reception conditions; and in order to be eligible to receive funds from the MoMA in order to implement actions of a social or humanitarian nature in the fields of social integration, migration and international protection (art. 6 of JMD 10616/2020). In this context, enrolment to the Registry of NGOs is also directly linked to the ability of at least some NGOs to continue carrying out their work in the specific fields.

The current framework governing the Registry of NGOs has raised significant critique, as it *inter alia* fails to comply with rule of law guarantees and the right to freedom of association, ultimately imposing undue obstacles and regulatory burdens that have been rightly characterised as a form of '*bureaucratic harassment*' by the UN Special Rapporteur on Human Rights Defenders…[73] and also noted by the Expert Council.[74]

It is important to recall that within the first year of the Registry's operationalisation (by May 2021) the number of NGOs denied registration was more than double than those approved, with some even being denied registration on account of providing legal support to persons facing deportation, in compliance with the EU acquis, which was nevertheless initially deemed as incompatible with Greek legislation by the Ministry of Migration and Asylum. Others – which have been characterised as 'ghost organisations' by investigative media outlets – were expeditiously approved and called to manage significant operations and EU funds, despite not meeting the criteria of registration set by the Greek government at the time their registration was approved.[75]

As a result of the new regulation, organisations that are not registered in the NGO register, i.e., the vast majority of organisations operating in Greece, are not allowed to operate in refugee camps and detention centres. It should be noted that since the closure of the ESTIA II programme at the end of 2022, all asylum-seekers who were considered vulnerable and who had previously been living in urban accommodations have been transferred to refugee camps. The result of these two measures is that the majority of asylum seekers are now *de facto* detained in infrastructures to which NGOs have no access to. Asylum procedures are conducted behind closed doors, and to date there are dozens of refugee camps in mainland Greece that are complete black holes with no human rights supervision or monitoring.[76]

Search and rescue (SAR) Operations

Since September 2021, new legislation (L. 4825/2021) has limited the ability of independent civil society actors to operate in the field of maritime search and rescue operations (SAR). Namely, as per art. 40 (1)

[73] UN Special Rapporteur on Human Rights Defenders, "Hearing with migrants' rights defenders in Greece", 5 October 2021.

[74] Expert Council, *Opinion on the compatibility with European standards of recent and planned amendments to the Greek legislation on NGO registration*, July 2020, , para. 22, 103 & 108, and *Addendum to the Opinion on the compatibility with European standards of recent and planned amendments to the Greek legislation on NGO registration*, November 2020, para. 21.

[75] Respondent 1; the same account provided by Respondents 2 and 4.

[76] Respondent 2.

of the specific legislation, in order to be allowed to operate in an area of jurisdiction of the Greek Coast Guard (CGC), including in the context of SAR operations, civil society actors need to: a) be enrolled into the Registry of NGOs of the Ministry of Migration and Asylum; b) operate under direct command of the Greek Coast Guard (CGC) – which for the past years has been consistently accused of irregular forced returns…; c) first inform and be granted written permission to act by the GCG in order to engage in operations aimed at managing irregular arrival by sea, which they are allowed to do only if the CGC is unable to act in a given incident. Art. 40 (2 & 3) of the Law foresees harsh penalties in case of non-compliance to the foregoing requirements which include up to one year of incarceration and a minimum of three years of incarceration in case an accident occurs, in particular in the case of a rescue operation at sea.

Those provisions were introduced after public consultation on L. 4825/2021 had been concluded, thus highlighting a failure to consult civil society actors. The Council of Europe Commissioner for Human Rights, noted that these provisions 'may further jeopardise NGOs' human rights activities in relation to persons arriving by sea, and severely undermine the necessary scrutiny of the compliance of the operations of the Greek Coast Guard with human rights standards.[77]

53. Similarly, it was reported in respect of *Hungary* that the assistance provided for asylum seekers has now been criminalised in law, compounding problems with the already restrictive legal environment for NGOs engaging in this kind of activity:[78]

In 2018, on World Refugee Day, the Hungarian Parliament adopted an amendment to the Criminal Code which added a new section (Section 353/A) on 'promoting and supporting illegal migration'. The primary aim of the legislation was to intimidate, by means of criminal law, civil actors who assisted asylum seekers. Consequently, the European Commission started an infringement procedure against Hungary for violating rights of civil actors engaged in helping those seeking international protection in the country. In its judgment delivered in November 2021, the CJEU found that the concerning Hungarian legislation is incompatible with the EU asylum *acquis*. In December 2022, the Hungarian Parliament revised the contested provision in a last-minute amendment that was introduced through a parliamentary supercommittee to an unrelated Omnibus Law. Nevertheless, the amendments failed to implement the Court's judgment. The revision rewrites Section 353/A of the Criminal Code in a manner that upholds the chilling effect on NGOs providing assistance to asylum-seekers, given the lack of clarity in the language of the revision which upholds a great deal of unwarranted discretionary power rendered to the public authority to persecute NGOs and their staff providing legal and other assistance to the asylum seekers.[79]

54. In addition, in 2021 the CJEU found that the Hungarian so-called 'Stop Soros' Law which criminalised assistance to asylum-seekers was in breach of European Union (EU) law.[80]

---

[77] Respondent 1. CoE Commissioner for Human Rights, "Greece's Parliament should align the deportations and return bill with human rights standards", 3 September 2021.

[78] Act XLI of 20 July 2018 Amending Certain Tax Laws and Other Related Laws and on the Immigration Tax and Act XLIX of 2021 on the Transparency of Organisations Carrying out Activities Capable of Influencing Public Life (which replaced the 2017 Lex NGO which had to be revoked due to the CJEU judgment). See also Venice Commission ODIHR/OSCE: *Hungary – Joint Opinion on Section 253 on the Special Immigration Tax of Act XLI of 20 July 2018 Amending Certain Tax Laws and Other Related Laws and on the Immigration Tax*, CDL-AD(2018)035, Strasbourg, Warsaw, 17 December 2018.

[79] The quotation was slightly edited for style and clarity.

[80] Case C-821/19. The Court held that Hungary has failed to fulfil its obligations under the *Directive 2013/32 on common procedures for granting and withdrawing international protection* by allowing an application for international protection to be rejected as inadmissible on the ground that the applicant arrived on its territory via a State in which that person was not exposed to persecution or a risk of serious harm, or in which a sufficient

In 2022 the contested provisions of the Law were amended. However, it was alleged that the amendments have fallen short of addressing the CJEU's ruling, since the Law continues to have a deterrent effect on NGOs providing legal assistance to asylum-seekers.[81]

55. Furthermore, in June 2023, the CJEU found that the Hungarian so-called "embassy system" was in breach of EU law.[82] The system was introduced in May 2020, and it sets out a mandatory requirement for those seeking asylum to first submit a statement of intent at the Hungarian embassy in Belgrade or Kyiv. The system was introduced under the guise of a special legal order put in place due to the pandemic and has been extended on an annual basis ever since. Following the CJEU ruling, the Parliament adopted a bill extending the embassy system until the end of 2024.[83]

56. As regards the international protection afforded to human rights defenders, the 1999 UN *Declaration on Human Rights Defenders* provides that "everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels".[84] It is incumbent on States to adopt measures to ensure this right.[85]

57. The *Joint Guidelines on Freedom of Association* provide in this respect:

> Freedom of association should be implemented without discrimination of any kind. Legislation and policy concerning associations shall be uniformly applied and must not discriminate against any person or group of persons on any grounds. Differential treatment on the basis of the mandate of the organisation or group, assuming that mandate is lawful, would breach freedom of association. Furthermore, membership or non-membership in an association shall not constitute grounds for the discriminatory treatment of persons (par. 30).

58. In addition, the Parliamentary Assembly of the Council of Europe, in its 2059 (2015) *Resolution on Criminalisation of irregular migrants: a crime without a* victim, underlined "the need to end the threat of prosecution on charges of aiding and

---

degree of protection is guarantee. In addition, Hungary has failed to fulfil its obligations under the *Directive 2013/33 laying down standards for the reception of applicants for international protection* by criminalising, in its national law the actions of any person who, in connection with an organising activity, provides assistance in respect of the making or lodging of an application for asylum in its territory, where it can be proved beyond all reasonable doubt that that person knew that that application would not be accepted under that law.

[81] Respondent from Hungary.

[82] Case C-823/21.

[83] Respondent from Hungary.

[84] Article 1.

[85] For a detailed overview of the applicable human rights standards affording protection to NGOs working with asylum seekers and irregular migrants see Expert Council, *Using Criminal Law to Restrict the Work of NGOs Supporting Refugees and Other Migrants in Council of Europe Member States*, CONF/EXP(2019)1, December 2019, paras. 32-60.

abetting irregular migration" and called on the member States to "give access to the essential rights for human dignity (medical care, education) to irregular migrants".[86]

59. Furthermore, it was stated by the ODIHR and the Venice Commission:

> Freedom to act with regard to the rights and freedoms of third country nationals by democratic means, for example, by using advocacy and public campaigning, production of information materials, are the types of activities aimed at advancing democratically the issues of human rights and public interests. These activities, including specifically providing information and legal aid and assistance in relation to existing procedures for applying for asylum and on human rights-based arguments to lodge appeals and make full use of the appeal procedures (including before international bodies) are protected under international law, including the ECHR. Indeed, under international law states are obliged to ensure asylum seekers a system of effective judicial remedies.[87]

60. NGOs from several countries reported legislative initiatives seeking to impose *restrictions on NGOs receiving foreign funds*, which were deemed to have been in violation of international standards governing protection of freedom of association, freedom of speech and the right to privacy, in particular.

61. Thus, in respect of *Russia*, the ongoing chilling impact of the "*Foreign NGO Law"* and its subsequent amendments[88] on human rights NGOs, in particular, was reported.

62. Initiatives to replicate the Russian Law in some form or shape were reported in several countries, including Hungary, Bosnia and Herzegovina and Georgia.

63. In respect of *Hungary*, in December 2023 the Parliament passed a *Law on Protecting the National Sovereignty*. It calls for the establishment of the Office for the Defence of Sovereignty with the sweeping power to investigate any groups or individuals which are alleged to benefit from foreign funding and that influence public debate, without democratic oversight and legal remedy. The measure requires Hungary's secret services to assist the Office in its investigations and envisages prison terms of up to three years for anyone convicted of violating the Law. Following the enactment of the Law, a local

---

[86] Paras. 7, 11.6, respectively. See also the 2009 CoE Committee of Ministers *Guidelines on the protection of human rights in the context of accelerated asylum procedures*, providing that "asylum seekers must receive the necessary social and medical assistance, including emergency care", and that "States should only apply accelerated asylum procedures in clearly defined circumstances and in compliance with national law and their international obligations" (Principle II.1), with further references to the pertinent CoE documents.

[87] CoE Venice Commission and OSCE ODIHR, *Joint Opinion on the Provisions of the So-Called "Stop Soros" Draft Legislative Package Which Directly Affect NGOs*, CDL-AD(2018)013, Strasbourg, 25 June 2018, para. 83.

[88] The Law *inter alia* requires that any NGO-recipient of foreign funds must be entered into a separate Registry of Foreign Agents; must use a 'foreign agent' label on all its publication; and subjects those NGOs to additional reporting and other requirements under the threat of severe administrative and criminal sanctions. See Expert Council, *Opinion Examining the Law Introducing Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-Commercial Organisations Performing the Function of Foreign Agents*, OING Conf/Exp (2013) 1, August 2013; *Opinion on the Compatibility with European Standards of Recent and Planned Amendments to the Russian Legislation Affecting NGOs*, CONF/EXP(2021)1, 19 February 2021.

branch of international NGO urged the European Commission to launch a rapid infringement process in a bid to avert the chilling effect of this new legislation.[89]

64. A respondent from *Bosnia and Herzegovina* (BiH) reported that in September 2023, the Parliament of the Republic of Srpska (one of two entities in BiH) had approved a draft Law on Separate Registry and Publicity of Work of NGOs. The draft seeks to stifle the ability of NGOs to receive foreign funds by introducing hosts of administrative and reporting requirements. The Parliament's approval has paved the way for public consultation on the draft and the ensuing procedural steps required for the draft to be tabled for final reading.[90] It was noted in this respect:

> A special concern for the work and survival of NGOs in the Republic of Srpska stems from the draft of the Law on Separate Registry and Publicity of Work of NGOs. This law will have a significant impact on the work of NGOs in BiH and the position of marginalised target groups. The draft uses the term "agent of foreign influence" for the first time in the legal history of BiH, and the wording itself indicates that the intentions of this draft are to negatively represent the work of NGOs. This type of control can limit the freedom of NGOs to work independently, constrain their role as advocates, and create legal and administrative obstacles for their functioning.[91]

65. A similar legislative initiative was successfully repelled in *Georgia*, however. As noted in a response from that country:

> People's Power, a newly formed political movement that formally separated from the ruling party, Georgian Dream, called for a 'strict legal framework' on foreign funding of CSOs and submitted legislative proposal to regulate such funding for Parliament's expeditious consideration which almost resulted in the Law being promulgated. However, as a result of massive protests and manifestations the draft was eventually withdrawn from the Parliament's agenda.[92]

66. Finally, the new government in the *Slovak Republic* has also announced plans to introduce a "foreign agent" law.[93]

67. As regards restrictions imposed on foreign funding, the Venice Commission – in reference to pertinent ECtHR case-law[94] – noted that the right of an NGO to seek financial and material resources is primarily protected as an inherent part of the right to freedom of association and has been confirmed in Art. 22 of the UN *International*

---

[89] The Council of Europe Commissioner for Human Rights had called unsuccessfully on the Hungarian government to abandon this initiative, given arbitrary restrictions it would impose on the "indispensable work of human rights NGOs and defenders". The proposal for a "defence of national sovereignty" package should be abandoned

[91] The quotation was slightly edited for clarity.

