



# The implications of the COVID-19 pandemic on fundamental rights and civic space

STUDY



European Economic and Social Committee



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## **Study**

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## Foreword



### **By Séamus Boland**

President of the Diversity Europe Group (October 2020 – April 2023), European Economic and Social Committee

It is with great pleasure that I commend to you the study *The implications of the COVID-19 pandemic on fundamental rights and civic space*, which was commissioned by the European Economic and Social Committee (EESC), at the request of the Diversity Europe Group.

COVID-19 has been and is still affecting the life, safety, welfare and dignity of all people living in the EU. While addressing the health situation and strengthening the resilience of European health systems remains a priority, we should not forget that the pandemic has led to extensive limitations to fundamental rights and the rule of law. In some cases, these have been open-ended and escaped parliamentary scrutiny, consequently only confirming the current democratic backsliding and authoritarian shift.

It was our Group's wish to examine this situation through the lens of civil society organisations (CSOs). Along with all sectors of society, CSOs faced disruptions in their activities and missions. However, shifting our attention to CSOs is also crucial because of their role in our societies. Being independent from the state and the market, and by allowing citizens to act collectively to further areas of common concern, they are a key pillar of public life. In the context of the pandemic, I cannot stress enough how CSOs have supported local communities by giving emergency assistance and providing essential health and care services. However, they have also promoted human rights, acted as "watchdogs", monitored governments' responses to the pandemic and held decision-makers to account. Fostering a safe and vibrant civil society space is therefore no less than a precondition for maintaining social cohesion, the rule of law and a healthy democracy.

However, like two sides of the same coin, CSOs are also directly impacted by blows to fundamental rights and the rule of law. While our study reveals that the public image of civil society organisations has improved due to their rapid response during the first waves of the pandemic, an overwhelming majority of CSOs surveyed report a deterioration in their operating environment. They also highlight the reduced access to and sustainability of funding, reduced access to decision-makers, as well as outright threats and attacks.

In the current context, marked by a shrinking or a "shifting" civic space, as highlighted by this report, it is not sufficient to merely recognise their contribution. This study therefore takes a forward-looking approach. The authors examine not only the implications of the pandemic, but also identify a number of policy solutions which have been put forward to strengthen the protection of fundamental rights and to help foster an environment in which civil society organisations can be heard and continue to fulfil their missions. They examine how CSO representatives position themselves vis-à-vis these solutions and formulate a number of recommendations to European institutions. I wish you a good read!

Séamus Boland  
March 2022

## **Abstract**

This report was compiled for the European Economic and Social Committee at the request of the Diversity Europe Group by a consortium of four partners - European Civic Forum, Civil Society Europe, European Center for Not-for-Profit Law and the Institute of Public Affairs. It examines how the COVID-19 pandemic has affected the work of civil society organisations (CSOs) across Europe. It also focuses on how solutions implemented in individual EU Member States have impacted CSOs' ability to exercise their fundamental rights and freedoms.

The report is based on in-depth analysis of existing studies and reports, a survey, 29 expert interviews and three focus groups. It showcases a number of ways in which the pandemic has affected the functioning of civil society organisations in the EU. The observations emerging from the different stages of the research were characterised by a high degree of consistency, validating the picture depicted.

Finally, the study investigates possible policies at EU and national level to address the challenges identified and includes recommendations on how to implement them.

## **Executive Summary**

This report was compiled for the Diversity Europe Group of the European Economic and Social Committee by a consortium of four partners - European Civic Forum, Civil Society Europe, European Center for Not-for-Profit Law and the Institute of Public Affairs. It is examining how the COVID-19 pandemic has affected the work of civil society organisations (CSOs) across Europe. It also focuses on how solutions implemented in individual EU Member States have impacted CSOs' ability to exercise their fundamental rights and freedoms. In order to gather the information that formed the basis of this study, a research was conducted consisting of two main phases. Both parts were dominated by qualitative research methods, complemented by a more quantitative element (online survey).

The analysis of available studies and reports, as well as a survey conducted for this report showcases a number of ways in which the pandemic has affected the functioning of civil society organisations in the EU. The observations emerging from the different stages of the research were characterised by a high degree of consistency, validating the picture depicted.