[92] Quotation was slightly edited for style.

[93] *Slovakia: Civil Society under threat*.

[94] *Parti Nationaliste Basque – Organisation Régionale d'Iparralde v. France*, no. 71251/01, 7 June 2007 para. 36-38; *Ramazanova and others v. Azerbaijan*, no. 44363/02, 1 February 2007, paras. 59-60.

Covenant on Civil and Political Rights[95] as well as various international soft law instruments.[96]

68. In the European context, *Recommendation CM/Rec(2007)14* states that "NGOs should be free to solicit and receive funding – cash or in-kind donations – not only from public bodies in their own state but also from institutional or individual donors, another state or multilateral agencies, subject only to the laws generally applicable to customs, foreign exchange and money laundering and those on the funding of elections and political parties".[97]

69. Similarly, *Recommendation CM/Rec(2018)11* of the Committee of Ministers to members states on the need to strengthen the protection and promotion of civil society space in Europe[98], the *Joint Guidelines on Freedom of Association*[99], and the EU's *Guidelines on Human Rights Defenders* have confirmed the right of an NGO to seek financial means from private and public sources, including foreign funds, to support its legitimate activities.[100]

70. The ECtHR case law recognises the legitimate need for a State to exercise scrutiny over the receipt and spending of funds by NGOs, including funds from foreign sources. However, any restriction imposed on foreign funds must comply with the requirements set out for the legitimate interference with freedom of association, freedom of

[95] A/HRC/23/39, *Second report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association*, para. 16. See also Conf/Exp(2018)3 Expert Council, *International standards relating to reporting and disclosure requirements for non-governmental organisations*, 27 November 2018.

[96] Venice Commission, *Report on Funding of Associations*, study No. 895/2017, CDL-AD(2019)002, Strasbourg, 18 March, 2019, par. 18. The UN *Declaration on Human Rights Defenders* (General Assembly Resolution 53/144 of 8 March 1999) which provides that 'everyone has the right, individually and in association with others, to solicit, receive and utilise resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means in accordance with Article 3 of the present Declaration' The right of access to funding is to be exercised within the juridical framework of domestic legislation – provided that such legislation is consistent with international human rights standards. (Article 13). The *UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* (General Assembly Resolution 36/55 of 25 November 1981) indicates that the right to freedom of thought, conscience, religion or belief is to include, in particular, the freedom to 'solicit and receive voluntary financial and other contributions from individuals and institutions' (Article 6 (f)). The Human Rights Council's *Resolution 22/6 on protecting human rights defenders* (21 March 2013) urged the States 'to acknowledge publicly the important and legitimate role of human rights defenders (…) by respecting the independence of their organisations and by avoiding the stigmatisation of their work' and 'to ensure that reporting requirements placed on [associations] do not inhibit functional autonomy', that 'restrictions are not discriminatorily imposed on potential sources of funding', and that 'no law should criminalise or delegitimise activities in defence of human rights on account of the geographic origin of funding thereto (A/HRC/RES/22/6, §§ 5 and 9). See *Case of Ecodefence and Others v. Russia*, nos. 9988/13 and 60 others, 14 June, 2022, paras. 53-55.

[97] Para. 50, Recommendation. See also Explanatory Note to the Recommendation CM/Rec(2007)14, 10 October 2007, par. 101.

[98] Para. III.a.

[99] Paras. 200-218.

[100] Para. 13.

expression and other qualified rights protected by the ECHR: the interference must be prescribed by law; serve a legitimate aim; and be necessary in a democratic society.[101]

71. In this respect, the ECtHR found that the registration, labelling, reporting and other intrusive administrative requirements imposed on NGOs which are the recipients of foreign funds – coupled with the introduction of severe fines and criminal offences – fall short of the prescribed standards for legitimate interference with freedom of association and freedom of expression. [102]

72. Restrictive legislation was also reported to have targeted NGOs *advocating for LGBTIQ+ rights*. A respondent from the *Russian Federation* noted in this respect:

> In 2013, Russia implemented a law prohibiting the 'propaganda of homosexuality and paedophilia among minors', which was extended in December 2022 to apply to individuals of all ages. This effectively bans any discussion or sharing of information about LGBTIQ+ rights, leaving human rights defenders without the ability to advocate for their cause.
>
> Since the introduction of the law, nearly all LGBTIQ+ organisations have been targeted. Prior to that, while not enjoying government favour, public actions and even meetings with government officials were possible. A LGBTIQ+ Network, established in 2006 as the first LGBTIQ+ rights NGO in Russia, had a meeting with the Russian Federation Commissioner for Human Right in 2009. Following the meeting, the commissioner expressed readiness to protect individuals facing discrimination based on sexual orientation and gender identity. Such a situation is unimaginable in present-day Russia.[103]

73. An international NGO advocating for transgender rights in Europe also noted that: "various legislative measures directly impact TGDI and broader LGBTIQ+ activism, imposing restrictions and hindrances on their work", without providing further details, however.[104]

74. Restrictive legislative measures imposed on NGOs under the guise of the implementation of FATF recommendations were reported in respect of *Türkiye*,

> FATF regulations lead to a chain criminalisation. And indirectly lead to associations being accused of terrorism. This happens in the following way. The Law on Associations refers to the FATF law. The FATF law refers to the Anti-Terrorism Law. The Anti-Terrorism Law refers to the Turkish Penal Code. This shows that the law can easily be used to characterise associations as terrorist organisations. Indeed, the human rights activities of associations can be defined as terrorist activities, as seen in the Büyükada Case.[105]

75. A respondent from *Poland* reported that a new law has recently come into force setting out a *commissio*n entrusted with analysing the instances of Russian influence on the activities of NGOs, in order to protect state interests and security. There has been a widespread criticism of the law and the commission itself as it is said to violate due

---

[101] This test applies with respect to Art. 8-11 of the ECHR. *Refah Partisi (the Welfare Party) and Others v. Turkey* [GC], no. 41340/98, 31 July, 2001, paras. 47, 86.
See also Venice Commission, *Report on Funding of Associations*, para. 9.

[102] *Case of Ecodefence and Others v. Russia*, paras. 152-186.

[103] International NGO, respondent 1, also notified of the same problem and provided further details with the situation of trans=gender NGOs in Moscow and Sent Petersburg.

[104] Respondent 1.

[105] Respondent 1, also Respondent 4.

process and the rule of law. As the law has not yet been put in practice its impact is yet to be felt, in particular given the newly elected government's commitment to restore the rule of law.[106]

76. Finally, the restrictive charity legislation with respect to human rights advocates was reported in respect of *Ireland*. It was pointed out that the 2009 *Charities Act* does not entail the advancement of human rights as a qualifying charitable purpose. As a result, human rights organisations have been compelled to establish and operate different legal structures to ensure their 'non-charitable' human rights work is in full compliance with the Act. However, it was noted:

> This *modus vivendi* is onerous, inefficient and can be a drain on an organisation's limited resources. Human rights organisations experience difficulties in accessing funding and reporting to donors, where those funders require charitable status as a precondition for funding. The draft Charities (Amendment) Bill (2022) should resolve this issue by including the 'advancement of human rights' as a valid charitable purpose[107].

77. It is noteworthy that the ECHR provides a two-tier protection against discrimination. Firstly, Article 14 of the ECHR stipulates that the enjoyment of the rights and freedoms set forth in this Convention, including freedom of association and freedom of expression, shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

78. In addition, Article 1 of Protocol No. 12 extends the scope of protection against discrimination to "any right set forth by law", and thus introduces a general prohibition of discrimination.[108] The ECtHR has confirmed on more than one occasion that the notion of discrimination, as prohibited by both Article 14 of the Convention and Article 1 of Protocol No. 12, is to be interpreted in the same manner.[109]

79. Article 14 affords protection against both direct and indirect discrimination. In the ECtHR case law, direct discrimination is understood as "difference in treatment of persons in analogous, or relevantly similar situations" and "based on an identifiable characteristic", or "status".[110]

---

[106] Respondent 1.

[107] Now pending as the Charities (Amendment) Bill 2023.

[108] *Savez crkava "Riječ života" and Others v. Croatia*, no. 7798/08, 9 December 2010, para. 103; *Sejdić and Finci v. Bosnia and Herzegovina* [GC], no. 27996/06, 22 December 2009, para. 53. However, to date, Protocol No. 12 (opened for signature on 4 November 2000 and entered into force on 1 April 2005) has been ratified by twenty out of the forty-seven member States of the Council of Europe and thus the case law on the Protocol No. 12 is still sparse. See European Court of Human Rights, *Guide on Article 14 of the European Convention on Human Rights and on Article 1 of Protocol No. 12 to the Convention: Prohibition of Discrimination*, updated on 31 August 2023.

[109] *Pilav v. Bosnia and Herzegovina*, no. 41939/07, 9 July, 2016, para. 40; *Zornić v. Bosnia and Herzegovina*, 2014, no. 3681/06, 15 July 2014, para. 27; *Sejdić and Finci v. Bosnia and Herzegovina*, paras. 55-56.

[110] *Biao v. Denmark* [GC], no.38590/10, 24 May 2016,para. 89; *Carson and Others v. United Kingdom* [GC], no. 42184/05, 16 March 2010, § 61; *D.H. and Others v. Czech Republic* [GC], no. 57325/00 , 13 November 2007, para. 175; *Burden v. United Kingdom* [GC], no. 13378/05, 29 April 2008, para. 60.

80. Prohibition of direct discrimination thus requires that persons in a similar situation be treated in an equal manner. Insofar as there is difference in treatment, it must be based on "an objective and reasonable justification".[111] Harassment and instruction to discriminate against minority groups can be seen as particular manifestations of direct discrimination.[112]

81. Indirect discrimination, on the other hand, may take the form of "disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, has a particular discriminatory effect on a particular group", including NGOs.[113]

2) *Lack of effective legal protection*

82. The lack of effective legal protection was reported to have been associated with several causes, including: a) the perceived trend of criminalisation of NGOs activities; b) the abuse of power by the police and supervising authority; c) negligence of police duties to ensure protection of NGOs; d) the violation of the right to assembly; e) the violation of ethnic minority rights; and f) the abuse of court proceedings, i.e., strategic lawsuits against public participation (SLAPPs). These are discussed below.

a) Criminalisation of the activities of NGOs.

83. Based on the results of the survey, the apparent link between efforts to *criminalise* certain activities of NGOs and the lack of effective legal protection seems particularly concerning. Thus, in *Greece* it was reported:

> In Greece, human rights defenders, humanitarians and activists are facing a worrying phenomenon of criminalisation of their activities. They are accused of belonging to criminal networks of smugglers, facilitating the illegal entry of exiles, and even of espionage.
>
> In December 2022, Panagiotis Dimitras, director of the Greek Helsinki Monitor, an NGO monitoring human rights violations in Greece, and Tommy Olsen, founder and director of the NGO Aegean Boat Report, denouncing illegal refoulements in the Aegean Sea, were indicted. They are accused of running criminal organisations facilitating the illegal entry and stay of migrants. In particular, the Greek Helsinki Monitor has documented and prosecuted numerous cases of illegal push-backs. The case is currently under investigation. In the meantime, Dimitras has been banned from being involved in the Greek Helsinki Monitor, although he is one of its founding members. Other members of the NGO Aegean Boat Report had already been arrested in July 2021 on charges of migrant smuggling and espionage.[114]

---

[111] *Molla Sali v. Greece* [GC], no. 20452/14, 19 December 2018, para. 135

[112] *Bączkowski and Others v. Poland*, no. 1543/06, 3 May 2007; *Oganezova v. Armenia*, no. 71367/12*, 17 May 2022.*

[113] *Guide on Article 14 of the European Convention on Human Rights and on Article 1 of Protocol No. 12 to the Convention: Prohibition of Discrimination*, para. 35. with references to pertinent case law.

[114] Respondent 3. In addition, it was reported from the same respondent that in 2018 "twenty-four volunteer aid workers from sea rescue NGOs in Lesbos were arrested and spent over three months in pre-trial detention. They were indicted and charged with money laundering, espionage, human trafficking and membership of a criminal organisation. For these offences, they face up to 25 years in prison. These charges, which are not based on any evidence, have been strongly criticised, both by NGOs such as Amnesty International, which denounces a 'grotesque trial', and by institutions such as the UN, which is demanding that all charges against these

84. In addition, NGOs providing assistance to refugees and migrants were reported to have faced challenges with the lack of due process. Thus, it was alleged:

> Local NGOs were alerted in July 2022 that a group of fifty Syrians were in distress on one of the islets of the river Evros. On 20 July 2022 and again on 9 August 2022, the European Court of Human Rights (ECHR) ordered the Greek state to rescue them, but these injunctions were not followed…. Finally, the group was 'rescued' on 15 August 2022 by the Greek authorities and a 5-year-old girl died from a scorpion bite. The case caused a stir in the Greek and international media, with the death of the girl being attributed to the authorities' inaction…
>
> In September 2022, an investigation was opened at the Orestyada prosecutor's office. The lawyer of the alleged victim's parents, who works for the local NGOs, was prevented from meeting her clients, while they were detained in the Fylakio reception centre at the border. In September, the Athens Bar Association protested against the treatment of our colleague and issued a statement. At the same time, the survivors of the group, still detained in Fylakio, denounced the threats and pressure from government officials. These complaints are the subject of a report filed with the Greek Supreme Court by their lawyers.[115]

85. A respondent from *Türkiye* reported that a defamation campaign against NGOs which are recipients of foreign funds has led to their criminalisation:

> Another problem encountered by NGOs is the frequent occurrence of defamation campaigns against those who receive funds from abroad. Lists of NGOs are being published on social media or certain media outlets using accusatory and stigmatising language, targeting both funding organisations and the CSOs themselves, as well as their managers and employees, with allegations such as 'supporting terrorism' or 'espionage'.[116]

86. Furthermore, it was reported that provisions in the Turkish Law on Associations preventing the establishment of associations against "the law and morality" have been abusively applied against LGBTIQ+ NGOs:

> For years, LGBTIQ+ associations have been subjected to various closure lawsuits on the grounds of 'immorality' despite the lack of a legal basis and have faced the state's practice of discrimination with different methods.[117]

87. However, it was also reported that several lawsuits seeking closure of NGOs on the ground of immorality have been dismissed by Turkish courts,[118] while only one was reported to have been successful to date. Several other cases are still pending before courts.[119]

---

humanitarians be dropped. It is particularly concerned about the risk of creating a 'dangerous precedent' and the paralysing effect that these trumped-up charges could have on the work of human rights defenders".

[115] Respondent 1. Quotation was slightly edited.

[116] Respondent 2; respondent 3.

[117] Respondent 4.

[118] Respondent 4 referring to the case *Lambdaistanbul and Siyah Pembe Üçgen associations* which was reported to have been dismissed by the Court of Cassation, and the case *Lambdaistanbul* which was reported to have been dismissed by the court of first instance.

[119] Respondent 4 referring to the case Bursa *Gökkuşağı Association*.

88. In respect of *Poland,* a report published in January 2023 describes in detail the criminalisation of humanitarian assistance at the Polish-Belorussian border.[120] It confirms that "different measures are used to threaten and discourage NGOs and activists from providing humanitarian assistance to foreigners crossing the border".[121]

89. The foregoing findings are consistent with those of the 2019 Expert Council's study on criminalisation of NGOs supporting refugees and other migrants in the Council of Europe member States. This study concludes that:

> It is evident that in many countries in Europe, international law and standards relating to freedom of association and the protection and promotion of civic space have not been fully guaranteed in respect of NGOs supporting refugees and other migrants. This undermines the work of these NGOs and increases the vulnerability of refugees and other migrants. This is a particular problem in countries on migration routes and in border hotspots and other places with exceptional migration flows.[122]

90. Given the results of the survey, it seems that little progress, if any, has been made in the interim with regard to the ability of those NGOs to freely operate.[123]

91. Criminalisation of activities of LGBTIQ+ NGOs was reported in respect of *Scotland* through campaigns of misinformation suggesting that their activities are criminal or morally irreputable.[124]

92. In respect of *Sweden,* criminal convictions of climate activists (e.g., Extinction Rebellion) for sabotage was reported to have emerged as a recent phenomenon. As the number of peaceful actions - leading to disruptions in traffic, though - has increased, so has the number of trials and convictions. As noted in a response from that country:

> Over 200 climate activists have been legally convicted for their activism and civil disobedience, with 25 of them being convicted with sabotage which brings up to four years in prison. The current Minister for International Development Cooperation and Foreign Trade has expressed an intention to increase the penalty for sabotage from 14 days to a minimum of 12 months in prison to deter these actions. This is despite the United Nations having placed demands on states to exercise caution when imposing restrictions on peaceful protests for climate justice…. [125]

---

[120] Report on anti-repression activities implemented since the beginning of the humanitarian crisis on the Polish-Belarusian border Helsinki Foundation For Human Rights (hfhr.pl)

[121] Respondent 1.

[122] Expert Council, *Using Criminal Law to Restrict the Work of NGOs Supporting Refugees and Other Migrants in Council of Europe Member States*, para. 130.

[123] See also the recent decision of the ECtHR on a related issue: *Alkhatib and Others v. Greece,* no. 3566/16, 16 January 2024 (the use of police force in respect of illegal border crossing deemed not absolutely necessary within the meaning of Article 2 of the Convention).

[124] United Kingdom. respondent 1.

[125] Respondent 2.

b) Abuse of power by police and supervising authority

93. The abuse of power by police and supervisory authority was alleged in several countries. [126] With respect to the former, it was reported to have been manifested in both illegal police interference in activities of NGOs as well as their harassment.

94. Thus, the undue interference in activities of NGOs by the police was reported in respect of *Moldova*:

> In 2019, a case of unlawful interception of communications and video recording (surveillance) in the homes of 52 politicians, NGO activists and journalists, was revealed by a media investigation. To date, five ex-police officers are accused in court of violation of personal life and violation of the right to secrecy of correspondence[127]. It is not clear to what extent the legal mechanisms to protect against illegal or disproportionate collection, processing and storage of personal information work in practice, except in cases brought to public attention by media investigations.[128]

95. The alleged harassment of NGOs by the police was reported in several countries. Thus, a respondent from *Poland* reported:

> The LGBTIQ+ activists as well as human rights activists are targeted by the police, local municipalities and politicians. They face numerous unjustified attacks, including… criminal charges and even arrest. We observe numerous alarming law enforcement officers' actions targeting the LGBTIQ+ activists. For example, during so-called rainbow night in 2020, LGBTIQ+ activists faced unjustified arrests by the police.[129]
>
> Women's rights activists are also specifically targeted by law enforcement. They face intrusive inspection of their premisses and are subject to criminal charges for facilitating abortion procedures. For example, Justyna Wydrzyńska, a pro-choice activist, was found guilty for helping another woman in terminating her pregnancy.[130]

96. A respondent from the *Russian Federation* detailed cases of alleged physical threats and other abuses in the North Caucasus region lacking police investigation. It was further reported:

> In the North Caucasus region, journalists, activists and NGOs also encounter persecution. Human rights defenders and journalists working in Chechnya have received numerous verbal threats from the Head of the Chechen Republic, Ramzan Kadyrov, and his associates. Criticism of the Chechen regime often results in harassment, threats, potential abduction, forced disappearance, fabrication of criminal cases, or even assassination.
>
> On May 19, 2019, an apartment belonging to a local NGO employee (who was not a public member of the organisation and was identified through phone billing) was vandalised by ten armed Chechens, including two Chechen police officers. The activist had participated in the evacuation of a person seeking protection from the Chechen Republic. The Chechens threatened to harm the activist and the organisation's founder.

---

[126] Greece, respondent 1; Malta, respondent 1; Republic of Moldova; Poland, respondent 1; Serbia; Türkiye; United Kingdom, respondent 1; Russian Federation.

[127] http://www.procuratura.md/md/newslst/1211/1/8269/.

[128] Quotation was slightly edited.

[129] Respondent 4.

[130] Respondent 4. Quotation was slightly edited for style.

In 2021, the police unlawfully raided a women's shelter in Makhachkala city, Dagestan, which provided refuge to survivors of violence. One of the shelter's residents was forcibly abducted and taken to Chechnya, where she had previously escaped from her relatives.

Although activists reported assaults and threats in both cases, as well as the abduction, the police did not conduct investigations into these matters.

97. This is consistent with other pertinent reports on Russia. Thus, the UN Human Rights Council has expressed concern with the significant deterioration of the situation with human rights in the Russian Federation and in particular "the severe restrictions on the rights to freedom of opinion and expression, peaceful assembly and association...resulting in systematic crackdowns on civil society organisations", as well as concern "at the reported mass arbitrary arrests, detentions and harassment of civil society representatives among other restrictive measures".[131]

98. A respondent from *Greece* reported that members of NGOs with a feminist agenda and gender rights defenders have been arrested, intimidated and mistreated in police precincts, without providing specific details.[132]

99. A respondent from *Malta* alleged to have faced police investigation "for the crime of delivering a press conference", while credible threats of violence have been ignored by the police.[133]

100. A respondent from *Georgia* noted "unfavourable" treatment of NGOs advocating for women rights before the "investigative" but also judicial bodies, without providing further details. [134]

101. The abuse of power of a supervisory authority was reported in respect of *Türkiye*, as detailed below.

102. Thus, it was noted that frequent and arbitrary inspection by a supervising authority has given rise to the harassment of "dissident"[135] and LGBTIQ+ NGOs, in particular[136]

103. It was further reported that the lack of foreseeability and clear guidance regarding the rules governing the government's audit of NGOs rendered certain types of NGOs particularly vulnerable to the supervisory authority's unwarranted exercise of discretionary power:

In *Türkiye,* associations have been subjected to audit under the FATF regulations. The Ministry of Interior has made a legal arrangement that associations would be audited at least once a year according to a

[131] HRC Resolution 51/25, dated October 7, 2022.
[132] Respondent 1.
[133] Malta (respondent 1).
[134] Respondent 2. On a related issue, lack of prosecutorial protection against the threats and intimidation of human rights NGOs and activists was also reported in *Türkiye* in reference to a single case, however, rather than a particular pattern.
[135] Respondent 3.
[136] Respondent 4.

risk assessment. The relevant directorate was tasked with conducting the risk assessment and making an audit decision based on the results. An NGO applied to the ministry through the right to information and asked the parameters for risk assessments. However, the Ministry stated that these parameters would not be shared with the associations and did not share this requested information. If an NGO had this information, it would have been able to conduct a self-risk assessment. However, because of the research, it was found that according to the risk scale of the Directorate of Associations, associations that operate as 'human rights defenders' are automatically in the 'high risk' category and that it was not possible to change this classification. In other words, according to the state, if an association is a human rights defender, it is automatically high risk and needs to be monitored for no other reason.[137]

104. The 2023 comprehensive empirical study on the state of play of civil society in *Türkiye* confirms the foregoing reporting. The study concludes that "the organisations that take a 'strong' rights-based approach have had more negative experiences with the audits", relative to other NGOs.[138]

c) Negligence of police duties.

105. The failure on the side of police to provide the necessary protection to NGOs against intimidation and violence, and to ensure the overall safe enjoyment of their legitimate rights was reported in respect of *France* and *Serbia.*

106. Thus, a respondent from Serbia cited the lack of investigation of physical intimidation and breaking into the offices of human rights and watchdog NGOs, while the lack of proper police protection was noted with respect to public assembly events hosted by human rights and environmental NGOs (see also below).[139]

d) Restrictions on NGOs' ability to assemble.