On the positive side, civil society organisations have proved to be extremely flexible during the pandemic. Many of them were the first to be able to reorganise their activities to respond to local communities' needs. Organisations have usually done this much faster than public administration or the private sector. Moreover, the pandemic has changed the way many civil society organisations operate, such as moving their activities online. This led to an acceleration of the digitalisation of the sector. All of these have allowed many CSOs to reach out to new audiences, or to carry out their work more effectively on a wider scale. It also became easier to build coalitions of organisations, to exchange experiences, and develop common positions on the measures taken by the authorities. Moreover, all this has increased the visibility of civil society organisations in society and understanding of the role they play on a daily basis. This is a very important asset on which organisations can build their position in the future.

The pandemic also has serious negative consequences on the functioning of civil society organisations. It is important to note that while the negative impact of the pandemic on their own capacities was indicated by already a significant number of organisations included in the online questionnaire, an even larger proportion saw a negative impact of the pandemic on the entire CSO sector in their country (78% as compared to 82%). Many entities, especially smaller ones and those operating outside big cities, suspended their activities. The same happened to organisations bringing together specific social groups with a higher proportion of digitally excluded people - for example, older people or people with disabilities. A significant proportion of such organisations have not returned to activity to date. Many people active in organisations have had to deal with additional challenges to their mental health, fatigue from working remotely and growing uncertainty about the future, exacerbated by long-term social isolation. Work-life balance was often difficult to maintain, while work was carried out at irregular hours.

The pandemic has also often been an opportunity for governments of several EU Member States to reduce the transparency of their operations and to hinder citizens' control over their actions. Moreover, sometimes, under the pretext of counteracting the effects of the pandemic, governments have introduced measures which have restricted fundamental rights - above all, freedom of assembly and freedom of expression. They have also sought to silence critical voices, particularly those from journalists and civil society activists. Several governments have also lowered standards for civil dialogue in law-making.



Civil society organisations, especially foundations and associations, have not even been involved in consultations on key laws aiming to address the impact of the pandemic. Many laws were introduced in parliaments without public consultation. Even when the social partners received these documents to present their opinion, it was done at the last moment and under extremely tight deadlines.

The pandemic also hit many civil society organisations financially. Foundations and associations were most affected, as the solutions proposed by individual governments to mitigate the impact of the pandemic were usually not tailored to their needs. Some trade unions and employers' organisations managed to get through the pandemic period with much less economic impact. However, particularly when it comes to organisations representing workers, their financial situation depends very much on the sector in which they operate. The situation of those working in the sectors most affected by the pandemic, particularly in countries where there was a lack of adequate forms of support guaranteed by the state, was decidedly poor. Such difficult personal experiences for trade union members have not only translated into their psychological well-being, but also their willingness to engage in trade union work.

Conducted research revealed that some forms of support were provided to civil society organisations in their respective countries, but, in general, representatives of various CSOs report that these were insufficient in scale and nature. These solutions were the subject of the final stage of our research work which focused on developing ideas regarding forms of support and policies that are needed to respond to CSOs' challenges at national as well as European level. In this regard, the results of the expert interviews were used to assess specific recommendations for action during the three focus group interviews (FGIs) conducted in the final stage of this study. On this occasion, an attention was also paid to solutions that are being discussed or even have been already adopted in the EU institutions, such as European statute for associations, elaboration of European guidelines and standards on promotion of freedom of assembly and association, as well as securing a flexible and sustainable financial support (including via CERV programme). Moreover, while discussing the expected forms of support for CSOs after a pandemic, consideration was also given to the Recovery and Resilience Facility, as an instrument proposed within the NextGenerationEU framework and responding to the economic and social damage caused by the coronavirus pandemic.

All conducted research has made it possible to observe that the COVID-19 pandemic did not really create so many new problems, but rather highlighted or exaggerated those that already existed before. Therefore, many of the solutions discussed in this report are not new ideas, but rather repeat recommendations that have often already been worked on for some time. However, the pandemic has given these solutions a new meaning and the role played by organisations and the visibility they have achieved in the course of the pandemic in society may help to put them finally into practice.

Basing on such assumptions and reflecting on all the results of the research a set of recommendations was drafted that institutions standing behind this report would like to put forward as the most reiterated by experts interviewed as positive and as European priorities. Thus, based on the findings of the expert interviews and focus group discussions, the literature review, and the consortium's extensive expertise, a short-term and long-term actions have been highlighted that according to the authors of this study European institutions and Member States should implement as the first ones.

Five most important recommendations that were identified in the way described above are organised around the following points:

- i. More sustainable, flexible and accessible funding for CSOs
  - in the short-term, in implementing the Citizens, Equality, Rights and Values Programme (CERV), the European Commission should ensure that the selected national/regional intermediary grant operators are sufficiently independent of the Member State authorities;
  - in the long-term, the European Parliament and the European Commission should start discussion on the development of new rules for support to civil society organisations under the new European Multiannual Financial Framework;
  
- ii. Ensuring meaningful participation of civil society in the adoption, implementation and monitoring of National Recovery and Resilience Plans (NRRPs)
  - a short term-priority for the European Institutions is to mitigate gaps identified in the meaningful inclusion of civil society and for Member States is to ensure that CSOs have access as beneficiaries to the funds that are part of the NRRPs;
  - in the long-term, the European Commission should set up coordinated mechanisms and structures to allow CSOs participation in the implementation and monitoring of the Recovery Package and NRRPs, European Semester, EU cohesion policies processes and Member States should develop adequate mechanisms to involve civil society in all processes related to the implementation of EU funds;
  
- iii. Adopting the EU Civil Society Strategy
  - given the complexity of reaching agreement among several stakeholders, the development and approval of such a strategy or policy is a long-term priority;
  - but, elements of the strategy can be implemented in the short-term, such as to monitor, document and analyse challenges faced by civil society and recognise and speak up for civil society as well as better engaging civil society in already existing European mechanisms;
  
- iv. Monitoring and responding to attacks against civic actors
  - setting up a full-fledged civil society index and early warning mechanism might be a long-term priority,
  - however, there are related measures that can be actionable in the short-term - the European Rule of Law framework and its annual Rule of Law report were identified as policy frameworks for this monitoring and reaction to take place;
  
- v. Proceeding towards a structured framework for an open, regular and transparent EU civil dialogue
  - in the short-term, this can be achieved through establishing basic coordination structures (focal points) for civil dialogue within each EU institution;
  - in the longer-term, existing mechanisms and good practices both at EU level across institutions and at national level should be strengthened and harmonised to avoid red tape and duplication;
  - one possible way is to develop an inter-institutional agreement on civil dialogue which could provide the framework to establish coherent practices across the EU institutions.

Authors of this report believe that solutions in all abovementioned areas should be undertaken as a priority by European and national institutions in response to the challenges on the part of civil society organisations that the pandemic has highlighted. Above all, the combined introduction of these solutions

can respond to the challenges faced by civil society organisations in Europe in a meaningful way and help strengthen them in the longer way.

## Introduction

This report was compiled for the Diversity Europe Group of the European Economic and Social Committee by a consortium of four partners - European Civic Forum, Civil Society Europe, European Center for Not-for-Profit Law and the Institute of Public Affairs. Its purpose is to examine how the COVID-19 pandemic has affected the work of civil society organisations (CSOs) across Europe. It also focuses on how solutions implemented in individual EU Member States have impacted CSOs' ability to exercise their fundamental rights. In order to gather the information that formed the basis of this report, the organisations forming the consortium carried out a joint research study. Both its methodology and the results achieved in its different stages are discussed in the following subsections of this report. Finally, based on the findings, we recommend actions that we believe should be undertaken as a priority by European institutions in response to the challenges on the part of civil society organisations that the pandemic has highlighted.

However, before we move on to discuss the results of all this work, it is worth clearly defining our area of interest and explaining why the subject matter undertaken in this report strikes us as important. This is what the next section of the report is dedicated to.

### 1. Civic space: working definition and state of play in the EU prior to the Covid-19 pandemic

Civil society<sup>1</sup> is a key pillar of democracy, the rule of law, and social justice in Europe and in the world. In the European Union (EU), the fundamental freedoms for an enabling environment for civil society, such as freedom of association, peaceful assembly, and expression are recognised by the Charter of Fundamental Rights of the EU, as well as in many national constitutions. Its member states have also committed internationally to protect these rights; such as parties to the European Convention on Human Rights and the International Covenant on Civil and Political Rights. Freedom of association is also recognised and safeguarded in the daily work of the Council of Europe (including its Venice Commission) and the OSCE Office for Democratic Institutions and Human Rights.