107. Problems with the lack of effective legal protection for NGOs exercising their freedom to public assembly were reported in some countries.[140]

108. Those were aptly summarised in a response from *Serbia*—in reference to NGOs active in the areas of environment and LGBTIQ+ rights and dealing with the regional reconciliation and prosecution of the war crimes:

Some high-ranking government officials resort to hate speech, alleging violence by protesters (who participated in demonstrations organised by NGOs, our remark) and downplaying the severity of the attacks against the protesters…. they often compare protesters to fascists and, in some cases, to terrorists…

There have been instances where the police have withdrawn the protection of environmental NGOs, leaving them potentially in collusion with counter-demonstrators. This withdrawal of protection provided an opportunity for these counterdemonstrators to forcefully break through roadblocks using

[137] Respondent 1.
[138] E. Karataş, H. Ataman, M. Murat Özçelebi, *Civil Society Organisations in Türkiye: Freedom of Association and Right to Participation*, Ankara, 2023, p. 83.
[139] Lack of cooperation.
[140] Albania; Serbia; United Kingdom, respondent 1; Sweden, respondent 2.

a bulldozer, hammers, and planks, further endangering the safety of protesters and escalating tensions.[141]

NGOs also frequently face misdemeanour procedures related to spontaneous assemblies. For instance, the case of a local NGO who organised an anti-war protest at the onset of the Russian invasion of Ukraine, exemplifies how NGOs can become targets of legal action for peacefully expressing their dissent. Such actions not only undermine the right to freedom of assembly but also stifle the ability of NGOs to raise awareness and advocate for important causes.

Moreover, NGOs are sometimes subjected to assembly bans, justified by the alleged potential for conflicts with counter-demonstrators. Some NGOs have argued that these counterdemonstrators are influenced or controlled by the government, - which raises concerns about the impartiality of the decision-making process surrounding assemblies.[142]

109. The foregoing is also illustrative of the problems noted in *Sweden* with respect to human rights NGOs, namely:

Over the past decade, Sweden has seen an increase in threats against human rights organisations. Threats and slander often emanate from the extreme right-wing movement (…). Consequently, human rights organisations have started to recognise a greater need for security considerations when it comes to organising events or participating in public gatherings. Some organisations have been particularly vulnerable to this, and one example is the LGBTIQ+ organisation which has had to cancel its presence at one of the largest annual political events in the country, where politicians, organisations, and other stakeholders gather. This decision was made because permission was granted to a Neo-Nazi organisation to protest in front of the organisation's booth.[143]

110. Restrictions on the right to public assembly on the LGBTIQ+ community were also reported in respect of *Türkiye*:

In 2016, events of LGBTIQ+ associations in Ankara were banned indefinitely under the State of Emergency and associations received threats from Islamic terrorist organisations. Since 2015, Pride Week bans have been a legal obstacle for LGBTIQ+ associations in realising their aims and organising Pride Week events. LGBTIQ+ associations cannot benefit from funds distributed by various governmental organisations. In this period when a severe policy of hate speech against LGBTIQ+ persons has developed, associations are forced to self-censor for their own safety.[144]

For example, a group gathered in Istanbul Saraçhane park organised an anti-LGBTIQ+ march and rally under the name of 'Big Family Gathering'. The rally turned into a hate rally and was also organised in cities other than Istanbul. We requested the Governorate to deny permission for the rally to be organised in Istanbul on the grounds that this march could not be considered within the scope of freedom of expression and that discrimination and hate crimes against LGBTIQ+ persons were committed.[145]

[141] The quotation was slightly edited for clarity. See also Section C.

[142] Quotation was slightly edited for style. The problem with the staged counter-demonstrations was also noted in *Scotland* with respect to the demonstration hosted by the LGBTIQ+ communities – United Kingdom respondent 3.

[143] Respondent 2.

[144] Respondent 4.

[145] Respondent 4.

111. Similarly, it was reported that in the *Republic of Moldova* the right to public assembly of NGOs advocating for LGBTIQ+ rights has been routinely violated by the local authorities in the capital.

112. The critical role played by national courts in preserving the right to peaceful assembly was exhibited in a response from *Poland*. Thus, since 2019 NGOs would have encountered problems with organising pride events, as many of the local city councils were trying to ban these. However, court rulings successfully defended the right to public assembly and so the pride events were ultimately held.[146]

e) Violation of ethnic minority rights.

113. The alleged lack of effective legal protection of ethnic minority rights was reported in four countries.[147]

114. Thus, a respondent from *Spain* stated:

> We were not allowed to participate in the judicial cause of the change of the Catalan language immersion in the schools of Catalonia. During the judicial process to determine in what percentage of Spanish or Catalan subjects should be taught, the court allowed the concurrence, as an interested party in the case for the execution of the sentence, of organisations defending the Spanish language but excluded those defending the Catalan language.
>
> This preference is justified on the pretext that the ruling affects the right to study in Spanish but not the right to learn in Catalan. Plataforma per la Llengua has also been excluded from being able to present a contentious administrative appeal to a public call for employment that we think doesn't meet the linguistic requirements to assure public workers can work in Catalan because it considered we were not the affected party (High Court of Justice of the Balearic Islands).[148]

115. In *Türkiye,* it was reported that NGOs dealing with the rights of the Kurdish population faced such harassments, as did NGOs covering other human rights issues; these are often subjected to judicial harassment and they face the disproportionate use of police force when they want to exercise their right to assembly and demonstration.[149] It was further underlined that:

> there are various reasons for such discrimination. In general, NGOs that focus on such issues are regarded to be operating against the state and are seen as disrupting the structure of the Turkish family and society. Since the values of Turkishness and Sunni Islam are taken as a basis, those who work outside of these values are subject to less favourable treatment.[150]

116. A respondent from *Romania* alleged the generally problematic environment for the exercise of ethnic Hungarians rights. Among others, a reference was made to hundred

[146] Respondent 2.
[147] One of the four, *Türkiye,* is not a party to the CoE *Framework Convention for the Protection of National Minorities* (ETS No. 157).
[148] Respondent 2; quotation was slightly edited for style.
[149] Respondent 3.
[150] Respondent 5.

and two decisions in which courts ruled against the alleged violation of ethnic Hungarians' rights to use their native language and national insignia in public.[151]

117. In respect of *Northern Ireland,* the perceived pattern of stigmatisation of NGOs advocating for the Irish speaking and other ethnic communities was reported, without providing specific details, however[152]

f) Abuse of court proceedings - SLAPP lawsuits

118. A lack of effective *judiciary protection* in case of the so-called SLAPP lawsuits was reported in several countries.[153] As noted in a draft Recommendation of the Committee of Ministers to member states on countering the use of SLAPPs (MSI-SLP(2022)07 Revised draft): "SLAPPS are often civil law actions, but that they appear in the administrative and criminal law context as well, and that when such proceedings provide for administrative measures and criminal sanctions they can be particularly restrictive and more easily weaponised against public watchdogs, resulting in a more severe impact on the individual and a greater chilling effect."[154]

119. A respondent from *Serbia* noted, without providing specific details, that: "while SLAPPs were historically used primarily against journalists, their utilisation has expanded, affecting NGOs more prominently since 2020", draining resources and distracting NGOs from their core mission. [155]

120. Similarly, in respect of *Türkiye,* the use of SLAPPs against the executives and members of "dissident" NGOs was reported as an instrument to prevent them from carrying out their activities:

> For example (…) the former president of an NGO dealing with human rights is being prosecuted for a statement he made on behalf of the association, and a member of the Executive Committee of that organisation is being prosecuted for his association related activities. In sum, the executives and members of NGOs are being criminalised through the judiciary.[156]

121. A frequent use of SLAPPs was also reported in respect of *Poland* against LGBTIQ+ NGOs, in particular:

> The use of SLAPPs against LGBTIQ+ people and activists has become increasingly common in Poland. For example, the authors of the Atlas of Hate, an online map launched in 2019 that tracks which municipalities have adopted anti-LGBT resolutions, are facing a number of court cases. The regional authorities (municipals) represented by far-right organisation Ordo Iuris have accused the LGBTIQ+ activists of infringement of personal rights of those municipalities as well as claimed reputational damages. Given the high costs, professional and personal burdens related to the above cases, it shall be

[151] *Information from Szekerland*.
[152] United Kingdom, respondent 1.
[153] Bosnia and Herzegovina; Republic of Moldova; North Macedonia; Serbia; Türkiye, respondent 2.
[154] Draft Resolution, point k.
[155] Respondent from Serbia.
[156] Respondent 3.

concluded that such cases are designed to silence, intimidate and stop LGBTIQ+ activists and community from pursuing their activism, and fight for human rights and equality.[157]

122. In addition, a representative of one of the oldest foundations advocating for democracy and open society was reported to have been subject to a SLAPP lawsuit filed by the former Head of the Polish Internal Security Agency for his critique of this and other state institutions.[158]

123. In respect of *North Macedonia,* concern was expressed over the recent events jeopardising freedom of expression and association, including a judgment in a SLAPP law suit targeting an NGO - the Investigative Reporting Lab (IRL) - which was in favour of the plaintiff. Particularly concerning was the reasoning of the judgment which denied protection of freedom of expression to the IRL, which is registered under the Law on Associations and Foundations, on the ground that only media outlets registered under the Media Law may invoke the European standards of protection of freedom of expression otherwise afforded to journalists.[159]

124. On the other hand, a respondent from the *Republic of Moldova* referred to the successful challenge of a domestic court's decision involving a SLAPP lawsuit against the investigative NGO before the ECtHR.[160] It was further noted that the ECtHR's decision would hopefully serve as a deterrent to the abuse of this legal instrument and provide the necessarily clarity in domestic proceedings involving these kinds of lawsuits.

125. In respect of *Greece,* the following was observed:

> Human rights defenders, humanitarians and activists are facing a worrying phenomenon of criminalisation of their activities. They are accused of belonging to criminal networks of smugglers, facilitating the illegal entry of exiles, and even of espionage.[161]

126. A respondent from *Bosnia and Herzegovin*a reported that a SLAPP lawsuit had recently been filed by a foreign company against domestic environmental NGO activists, alleging reputational damage as a result of their campaign for clean water rights.[162]

---

[157] Respondent 2.

[158] Respondent 3.

[159] *BCSDN Reaction to the Attack on Freedom of Expression and Association in North Macedonia*.

[160] *The Association of Investigative Reporters and Editorial Security of Moldova and Sanduța v. the Republic of Moldova*, no. 4358/19, 12 October 2021 (violation of Art. 10 of the ECHR).

[161] Respondents 2 and 4. They both noted that "three cases in particular have marked the last 12 months, by their symbolic nature and by their media and political coverage": the case of the 38 in Evros and the proceedings against the NGO Human Rights 36; The Dimitras and Olsen cases; and the case of the 24 volunteers in Lesbos.

[162] *BiH: CPCD Reacts Against SLAPP Lawsuits Targeting CSO Activists and Condemning Threats to Democracy*.
https://balkancsd.net/bih-cpcd-reacts-against-slapp-lawsuits-targeting-cso-activists-and-condemning-threats-to-democracy

127. A comprehensive study on the use of SLAPPs in the EU Member States published in 2021 found that SLAPPs were a particularly common phenomenon in seven Member States.[163]

128. In efforts to provide a European response to the problem, in November 2023 a provisional political agreement was reached between the European Parliament and the Council regarding the Commission's 2022 proposal *Directive on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings* ("Strategic lawsuits against public participation").[164]

129. On 27 February 2024, the European Parliament adopted the Directive. It sets out to define what constitutes a SLAPP law suit and provide minimum procedural safeguards for media, watchdog organisations and human right defenders against SLAPPs in cross-border cases. Those *inter alia* include provisions on early dismissal of manifestly unfounded cases; a broad definition of what constitutes a 'cross-border' case; and compensatory damages for a defendant.[165]

3) *Media smear campaigns*

130. As already noted, media smear campaigns were cited as one of the most frequent sources of stigmatisation of NGOs (Chapter III, Section B). Thus, the analysis carried out by the Swedish Equality Ombudsman in 2014 and referenced in a response from *Sweden* reviewed biased reporting on the Muslims in eleven national or regional newspapers and three television broadcasters. It was contended that while the analysis was conducted some years ago, its conclusion was still pertinent, nevertheless. The study underlines that:

> almost all the coverage perpetuated negative and stereotypical representations of Muslims and was characterised by associating Muslims with violence, terrorism and oppression, and employing a severe antagonistic discourse juxtaposing Muslims ('them') as diametrically opposed to Swedes ('us').[166]

131. In respect of *Greece,* the perceived pattern of criminal proceedings against human rights defenders being preceded by the government's smear campaign was reported:

> To be noted, specific action was preceded by targeted smear against some of the NGOs most active in bringing forth complaints concerning rights violations at the borders, with public statements by responsible ministers or even (reportedly) police authorities claiming in an abstract manner that the activities of such NGOs were under investigation for the crimes (degree of felony) of managing and/or participating in a criminal smuggling network.[167]

---

[163] Bulgaria, Ireland, France, Hungary, Italy, Slovak Republic, and Slovenia: Academic Network on European Citizenship Rights, *Strategic Lawsuits Against Public Participation (SLAPP) in the European Union*, 30 June 2021, p. 43.