The consortium bases its analysis of challenges for civil society in Europe on five elements that are believed to be crucial for an enabling environment:<sup>2</sup>

1. **The political landscape and safe space (including state duty to protect and right to freedom from fear):** the historical legacy on political culture, together with socio-economic structures and contingent events, profoundly shape the public's understanding of the role of civil society, the values it embodies, and the activities it pursues. Thus, it influences public trust and support.

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<sup>1</sup> For the purpose of this study, we adopt a broad definition of "civil society organisations" (CSOs) as defined by the EESC including:

- the "labour-market players", i.e. the social partners;
- organisations representing social and economic players that are not social partners in the strict sense of the term;
- NGOs (non-governmental organisations) which bring people together in a common cause, such as environmental organisations, human rights organisations, consumer associations, charitable organisations, educational and training organisations, etc.;
- Community-based organisations (i.e. organisations set up within society at grass-roots level which pursue member-oriented objectives), e.g. youth organisations, family associations and all organisations through which citizens participate in local and municipal life;
- religious communities.

Additionally, we take into account informal groups and social movements although not present in the EESC.

<sup>2</sup> See Civic Space Watch, About civic space, [Civic Space Watch | About Civic Space](#).

This category also encompasses statements by public officials and the level of reactivity of public authorities to respond to and investigate incidents of breaches of civic freedoms.

2. **The regulatory environment for and implementation of civic freedoms of association, assembly, expression and right to privacy online and offline:** a supportive legal and regulatory framework for civic freedoms, particularly freedom of association, peaceful assembly, and expression, as well as its effective implementation, ensure the full-stretching, correct functioning, and protection of civil society space. Actions, laws, and statements that threaten civic freedoms must be refrained from, investigated, and disciplined by governing bodies.
3. **A supportive framework for CSOs' financial viability and sustainability:** Supportive funding legislation, including foreign and international funding, as well as the availability of sufficient and predictable resources, are critical to civil society's capacity, independence, and long-term strategic planning.
4. **The right to participation and dialogue between the sector and governing bodies:** governing bodies must pursue policies and narratives that empower citizens and CSOs to be meaningfully engaged in public debate and policy-making.
5. **Civil society's responses to challenges to democracy, the rule of law and fundamental rights:** Civil society is not a passive victim of government attacks. Civic actors play an active role in promoting democracy and the rule of law, along with holding governments accountable.

Such categories are similar to those identified by other civil society and institutional monitoring mechanisms, such as (I) the monitoring matrix elaborated by the Balkan Civil Society Development Network and the European Center for Not-for-Profit Law (ECNL) and used by DG Enlargement/NEAR in the European Commission; (II) the EU Agency for Fundamental Rights (FRA) report on challenges facing civil society organisations working on human rights in the EU; (III) the recommendations for the creation and maintenance of a safe and enabling environment for civil society based on good practices and lessons learned by the UN High Commissioner for Human Rights, and; (IV) the CSO Meter developed by ECNL in cooperation with a core group of experts from the Eastern Partnership countries used by DG NEAR.

While EU countries have some of the most robust safeguards for fundamental rights in the world, they have been facing increasing pressure across the region for some time. There are several main trends regarding this that can be observed in recent years. They include burdensome and limiting legislation; reduction, restrictions and constraints on financial resources for CSOs; new barriers to influence the policy-making and accessing public information; restrictions to the freedom to protest, as well as a general pressure and decline in access to rights for all. In addition to the complex challenges, records of negative statements made against civic organisations and social movements, particularly when they perform a deliberative or advocacy function, have emerged all over the EU (i.e. see: European Civic Forum, [Activizanship #4](#), 2019; ECNL, [Are we nurturing civil society in Europe](#), 2021). This phenomenon is often referred to as “shrinking civic space” (about this issue and strategies possible to overcome it see: EESC, [The future evolution of civil society in the EU by 2030](#), 2018).