[164] Brussels, 27.4.2022 COM(2022) 177 final.

[165] Member States are obliged to incorporate the Directive in their respective national legislation by 2026.

[166] Respondent 2.

[167] Respondent 1.

132. A respondent from *Türkiye* noted that media targeting of LGBTIQ+ and other human rights NGOs has been intensified through the government-sponsored media:

> Both the government's hate speech targeting LGBTIQ+s and the discrimination practices and hate speech by certain segments of the society through the government-controlled media on the grounds of being against morality and family structure are strengthened.[168]

> Almost all of the NGOs targeted by certain media outlets and senior government officials focus on issues such as human rights, women's rights, or work in areas such as violations and discrimination against LGBTIQ+, ethnic groups, and migrants.[169]

133. A respondent from *Malta* reported "significant issues with social media, where NGOs are often victims of aggressive language and sometimes hate speech".[170] It was further noted:

> The ruling party owns a TV station that it uses to target leading civil society activists and identify them for public ridicule or the hatred of the government's supporters.[171]

134. Similarly, a respondent from *Northern Ireland* noted:

> There is also a continued pattern, particularly on social media, of 'sectarianizing' human rights work or even conflating or associating the work of groups like CAJ with (Irish) republican armed groups.[172]

135. In respect of *Georgia,*[173] it was reported that the online campaigns have particularly targeted women human rights defenders and NGOs advocating for women rights.

136. A respondent from *Denmark* suggested a possible link between the media smear campaigns against NGOs advocating for causes the government was not necessarily sympathetic with (education on gender issues in schools) and the perceived pattern of those NGOs being subsequently deprived of public funding.

137. In respect of *Cyprus,* the media were blamed for being "indifferent" towards cases of NGOs stigmatisation: publishing news without providing the proper context or raising alarms about this practice, rather than actively participating in stigmatisation, while in *Slovakia* reference was made to "non-licenced" media as the major perpetrators of hate speech.

138. A respondent from the *Republic of Moldova* stressed that the intensity of media smear campaigns has generally decreased due to change of political leadership after the 2021 parliamentary elections.

---

[168] Respondent 4.
[169] Respondent 2.
[170] Respondent 2.
[171] Malta, respondent 1.
[172] United Kingdom, respondent 2.
[173] Respondent 2.

4) *Physical attacks*

139. Physical attacks against NGOs and activists were reported to have often been linked with the lack of effective investigation or police protection against those attacks. NGOs that seemed to have been particularly vulnerable to those attacks included human and minority rights, and watchdog NGOs.[174]

140. In respect of *Serbia*, NGOs advocating for regional reconciliation and prosecution of war crimes were reported to have been subject to numerous physical attacks as well.

141. In relation to the *Republic* of *Moldova*, it was reported:

> In 2022, there were three documented physical attacks on journalists representing NGO media, concentrated in the Autonomous Region of Gagauzia, committed by representatives or affiliated persons of local public administration[175].

142. Regarding *Northern Ireland*, reference was made to the alleged failure of the state to "effectively prevent third party intimidation and harassment that is linked to elements of paramilitary organisations which continue to exist in Northern Ireland. These are primarily 'loyalist' paramilitaries (with reference to unlawful armed groups loyal to the British crown)".[176]

143. While this issue was not specifically addressed in a response from *Ukraine*, other pertinent sources point to a particularly grave situation for the safety of human rights defenders in the occupied territories, as a result of the Russian aggression. Thus, it was reported:

> According to the organisation Frontline Defenders, the Russian authorities and armed forces have consistently and disproportionally targeted human rights defenders in the Russian-occupied territories for their role in documenting and communicating evidence of human rights atrocities committed by the Russian military. The Ukrainian human rights organisation ZMINA reports that, between February 2022 and June 2023 there were at least 562 cases of killings, enforced disappearances, abductions, and arrests of 'active citizens' and their relatives. This included 323 public activists and volunteers, 18 journalists, and four lawyers – all of whom can be considered as human rights defenders.
>
> The harassment and persecution of human rights defenders in occupied Crimea has been ongoing since 2014 and this has continued in the period since March 2022. There has been an extensive pattern of harassment, prosecution, office raids and disciplinary measures against human rights lawyers in Crimea, particularly those defending the rights of Crimean Tatars.[177]

---

[174] Georgia; France; Serbia; Türkiye, respondent 1-2; Poland, in reference to the situation with the previous government; Russian Federation.

[175] https://www.facebook.com/Ania.Dmitrieva/posts/pfbid02MenpaPotMgVKa95gkt2RZtnpsCs2kYoXn9aFEVzYFRY1Db2WwcmtoD42kcfuVjwJl?notif_id=1657025688442916&notif_t=page_tag&ref=notif
https://newsmaker.md/rus/novosti/v-vulkaneshtah-napali-na-operatora-portala-nokta-on-snimal-konflikt-na-mitinge/.

[176] United Kingdom, respondent 1.

[177] PACE, Committee on Legal Affairs and Human Rights *Situation of human rights defenders and whistleblowers in Europe*, Revised information note, Declassified∗ AS/Jur (2023) 24 18 October 2023, paras. 9-10.

144. An international NGO advocating for trans-gender rights noted that physical attacks on their activities are overall rare, however do happen with some frequency in the Russian Federation, Georgia, the United Kingdom, Norway, and Armenia.[178]

145. Finally, the 2023 study on the state of play of civil society in *Türkiye* notes problems with verbal and physical assault on NGOs advocating for LGBTIQ+ rights, in particular:

> In recent years, there have been verbal and physical assaults, which lead to discrimination especially on basis of sexual orientation and sexual identity, on certain segments of society and mainly LGBTIQ+ associations and the associations engaged in advocacy activities on basis of gender equality. Various groups coming together under the leadership of Unity in Ideas and Struggle Platform targeted LGBTIQ+ associations and organised meetings and demonstrations using discriminatory speech. The founders and members of Havle Women's Association suffered such verbal harassment and assaults for supporting the Pride Week.[179]

5) *Limited access to public funds*

146. This issue was cited with some frequency and seems to be of particular concern for NGOs advocating for human and minority rights, environmental, watchdog and investigative NGOs.[180]

147. Thus, a respondent from *Greece* pointed out that NGOs providing assistance to asylum seekers and refugees faced challenges not only with the access to state funds, but also to the EU funds, which due to the government pressure on the European Commission, were alleged to have been diverted to the government instead. Those challenges were compounded by the fact that the negative publicity to which those NGOs have been exposed having then impacted adversely their ability to attract private funding.[181]

148. Similarly, it was noted in a response from *Poland:*

> In the past, many NGOs supporting asylum seekers, refugees, migrants and stateless persons in Poland were funded by the EU's funds (…). However, in practice, these NGOs' access to funding has been increasingly and purposefully limited since 2016. The funds have been distributed to national authorities only, or via those national authorities that the NGOs monitored (and criticised, *inter alia*, for human rights violations) for many years.[182]

149. In respect of *Sweden*, lack of funding for ethnic minority NGOs was reported as follows:

> the government announced that all public funding to organisations based on ethnicity was cancelled. There have been ethnic organisations in Sweden for over 100 years, and over the years they have been

[178] Respondent 1.

[179] *Civil Society Organisations in Türkiye: Freedom of Association and Right to Participation*, p. 106.

[180] Bosnia and Herzegovina (Republic of Srpska); Cyprus; Greece; Denmark; Finland; France; Hungary; Italy; Malta; Republic of Moldova; North Macedonia; Spain, respondent 3; Sweden, respondent 1 with respect to ethnic minorities NGOs; respondent 2 with respect to NGOs advocating for the rights of Muslims and environmental activities; Serbia; Slovak Republic; Spain, respondent 3 in reference to the youth organisations lack to the state funds; Türkiye; Romania; Poland; United Kingdom. International NGO, respondent 2.

[181] Respondent 1.

[182] Respondent 1.

an integral part of the fabric of Swedish civil society. The lack of opportunities to access funding is now an existential threat to their existence.[183]

Access to public and foreign funding is being increasingly challenged by state led interventions, as indicated by the EU Fundamental Rights Agency's indicators on the shrinking civic space for organisations working with religious minorities.[184] The Council of the EU's conclusion on the application of the EU Charter, approved on 10 March 2023, makes note of the trend, and calls on its Member States to 'support CSOs by tackling challenges relating to the availability, accessibility and sustainability of funding, *inter alia*, by ensuring a fair distribution through transparent and non-discriminatory criteria'.[185]

150. Government efforts to create and support segments of civil society which would be more aligned with its political agenda were reported in respect of *Hungary:*

While access to national funding has been denied for independent NGOs engaged in the areas of rule of law, fundamental rights and anti-corruption, the government has used the public interest trusts (KEKVA) (…) in order to strengthen the illiberal agenda in the academic sphere and civil society. (…) The public interest trusts have embarked on building an extensive institutional network including think-tanks, media outlets, research institutes, book publishers and GONGOs engaged in policy making and advocacy.

151. A similar pattern of favouring GONGOs but also "ghost" NGOs[186] in public calls for state and other public funds and at the expense of NGOs dealing with human rights, anti-corruption and environment was noted in a response from *Serbia* and *Poland*.[187] With respect to the latter, LGBTIQ+ NGOs were also reported to have been denied public funds.[188]

152. Furthermore, the 2023 annual monitoring report published by two leading Serbian NGOs dealing with investigative journalism and advocacy, respectively, found that in 2022 the amount of almost 58 million euro in local currency (RSD) had been granted to GONGOs, including 'ghost' organisations and pro-government tabloids, under dubious and highly untransparent procedures. This report also found that grants were often provided for projects which were not related to the government's stated policy

[183] Sweden, respondent 1.
[184] European Union Agency for Fundamental Rights (2021). *Protecting Civic Space in the EU*..
[185] Sweden, respondent 2. Council of the European Union (14 March 2023), Council Conclusions on the application of the EU Charter of Fundamental Rights; The role of the civic space in protecting and promoting fundamental rights in the EU, Brussels, 14 March 2023, 7388/231.
[186] The term refers to the practice of establishing a "one off" NGO as an institutional tool of choice by persons affiliated with or working in close coordination with a public authority, for the sole purpose of participating in a public call issued by that authority and siphoning off designated funds at the expense of legitimate NGOs – participants in the call. There is usually not any information or paper trail available about the implementation of the project, and once it is "completed" that NGO usually becomes dormant or files for liquidation.
[187] Respondent 1 in reference to the prior government and lack of support to NGOs providing assistance to asylum seekers and refugees.
[188] Respondent 2.

priorities. Finally, it found that there had been little, if any, monitoring, reporting and evaluation of those projects.[189]

153. The adverse impact of the change in government funding policy with respect to NGOs dealing with the protection of HIV (a reduction of funds designated for this purpose) was noted in *North Macedonia.*

154. In respect of the *Slovak Republic*, it is noteworthy that the Programme Declaration of the new government envisages the creation of a specialised state agency for distributing grants "to those CSOs that actually care about improving life in the country". Government officials indicated they were willing to support NGOs pursuing "noble causes" - those who work with children, people with disabilities and similar vulnerable group, rather than those working on issues deemed more "political".[190]

155. Environmental protection NGOs seem particularly vulnerable to the new government funding policy. Recently, the Slovak Minister of Environment announced he would be "cleaning up" projects currently supported by the Ministry and refused to sign co-funding for NGOs projects supported through the EU funds.[191]

156. Finally, problems with the procedure governing the distribution of public funds to NGOs were noted in *Türkiye.* Thus, the 2023 study revealed that "one out of every four NGOs think that the decisions made on the distribution of public resources are unfair".[192]

157. It is worth noting that while the right to freedom of association does not entail the right to public funding, it is nevertheless considered a legitimate source of income for an NGO,[193] in recognition of the role NGOs play in democratic society and policy development.