Shrinking civic space is understood as an indicator of broader deterioration of the rule of law (European Commission, [2021 The Rule of Law Report](#), 2021) and part of a phenomenon of democratic backsliding

also observed in the EU of (see: International IDEA, [Global State of Democracy report “Addressing the ills, reviving the promise”](#); 2019: x-xi). It is referred to as a “gradual and usually intentional weakening of checks on government and civil liberties by democratically elected governments” (ibidem: 33). Democratic backsliding observed today in Europe is more nuanced than authoritarian ruling in the past characterised by the use of violence, organising of a coup d’Etat, etc. This modern process frequently involves political actors seizing control of democratic procedures and hollowing out democratic institutions while retaining democratic guise. (ibidem; Bermeo, *On democratic backsliding*, 2016: 6). Importantly, according to International IDEA’s *Global State of Democracy*, a country described as undergoing democratic backsliding should not only have been democratic previously, but should also be returning to its previous state as a result of this process. (Daly, *Democratic Decay: Conceptualising an Emerging Research Field*, 2019: 9; International IDEA, 2019: 33).

Although the above-mentioned process of democratic backsliding has so far been documented in two EU Member States - Hungary and Poland (International IDEA, 2019: 34), all of the issues stated above have been noticed in other EU member states. These developments however did not only take place in member states that are newly established democracies, as there are reports showcasing a generally unfavourable situation for civil society organisations (CSOs) in a larger group of the EU member states. According to the CIVICUS Monitor report for 2020, rating civic space in 196 countries worldwide, 14 EU Member States are rated as open, 13 as narrowed and 1 (Hungary) as obstructed ([CIVICUS, People power under attack, 2020](#)). These numbers remained the same from the previous year but the study reported an improvement of the situation in Austria, and a deterioration in Slovenia.

Moreover, even in countries where the general situation can be evaluated as positive, several trends have taken place recently that can limit the enabling environment for civil society. Civil society has warned of similar patterns emerging from country to country obstructing the activities of the CSOs which express critical perspectives on the policy agenda of national authorities or that represent and defend the most vulnerable people in society. A 2018 report by the EU Agency for Fundamental Rights found that restrictions applying to a number of aspects which constitute the civic space are widespread and sometimes result from unexpected consequences of public policies and lack of understanding of the specificity of the sector. The 2021 report by the FRA corroborates such findings, and showcases a worsening of the conditions for organisations across Europe (FRA, [Challenges facing civil society organisations working on human rights in the EU \(europa.eu\)](#), 2018; [Protecting civic space in the EU \(europa.eu\)](#), 2021). The EESC work on rule of law and fundamental rights has also brought forward similar results (See EESC, [FUNDAMENTAL RIGHTS AND THE RULE OF LAW, National developments from a civil society perspective, 2018-2019](#), 2020).

Below, we present a selection of illustrative manifestations of these trends in various EU countries over the past few years. First, the creation of a generally unfavourable climate around CSOs at hands of national authorities or anti-rights groups by questioning their legitimacy, for example by associating them with a notion of ambiguous entities that represent the interest of selected influential interest groups or individuals instead of working for the public benefit or common good (Carnegie Endowment for International Peace, [Examining civil society legitimacy](#), 2018). Secondly, and partially in relation to the former point, CSOs' access to various sources of funding has been restricted. Thirdly, restrictions to freedom of assembly and expression have been introduced or implemented. Finally, there are changes that hinder the participation of CSOs in decision-making and civil dialogue processes.

While discussing these challenges, we must also bear in mind that the significance of individual events varies from country to country. Their severity and impact on CSOs also depends on the state of development of the civil society sector in the country and the presence of other structural problems. Combined with some long-standing difficulties that CSOs face, the events discussed here may have an even more acute impact on their operation.

### **Delegitimation of CSOs' work and restrictions targeting "political activities"**

Allegations formulated in public or political discourses have been observed against CSOs working on certain themes depicting their actions as "politically" driven or even comparable to "political activity". The most significant cases emerged in the Czech Republic, Hungary, Poland or Slovakia (USAID, [CSOSI 2019](#)). Usually, these narratives aim to delegitimise the civic sector, especially those CSOs that work on issues unfavourable for those in power, vis a vis the rest of society. Another objective was to create a chilling effect among CSOs, to persuade them to stop such activities. In some cases, narratives and smear campaigns initiated against CSOs justified measures taken to hinder CSOs' activities, including restrictive legislation and restrictive interpretation and implementation of existing laws. Measures targeting "political" actions of CSOs have recently been observed in Germany, Ireland and the United Kingdom (ECF, [Activizenship 2019](#): 14; [FRA 2018](#): 22; [UN, HRC 2017](#)).