158. In this respect, *Recommendation CM/Rec(2007)14* provides that NGOs should be assisted in the pursuit of their objectives "through public funding and other forms of support".[194]

159. It further states that while the nature and beneficiaries of the activities undertaken by an NGO can be relevant considerations in deciding whether or not to grant it any form

[189] https://birn.rs/javni-interes-izgubljen-u-javnim-konkursima/. https://www.gradjanske.org/udruzenja-gradjana-suzavanje-prostora-za-delovanje-2022-2023/.
[190] https://ecnl.org/news/slovakia-civil-society-under-threat.
[191] *Ibid*.
[192] *Civil Society Organisations in Türkiye: Freedom of Association and Right to Participation*, p. 116.
[193] UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, *Report to the UN Human Rights Council* (Funding of associations and holding of peaceful assemblies), UN Doc. A/HRC/23/39, 24 April 2013, Part III (Ability of associations to access financial resources: a vital part of the right to freedom of association); Expert Council, *The Legal Space for Non-Governmental Organisations in Europe*, para. 153.
[194] *Recommendation CM/Rec(2007)14*, para. 57.

of public support, "any form of public support for NGOs should be governed by clear and objective criteria".[195]

160. Similarly, it was stated in the *Joint Guidelines on Freedom of Association*:

> As clearly outlined by Principle 7 of these Guidelines, associations have the freedom to seek, secure and utilise resources. Fundraising activities are protected under Article 22 of the ICCPR, while the ECtHR has likewise considered it important that associations have the means to pursue their objectives. The ability to seek, secure and use resources is essential to the existence and operation of any association.[196]
>
> The not-for-profit nature of associations and their importance to society means that state support may be necessary for their establishment and operations. State support, which should also be understood as access to public resources, including public funding, is justified in this case, as certain associations such as non-governmental organisations and political parties play an important role in democracy and promote political pluralism.[197]

161. The *Joint Guidelines* reinforces the underlying principle set out in *Recommendation* CM/Rec(2007)14 that should govern public funding: the need for a clear, objective, non-discriminatory and transparent funding process.[198]

6) *Exclusion from the decision-making process*

162. This form of stigmatisation was reported in a many countries, as discussed below.[199]

163. Thus, a respondent from *Georgia* noted that despite the successful advocacy which prevented the draft Law on Foreign Agents from passing the Parliament:

> (…) it can be argued that there are no noticeable changes in policy. The government's uncooperative stance is typically conveyed through verbal attacks, the spread of accusations, and the denial of opportunities to engage in decision-making or ongoing political, social, and legal discussions. This denial includes exclusion from legislative discussions, working groups, working sessions, and similar processes.[200]

164. Similarly, a respondent from *Malta* reported:

> We are completely excluded from formal discussions on legislative reforms, including many recommended by the Council of Europe and international agencies following the killing of Daphne Caruana Galizia. Repeated public requests for consultation have been ignored or mocked.[201]

165. An international NGO advocating for the rights of the Muslim Youth and student organisations in Europe described the adverse impact of the exclusion from the decision-making process for the Muslims in Europe:

---

[195] *Ibid*, paras. 59, 58.
[196] Para. 200.
[197] Para. 203.
[198] Paras. 208-209.
[199] Cyprus; Greece (respondents 3- 4); Georgia; Moldova; Malta; Hungary; Montenegro; Slovakia, in reference to the new government; Poland; Russia; Türkiye; International NGO, respondent 2.
[200] Respondent 1.
[201] Respondent 1.

It is important to highlight the issue of untransparent institutional decisions that deliberately choose not to engage with Muslim organisations due to misconceptions and conspiracy theories. Such decisions are based on false narratives surrounding the Muslim community, leading to a lack of dialogue and understanding. This kind of institutional discrimination needs to be directly confronted in order to foster inclusivity and equality. Furthermore, this discrimination remains unnoticed or invisible, making even more difficult to address. It is crucial to bring attention to these hidden forms of institutional bias and actively work towards creating a more transparent civic space for NGOs.[202]

166. A respondent from *Poland* noted the lack of public consultation with NGOs providing services to asylum seekers and refuges:

Since 2016, it has been also observed that some NGOs supporting asylum seekers, refugees, migrants and stateless persons in Poland, whose work is not in line with the official policies, are excluded from legislative proceedings and official meetings with governmental representatives. For instance, despite being a longstanding expert in the field of asylum and migration, and in spite of being regularly consulted in the legislative proceedings in the past, SIP is now often not officially informed about draft laws in the area of asylum and migration, nor invited to consult those proposals. Despite that, though, we continue to submit our comments to these draft laws.[203]

167. It was further observed, however:

It is worth noting that in the Polish legislative system, parliamentary bills do not have to be subject to public consultations. This loophole is often used by the government, which informally submits government projects to the MPs of the ruling majority so that they submit them as deputies. In this way, consultations are avoided, which are mandatory when the draft legislation goes through the usual government path before it is forwarded to the Sejm.[204]

168. In respect of *Türkiye*, it was reported that even if there were no legal obstacles, human rights and other "dissident" NGOs were not included in the decision-making processes:

For example, 11 provinces were affected by the earthquake in Türkiye on 6 February 2023 and crisis coordination centres were established within the governorships to carry out the disaster coordination process. In the information request applications made by our Association to the governorships of these 11 provinces, it was asked which non-governmental organisations were included in the crisis coordination centres. From the answers given by the governorships, it is understood that in some provinces, NGOs, holistically, are not included in the crisis coordination centres; and in some provinces, particularly dissident NGOs are not included in those centres.[205]

169. The right of NGOs to participate in policy development is underscored in a number of international[206] and CoE instruments, including *Recommendation CM/Rec (2007)14*, the *Revised Code of Good Practice* , and the *Guidelines for Civil Participation in Political Decision-Making* (Guidelines for Civil Participation

[202] International NGO – respondent 2.
[203] Respondent 1, in reference to the prior government.
[204] Respondent 3, in reference to the prior government.
[205] Respondent 3, also respondent 5.
[206] See, for example, United Nations Guidelines for States on the effective implementation of the right to participate in public affairs, 218; UN *Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters* (Aarhus Convention/Convention), 1998.

170. *Recommendation* CM/Rec (2007)14 states:

> Governmental and quasi-governmental mechanisms at all levels should ensure the effective participation of NGOs without discrimination in dialogue and consultation on public policy objectives and decisions. Such participation should ensure the free expression of the diversity of people's opinions as to the functioning of society. This participation and co-operation should be facilitated by ensuring appropriate disclosure or access to official information.
>
> NGOs should be consulted during the drafting of primary and secondary legislation which affects their status, financing or spheres of operation.[207]

171. The *Guidelines for Civil Participation* sets out to define a number of principles underpinning civil participation including the non-discrimination and inclusiveness, which underscores the need for participation to be open to all interested parties. As further elaborated by the Expert Council:

> (…) Openness underscores the significance of NGOs and other stakeholders having timely and unhindered access to *pertinent information* at all stages of policy development; this is key precondition for an informed dialogue between NGOs, government and other stakeholders. As stated in the *Code of Good Practice*: 'NGOs collect and channel views of their members, user groups and concerned citizens. This input provides crucial value to the political decision-making process, enhancing the quality, understanding and longer-term applicability of the policy initiative. A precondition for this principle is that the processes for participation are open and accessible, based on agreed parameters for participation' (*Code*, p. 6)
>
> Furthermore, open and inclusive participation entails respect for *human rights* other than the right to access to public information. This requires that all interested parties are given an opportunity to participate at various stages of policy development, as appropriate, and that no one is *unduly discriminated* in this process.[208] It is noted in the *Guidelines for civil participation* that non-discrimination and inclusiveness requires that all voices, including 'those of the less privileged and most vulnerable, can be heard and taken into account", and that there is "gender equality and equal participation of all groups including those with particular interests and needs, such as young people, the elderly, people with disabilities or minorities' (*Guidelines*, par. 4., item f. and g., par. 7.).[209]

172. The European Commission's 2023 *Recommendation on promoting the engagement and effective participation of citizens and civil society organisations in public policy-making process* also underscores the need for an inclusive participation, which is reflective of diversity of a constituency as well as the needs of underrepresented groups or of persons with disabilities. [210]

---

[207] Paras. 76-77.

[208] See Article 1.5.1., *Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority*: "Any formalities, conditions or restrictions to the exercise of the right to participate in the affairs of a local authority shall be prescribed by law and be compatible with the party's international legal obligations".

[209] Expert Council, *European Practices Related to Participation of NGOs in Policy Development*, CONF/EXP(2021)2, 25 February, 2021, paras. 22, 28.

[210] Recommendation, C(2023) 8627, Strasbourg 12. 12. 2023, par (8).

173. This *Recommendation* further stresses the following:

> An effective and inclusive participation in public policy-making processes is only possible when civil society organisations can work in a safe and enabling environment where their fundamental rights and those of their members are upheld, including those of freedom of association and assembly and of expression and access to information, as well as the rights to liberty and security, respect for private and family life, protection of personal data, property and non-discrimination, in a democratic system that respects the rule of law.[211]

7) *Other instances of stigmatisation*

174. Social exclusion and difficulties in engaging with certain institutions were reported as a form of stigmatisation for the Muslim youth organisations in Europe and in case of an NGO advocating for the Roma rights in *Bosnia and Herzegovina*.[212] With respect to the former it was noted that:

> While some discriminatory practices may not be explicitly codified in laws or policies, they often stem from prevailing biases and Islamophobic attitudes prevalent in society.[213]

175. A respondent from *Sweden* reported that NGOs advocating for the Muslim rights are finding it "increasingly difficult" to insure their premises. It was further noted that:

> According to the census survey conducted by the Centre for Multidisciplinary Research on Racism twenty seven percent of all Swedish Muslim congregations and religious communities reported that their premises lacked insurance Of the uninsured congregations and communities, just over twenty seven percent cited as an explanation that 'they had not found an insurance company [that was willing to insure them]', and an additional twenty seven percent that they 'had not found an insurance company that offers reasonable terms and deductibles' .[214]

176. A respondent from *Cyprus* citied a number of other practical restrictions facing NGOs, including the slow process of registration of NGOs, approving the organisation's statute or its subsequent amendments.

177. While the foregoing appears to be the matter of general concern, it was also reported that NGOs registered in the Republic of Cyprus and having Turkish Cypriots who reside in the northern part of the island as employees encountered difficulties in registering those employees with the labour authority.

178. In respect of *Albania*, it was reported that a media outlet operated as an NGO faced difficulties in securing a pass card for certain public events and more generally had difficulties in securing access to information of public utility.

---

[211] *Ibid*, para. (19).

[212] Bosnia and Herzegovina (Republic of Srpska).

[213] International NGO (respondent 2); Belgium.

[214] Respondent 2 See also M. Gardell, *Moskéers och muslimska församlingars utsatthet och säkerhet i Sverige*, *(*Centre for Multidisciplinary Studies on Racism, Uppsala University, 2018).

179. A public prosecutor's office withdrawal from strategic partnership with an NGO to tackle the violation of Roma rights was also reported as a form of stigmatisation of NGOs in respect of *Bosnia and Herzegovina*:

> We appealed against the prosecutor's decision not to conduct an investigation, which was submitted with the District Public Prosecutor's Office…. After the appeal was submitted, representatives of the Prosecutor's Office stopped participating in the activities of our organisation, did not attend meetings and limited the possibilities of cooperation. This example shows how instigating legitimate legal proceedings can lead to the negative reactions from institutions and hinder cooperation between the NGO sector and state authorities.[215]

180. Similarly, a respondent from *Italy* noted:

> Since the new government took office in Italy (spring 2022), the UNAR, the Italian government's Anti-Discrimination Office has *de facto* stopped functioning, the Permanent Round table with LGBTIQ+ associations are no longer convened, the implementation of the National Anti-Discrimination Strategy has come to a standstill and access to public funds to support positive action projects for the LGBTIQ+ community is de facto blocked and not refinanced for the future.

181. In respect of *Greece,* it was reported that lawyers representing NGOs in the field of migration and asylum, even those registered in the MoMA's Registry of NGOs, are not allowed access to the new Closed-Controlled Centres (CCACs), on the account that they need to get smart card with a photo to access these Centres, the issuance of which requires fingerprinting and disclosure of private data. The Athens Bar Association protested against this practice calling it unlawful.[216]

D. The extent and duration of stigmatisation of NGOs

182. Few participants to the survey provided specific responses about the extent of stigmatisation. Rather, those were of general nature, which is reflective of the challenges associated with collecting reliable NGO data.

183. As observed in a response from *Poland:*

> Unfortunately, this phenomenon has not yet been comprehensively studied. As mentioned, there are partial reports on selected, disadvantaged groups and their discrimination in one period or another. However, there is no cross-sectional report that would comprehensively describe this phenomenon on numbers. However, despite the lack of such a study, one can risk a strong hypothesis that it is systemic in nature. [217]

184. Similarly, a respondent from the *United Kingdom* noted:

> The extent is hard to measure. It has been happening for many years but has become more pronounced since Brexit.[218]

[215] Quotation was slightly edited for style.
[216] Respondent 1.
[217] Respondent 3.
[218] Respondent 2.

185. Respondents from Türkiye were among the few providing more specific information. It was thus reported that "in November 2016, 375 CSOs were shut down with just one presidential decree".[219] In addition, the overall profound impact of the state of emergency on NGOs has been widely reported by other sources.[220]

186. Furthermore, it was reported that "at least ten officially registered LGBTIQ+ rights organisations" have been subject to stigmatisation.[221]

187. Similarly, a respondent from the *Republic of Moldova*, reported the following, in addition to three cases of physical violence against NGOs representatives in 2022:

> According to the LRCM annual report[222], in 2022 there were at least 24 documented episodes of attacks on NGOs and their representatives.

188. A respondent from the *United Kingdom* observed:

> While attacks on LGBTIQ+ charities have happened as long as they have existed, they have increased dramatically over the past few years, and appear to be turning against the progress that the United Kingdom had been making in the past few years on LGBTIQ+ acceptance and legislation.[223]

189. It was further reported in respect of *Georgia*:

> We do not have accurate figures to talk numbers (identify the precise number of CSOs that have been harmed), but front-runner watchdogs that have a tendency to be active in criticising ongoing trends (such as GYLA and Transparency (Georgia - branch of Transparency International) are the first ones to feel the pressure and become the target of attacks.

190. Similarly, an *international NGO* stressed that a "significant" number of NGOs working to address Islamophobia and promote the rights of Muslim communities in Europe, have been subject to stigmatisation.[224]

191. In respect of *Russia*, given the overall precarious situation of civil society, NGO dealing with human and minority rights, advocacy and watchdog organisations have been widely subject to some form of stigmatisation. In addition, it was reported:

> Since the introduction of the law banning the promotion of non-traditional sexual relationships among minors in 2013, nearly all LGBTIQ+ organisations have been targeted. Prior to that, while not enjoying government favour, public actions and even meetings with government officials were possible. The Russian LGBT Network, established in 2006 as the first LGBTIQ+ rights NGO in the country, had a meeting with the Russian Federation's human rights commissioner in 2009. Following the meeting, the

---

[219] Respondent 5.

[220] For more information, see Mesopotamia Observatory of Justice, *The Legacy of State of Emergency Rule in Turkey*https://mojust.org/2020/05/27/the-legacy-of-state-of-emergency-rule-in-turkey/. See also Expert Council, *Opinion on the Impact of the State of Emergency on Freedom of Association in Turkey*, CONF/EXP(2017)2, 30 November 2017.

[221] Respondent 1.

[222] Legal Resources Centre from Moldova, *Radiography of Attacks on Civil Society Organisations from the Republic of Moldova, 2017, 2018, 2019* and *2022.*

[223] Respondent 3.

[224] International NGO, respondent 2; Belgium.

commissioner expressed readiness to protect individuals facing discrimination based on sexual orientation and gender identity. Such a situation is unimaginable in present-day Russia.

192. A respondent from *Georgia* provided more details as to the timeframe of stigmatisation:

Following Georgia's official (but unsuccessful) application for EU membership on March 3, 2022, which was then followed by a series of large-scale rallies with the slogan 'Home, to Europe', and related social and political events demonstrated that the Georgian government's stance against NGOs hardened, as evidenced by allegations, verbal attacks, and the intentional dissemination of disinformation against NGOs. The reaction of the civil society sector to Georgia's EU membership application process appears to have served as a spur for rhetorical attacks by government leaders and pro-government media outlets.

Furthermore, during this period, the government has become more hostile to engaging in political discussion with critical watchdogs (publicly denying a specific organisation's involvement in some circumstances), while remaining receptive to cooperating with NGOs on less politically sensitive initiatives. [225]

193. Similarly, a respondent from *Greece* noted that the government stance towards NGOs providing assistance to asylum seekers and migrants has steadily hardened since 2018 and has escalated since March 2020, following the incident that occurred at the Greek-Turkish borders "which was *inter alia* met with an unprecedented suspension of international refugee law by the Greek government".[226]

194. Responses in respect of *Poland* provided different time-frame as regards the current problems of NGOs, depending on their respective statutory goals:

The anti-LGBTIQ+ hate campaign has been initiated by the leader of the ruling Law and Justice party (PiS) on April 17th, 2018 when he announced during the local elections campaign, that 'no homosexual marriages will occur; we will wait peacefully for the EU countries to sober up'.[227]

The 2015/2016 migration crisis was used by the PiS in their election campaign, showing asylum seekers and migrants as a threat to Polish legal order, public health and culture. Measures aimed against the NGOs supporting foreigners followed the PiS' win in the elections.[228]

195. In respect of *Türkiye*, it was reported:

Although there has always been less favourable treatment towards human rights and dissident NGOs, the environment for civil society deteriorated after the Gezi Park protests of 2013 which challenged the government's urban development plans.[229]

Türkiye has been in a great regression in terms of LGBTIQ+ rights since 2015. In 2022 alone, dozens of Pride Week events were banned and more than 500 people were detained.[230]

[225] Respondent 1.
[226] Respondent 1, with further sources cited.
[227] Respondent 2.
[228] Respondent 1.
[229] Respondent 2.
[230] Respondent 4.

196. In respect of *Italy,* it was indicated – but without providing specific details – that the new government, which came into power in 2022, had been hostile towards LGBTIQ+ NGOs ever since.

197. A respondent from the United Kingdom noted:

> It is hard to say exactly how many organisations this impacts, but it effects all 6 of Scotland's major LGBTIQ+ charities, as well as other LGBTIQ+ organisations in Scotland including grassroots campaign groups, and any group that expresses solidarity with them.[231]

198. In respect of *Spain,* stigmatisation of NGOs advocating for transgender rights was noted to have been rooted in the Law 16/1970, which was repealed in 1995; however, positive legislative developments as regards those rights in 2007 and 2023 have also been recognised.

199. The survey also revealed that in a number of countries stigmatisation of NGOs has been occurring for an extended period of time. In addition to the Russian Federation, it was reported in respect of Hungary;[232] Türkiye;[233] Republic of Moldova;[234] Poland;[235] Serbia;[236] and Romania.[237]

200. As regards stigmatisation of NGOs advocating for the human rights of Muslim youth and student organisations in Europe, it was underlined that discrimination has been occurring for an extended period, with varying degrees of intensity in different countries and contexts.[238] Moreover:

---

[231] Respondent 3.

[232] In reference to the current government which has been in power since 2010.

[233] Respondent 1 cited "milestones" in the stigmatisation of NGOs, including the failed coup attempt in 2016, the subsequent State of Emergency regimes, and the decrease in the influence of judicial mechanisms as a result of the constitutional referendum. Similarly, respondent 2 noted that the "political instability triggered by the coup and post-coup measures paved the way for government measures curbing basic freedoms, including the freedoms of association, assembly, and expression, for the sake of preserving national security or public order. In the repressive environment created by this period, many dissidents, academics, human rights defenders, and CSO representatives were arrested, dismissed from their jobs, and a significant number of CSOs were shut down, despite having nothing to do with the coup attempt. Türkiye officially transitioned to a presidential government system when Recep Tayyip Erdoğan was inaugurated for a new term on July 9, 2018. The new presidential system has been highly criticised for its lack of separation of powers and the concentration of powers in the president, and it is observed that the less favourable treatment of civil society has increased, and verbal attacks and malpractices targeting the aforementioned CSOs have become more frequent during this period". Respondent 3 provided similar extensive account on the situation.

[234] It was reported that attacks on NGOs is "constant phenomenon for the past 5-7 years", however, the situation has been steadily improved as a result of the government change in 2021.

[235] In reference to the previous government which was in power for two consecutive terms.

[236] It was noted that NGOs advocating for peace have been subject to stigmatisation since 1990 – when the war broke out in the Former Yugoslavia, while environmental NGOs have been the subject of increased stigmatisation since 2018.

[237] In reference to issues related to the alleged violation of rights of the Hungarian minority

[238] International NGO – respondent 2.

> Baseless accusations on the sources of the funding and the nature of our advocacy work have been launched since our foundation, but became more intense in the last few years, particularly following the Council of Europe's campaign on building positive narratives to counter anti-Muslim stereotypes.[239]

201. While respondents from some countries expressed optimism that the situation would improve, e.g., as a result of the recent government change (*Poland*) - or noted that it has indeed already improved as a result of government change (*Republic of Moldova*),[240] others expressed concern that the recent government change would have the opposite effect, in particular with respect to think-thank, watchdog and environmental NGOs (*Slovak Republic*).[241]

202. With respect to the latter, the European Parliament has already expressed concern over the new Slovak Government's plan to adopt legislation undermining the civic space, restricting the work of NGOs and stigmatising organisations receiving foreign funding.[242]

203. On the other hand, the recent legislative development in *Greece* – the recognition of the same sex marriage, will presumably have a positive impact on the working environment for NGOs advocating for LGBTIQ+ rights. [243]

E. Efforts of NGOs to combat stigmatisation

204. NGOs were reported to have engaged in a whole range of informal and formal activities to combat stigmatisation – and some of them have been successful, as detailed below.

205. These efforts were summarised in a response from an international NGO:

> Muslim organisations have actively challenged less favourable treatment through both informal and formal methods These efforts include advocacy campaigns, engaging with policymakers, collaborating with civil society allies, and utilising legal avenues at national and international levels.[244]

206. However, the underlying challenges in confronting stigmatisation were also noted:

> Being a volunteer-led organisation, it's challenging to utilise the limited resources to mitigate similar unfair actions and the persistent defamation. Sustained efforts are necessary to achieve comprehensive and lasting change.[245]

207. Multiple advocacy efforts to challenge stigmatisation were reported,[246] and for a number of countries efforts were targeted not only towards domestic stakeholders

[239] International NGO – respondent 2; quotation was slightly edited for clarity.
[240] In reference to the pro-European government which came into power in 2021.
[241] See for more details *Slovakia: Civil Society Under Threat*.
[242] *Parliament concerned about the rule of law in Slovakia*.
[243] *Greece legalises same-sex marriage in landmark change*.
[244] Respondent 2.
[245] International NGO, respondent 2.
[246] Sweden (respondent 1), Bosnia and Herzegovina, Greece; Montenegro.

(policy makers and public), but also towards the United Nation, the CoE and the EU institutions,[247] as well as international donors.[248]

208. For example, successful examples of such campaigns were reported in respect of *Serbia* and P*oland*:

> Serbian NGOs successfully collaborated with the Venice Commission to push for changes to referendum legislation at the end of 2021, aligning the legislation more closely with the demands of protesters.
>
> Liberal groups take advantage of the opportunities offered by membership in the EU and the Council of Europe. Sometimes this has some effect when the EU gets involved. Poland, as we know, is in several disputes with the European Commission regarding changes in the justice system and in connection with violations of other provisions of European treaties. Recently, the EU has reacted very quickly and very sharply to the law establishing the so-called commission to investigate Russian influence in Poland.[249]

209. On the other hand, the limited impact of advocacy campaigns was reported in respect of *Türkiye:*

> NGOs also have been trying to fight against the less favourable through informal methods such as campaigns, protests and so on. Yet, as the main goals of such campaigns and protests are to create a reaction in the public opinion and the public opinion is dominated by the mass media which is, in turn, dominated by the government and the ruling party; such methods are not really effective.[250]

210. Limits in launching the successful advocacy campaign were also noted in respect of *Scotland*:

> In particular, anti-trans groups in Scotland are very litigious, and are able to consistently fundraise for legal action, and commonly threaten those who speak out against them with legal action, discouraging any group or individual who has been targeted by them from pursuing legal action themselves, especially when anti-trans groups have the backing of wealthy celebrities and politicians.[251]

211. The publication of *annual monitoring reports* on issues related to democracy, human rights and the rule of law were noted to have been an important tool to document government actions against NGOs and complementary to the advocacy efforts.[252]

212. Domestic litigation was reported to have been instigated by NGOs in Cyprus, Republic of Moldova, Poland, Serbia, Türkiye, Poland and the Russian Federation for the alleged violation of the rights of NGOs.

[247] Greece; North Macedonia; Poland, respondent 1; Serbia; Spain, respondent 2; United Kingdom, respondent 1 (Northern Ireland).
[248] Georgia, respondent 1.
[249] Respondent 3.
[250] Respondent 3.
[251] United Kingdom, respondent 3.
[252] Moldova, respondent 1; Serbia.

213. Thus, in respect of *Türkiye*, despite the general concern about the impartiality of the courts[253] it was nevertheless reported:

> LGBTIQ+ associations are filing lawsuits for the annulment of Pride Week bans, claiming that they cannot hold their events. We have so far won the lawsuits we filed against the bans on the 2019 Istanbul Pride Marchand Queer Olympix 20 'albeit late'. The lawsuit we filed against the ban on the Pride Week picnic to be held in Maçka Park in 2021 is still pending before the Court of Appeal. Finally, the lawsuits we filed against decision to ban Istanbul Pride Week in 2022 are pending before the Constitutional Court for violation of the Constitution.[254]

214. A respondent from *Poland* observed:

> It is reassuring to see that in cases pending before courts concerning, for example, freedom of speech or freedom of assembly, or in SLAPP trials, in many (if not most) cases, citizens and organisations win. This shows that the judiciary, despite the enormous pressure exerted on judges, is still functioning,[255]

215. In addition, in a number of countries NGOs were reported to have filed applications with the European Court of Human Rights (Romania, Georgia, Republic of Moldova, Poland, Russian Federation, Türkiye). While for the most part those cases are still pending, a positive outcome was reported in cases against the Russian Federation,[256] Türkiye[257] and Georgia.[258]

216. However, as detailed in the Expert Council's study on the execution of the ECtHR decision, the positive outcome of the ECtHR ruling in cases involving NGOs was in some instances limited because of the long proceedings or the lack of a commitment on the part of member States to implement them. As for the latter, it was noted:

> The judgments where execution has proved most problematic concern issues which are politically sensitive in the States concerned (e.g., the rights and status of minority ethnic or religious groups; the rights of LGBTIQ+ people; and the ability of human rights groups to function).[259]

217. In addition, in respect of *Greece*, it was reported that interim measures granted by the ECtHR in cases concerning groups of mainly Syrian and Turkish nationals wishing to apply for asylum while on Greek territory were not being observed by the government.[260]

---

[253] Respondent 3 noted that "biggest problem with the formal methods is that the judicial branch of the Republic of Turkey is under total control of the government (which is, in turn, under total and direct control of the ruling party AKP and its coalition partner MHP".

[254] Respondent 4. Quotation was slightly edited for style.

[255] Respondent 3. Quotation was slightly edited for style.

[256] *Ecodefence and Others v. Russia*, no. 9988/13, 14 June, 2022.

[257] *Taner Kilic v. Turkey*, (No 2), no. 208/18, 31 May, 2022.

[258] *Identoba and Others v.* Georgia, no. 73235/12, 12 May, 2015.

[259] Expert Council, *The Execution of Judgments involving Freedom of Association: The Impact on Human Rights Organisations and Defenders*, CONF/EXP(2022)1, 2022, p. 6.

[260] According to Respondent 1 "Some of whom claimed they had been pushed back even on multiple occasions and/or while *interim measures* were pending or had already been granted". See also Greek Council for Refugees, *Information Note on interventions and on interim measures granted by the ECtHR in cases regarding pushbacks*, 26 January 2024 (last update.

218. Problems with the implementation of both domestic and ECtHR court decisions were also reported in respect of *Türkiye*:

> Yet, efficiency of the application to national or international judicial bodies is contentious since there are lots of examples that demonstrate the government does not implement the court decisions. (see for ECHR decision: *Kavala v. Türkiye*, 28749/18, 10.12.2019; see for the Constitutional Court decision: application of *Gülseren Yoleri*, 2020/7092, 029.03.2023).[261] In a similar vein, although NGOs successfully engage with international human rights procedures through providing information to special rapporteurs working on their area of expertise, or participating in various monitoring cycle actively, all these practices have no tangible outcome. [262]

219. A response from *Romania* exemplifies the need for NGOs to fully comprehend the rules governing the ECtHR proceedings before considering filing an application. It was thus reported:

> We made several complaints to the European Court of Human Rights, which at the beginning were declared admissible (cases 7019/19, 57145/19, 60317/19, 60317/19, 31389/20 and 31389/20), but after a time we received a letter in which we were criticised for abusing the court (because in their opinion we supplied too many complaints).[263]

220. In addition to challenging stigmatisation in courts, several respondents reported having lodged complaints with police authorities (United Kingdom, Northern Ireland) or domestic human rights institutions (Cyprus, Republic of Moldova, Poland, Serbia, Türkiye, Romania, and Russia Federation). In most cases, those are still pending, while in the case of *Romania* and the *Russian Federation* the complaints had been dismissed.

221. The critical role of independent human rights institution against the government's concerted action against NGOs was underscored in a response from Poland:

> The office of the Ombudsman remains independent. Both the previous ombudsman. and the current one speak out in defence of discriminated groups, present legal opinions, and even try to submit applications to the Constitutional Tribunal (which is doomed a failure in advance, because it remains under the control of the ruling party). However, these possibilities are also very limited. The Ombudsman may publicise (also on an international scale) cases of disadvantage, discrimination or violation of the rights of specific groups, but cannot stop these processes if the ruling is determined to adopt some controversial regulations or carry out another decision.[264]

222. On the other hand, it was reported in respect of *Türkiye*:

> Although some NGOs have applied to the Ombuds office (Kamu Denetçiliği Kurumu) and national human rights institution (Türkiye İnsan Hakları ve Eşitlik Kurumu), they are not acknowledged as effective bodies to eliminate violations since there are many examples that demonstrate partial and biased stances of these institutions on behalf of the government policies and treatments.[265]

---

[261] Respondent 3 also made reference to the *Selahattin Demirtaş v. Turkey*, 14305/17 , 22 December 2020-22/12/2020 as an example of an ECtHR decision which has not been implemented by the government.
[262] Respondent 2.
[263] Respondent 1.
[264] Respondent 3 in reference to the previous government.
[265] Respondent 2.

The head of the Ombudsman institution had already supported the withdrawal from the Istanbul Convention on the grounds that it harmed the so-called sacred family.[266]

F. Potential further strategies proposed by NGOs to combat stigmatisation

223. Respondents to the survey suggested several measures to combat stigmatisation, including: strengthening the legal framework against discrimination, [267] the one governing operations of NGOs,[268] and the one governing public assembly;[269] ensuring consistent implementation of anti- discrimination laws;[270] promoting public engagement with government on policy issues;[271] encouraging responsible and accurate media coverage;[272] and promoting fair and transparent policy of public funding.[273]

224. A respondent from *Georgia* cautioned however that calls for legislative changes with seemingly "good intentions" may in practice be abused to further the government's hidden agenda instead.[274]

225. A respondent from *Greece* noted the need for the EU Council Directive 2002/90/EC) to be amended, to further strengthen the European regime of protection of asylum seekers and refugees.[275]

226. While the foregoing proposed measures were indicative of country specific situation, the need for robust and ongoing engagement of European (CoE and the EU) and United Nations institutions with local stakeholders was widely acknowledged to have been critical in the concerted efforts to combat stigmatisation.[276]

227. In respect of *Russia*, on the other hand, a respondent was despondent that any measure introduced would make a difference in improving the current situation in the country.

[266] Respondent 1.
[267] International NGO, respondent 2; Sweden, respondent 2; Türkiye, respondent 4.
[268] Albania; Bosnia and Herzegovina (Republic of Srpska); Türkiye, respondent 1.
[269] Serbia; Türkiye, respondent 1.
[270] Republic of Moldova.
[271] International NGO, respondent 2, Sweden, respondent 1; Georgia, respondent 1; Montenegro;
[272] International NGO respondent 2.
[273] Romania, Spain, Poland, respondent 3.
[274] Respondent 2.
[275] Respondent 1.
[276] Bosnia and Herzegovina (Republic of Srpska); Greece; Georgia, respondent 1; Poland; Hungary; Italy; Montenegro; Serbia, Slovak Republic; Spain, respondent 2; Türkiye.

Conclusion

228. The findings of the survey indicate a widespread and concerning pattern of stigmatisation of NGOs in Europe and Russia, recognising that the situation inevitably varies from country to country and is subject to ongoing development. These findings are largely consistent with and complementary to those found in the previous studies of the Expert Council on related topics.

229. NGOs that were found to have been particularly subject to stigmatisation include those active in the area of human and minority rights, as well as watchdogs (anti-corruption and investigative journalism) and environmental NGOs.

230. The forms of NGOs stigmatisation reported in the survey included legislative measures; the lack of effective legal protection; the media smear campaign; physical attacks against leadership and members of NGOs; limited access to public funds; and exclusion from the decision-making process, in particular.

231. The trend of a long-term stigmatisation of NGOs in a number of countries detailed in the questionnaire responses—despite robust monitoring mechanism put in place by both the CoE and the EU—is particularly concerning.

232. It is encouraging nevertheless that NGOs were found to have been actively confronting the pattern of stigmatisation through a variety of actions, including advocacy; engaging with domestic and international stakeholders; reaching out to independent institutions; and instigating legal proceedings at national and European level.

233. However, the survey also found that more needs to be done if the burden of addressing the adverse impact of stigmatisation were to be fairly spread among the national and European stakeholders other than NGOs.

234. In particular, robust engagement and coordinated efforts of the CoE and the EU institutions is deemed essential by NGOs in efforts to tackle stigmatisation and encourage member States to honour their commitment to democracy, human rights and the rule of law.

Appendix I. Study on stigmatisation of NGOs – questionnaire

Background

This questionnaire is concerned with NGOs that are treated less favourably than other NGOs because of the objectives and/or activities that they pursue. It aims to understand the difficulties that NGOs face because they work on a particular topic or in support of a particular group, for example, work to promote women's rights or to combat corruption. The questionnaire's focus is on the specific difficulties that these NGOs face *in addition* to those faced by all NGOs operating in your country.

The questionnaire has been prepared on behalf of the Expert Council on NGO Law of the Conference of INGOs of the Council of Europe. The questionnaire will be distributed to NGOs working in each of the 46 Council of Europe member States and Kosovo,* as well as ones from Belarus and Russia.[277] The results will be compiled in a report and utilised in advocacy efforts aimed at combatting the trend of restricting the legitimate activities of NGOs across Europe.

For the purpose of this questionnaire, NGOs are understood in a broad sense as groups separate from the State who organise themselves to pursue shared non-profit objectives, ranging from large organisations with legal personality through to informal movements. This study does not cover political parties or trade unions.

Examples of less favourable treatment are provided in question two but broadly this includes any type of restriction or detriment, for example criminal charges, and being excluded from advantages such as funding or public promotion.

We are keen to understand the differences between any official reasons given for less favourable treatment and the reason that you understand restrictions have been imposed, for example, because of discrimination.

We would be grateful for any case studies. Please include links to publicly available stories and information if you have these.

Questions

1. Are some NGOs in your country treated less favourably than others because of the objectives and/or activities that they pursue? If so, what is the nature of the objectives/activities that lead to this?

   For example, prevention of corruption, promotion of democracy, protection of minority rights, assistance to migrants, academic freedoms, climate action.

*All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations' Security Council Resolution 1244 and without prejudice to the status of Kosovo.

[277] This may include NGOs located outside of their home State due to the current human rights situation.

2. What form does this less favourable treatment take? Please specify if it is based on law, policy or is a matter of practice.

   For example, a prohibition on certain objectives/activities, de-registration, limited access to funding, a requirement to label NGOs or individuals in a certain way ("foreign agent", "extremist"), restrictions on working with those outside of the country, travel restrictions, international and regional human rights bodies such as the Council of Europe and the United Nations, charges against NGOs/individuals, verbal attacks by politicians/public figures, hostile treatment by the media, harassment or physical attacks, surveillance, SLAPPs, failures to protect NGOs/individuals from attacks, NGOs self-censoring or changing their own behaviour, failure to consult NGOs.

3. Who is the source of the less favourable treatment, e.g., the authorities, media, corporations, public, particular groups of the public? What, if any, reason do they give for this?

   For example, preventing extremism, national security, protection of public morals, promotion of family values.

4. What is the extent of the less favourable treatment (how many NGOs does it impact and for how long has it been occurring)?

5. Has this less favourable treatment ever been challenged by the NGOs concerned or anyone else through informal methods, such as advocacy efforts, or through more formal methods such as via complaints bodies, national courts or international or regional human rights procedures? If so, what was the outcome?

6. What do you think would help to combat less favourable treatment, such as improved legal frameworks or public engagement, and what support would assist these NGOs to better carry out their work?