In a similar climate of mistrust towards CSOs, between June 2018 and June 2019, in at least 10 countries (Romania, Spain, Portugal, Greece, Italy, the Netherlands, Belgium, Germany, Denmark and Slovakia) work was initiated or led to adoption and entering into force of anti-money laundering and transparency legislation with the potential to hamper civil society sector (ECF, [Activizenship, 2019](#): 16-17). In few countries, laws transposing at national level of the 4<sup>th</sup> EU Anti-Money Laundering Directive ([Directive \(EU\) 2015/849](#)) created significant overregulation and excessive bureaucratic burden on CSOs whose specificity was not considered.

### **Constraints in CSOs' access to and diversification of funding**

It can be observed that a notion of CSOs' transparency has been used by various states as a reason to impose additional requirements and restrictions on their access to funding. Thus, some draft bills and policies were proposed that would require CSOs to report more frequently on funding received or that oblige those organisations receiving funding from foreign sources to report extensively on any foreign-sourced funding (ECF, [Activizenship #4, 2019](#): 18). These activities were often coupled with political smear campaigns against CSOs, labelling them as "foreign agents", accusing them of being allies to the political opposition or misusing public funds (USAID, [CSOSI, 2019](#)). Following a path of 2018 Hungarian law on the transparency of organisations (Act LXXVI of 2017 on the transparency of foreign funded organisations adopted on 13 June 2017 - so-called *lex-NGO*; that according to the European Court of Justice ruling of June 2020 violated freedom of association), other countries, including Poland, Bulgaria and Greece, have proposed or introduced in 2020 transparency legislation discriminately overburdening and stigmatizing CSOs (ECF, [Activizenship #5, 2020](#): 13). Although these actions had already taken place during the coronavirus pandemic, their introduction was unrelated to it and was a continuation of earlier events taking place in the respective countries. Attempts to adopt legislation to monitor and possibly restrict foreign funding for CSOs, especially those faith-based, were also undertaken in the Netherlands, Germany, Belgium, France and Denmark.

## **Restricting the right to assembly and freedom of expression**

Already well before the COVID-19 pandemic, governments used various grounds to justify restrictions to freedom of expression and assembly and silence critical opinions. Anti-terrorism and public security legislation have been reportedly used to restrict the right to peaceful assembly and frame activists and CSOs as domestic extremists. Cases like that have been reported since 2015 in France, Spain, and Poland (ECF, [Activizenship #4](#), 2019). Restrictive legislation has also been passed in Hungary, Italy, and Romania. Other restrictions on the right to assembly also include administrative restrictions, economic sanctions, heavy-handed policing, and detention and arrests of peaceful protesters.

Laws and policies on disinformation, hate speech, and trade secrets (i.e. 2018 ‘Holocaust law’ in PL) have also been pinpointed for inducing censorship and self-censorship. A number of lawsuits carried out in recent years by corporations and powerful individuals against journalists and CSOs attempting to keep them accountable, a phenomenon known as Strategic Lawsuits Against Public Participation (SLAPPs), were reported in countries like France, the United Kingdom, Croatia, Poland and Italy (Greenpeace, [Sued into silence](#), 2020).

## **Hampering CSOs public participation**

Finally, what we could also observe in recent years are attempts to undermine civil dialogue and the possibility for CSOs to influence decision making processes. It concerned problems in accessing information of public interest, opaque or marginal involvement in the decision-making processes, restrictions to advocacy, hurdles in accessing policy-makers and public consultations (FRA, 2018, 2021).

The functioning of civil dialogue bodies and the quality and role of public consultations have been mostly limited in the countries that have gone furthest in the deterioration of democracy in Europe - Hungary and Poland. In the latter country, legislative standards deteriorated significantly between 2015 and 2019 (Stefan Batory Foundation, Citizens' Legislation Forum report, 2019). There were frequent violations or circumventions of the regulations of the Council of Ministers, the Sejm (the lower chamber of the Polish parliament), and the Senate (the upper chamber). In 2019, the Sejm spent less than fifteen days working on fifty-six bills. This means that the Sejm Rules of Procedure, which require that legislative work that is not in fast track procedure to take a minimum of fifteen days, were ignored for almost one-quarter of the new laws passed during the respective year. Amendments of the laws regulating the functioning of the most important constitutional state institutions, including the Supreme Court and National Council of Judiciary, were adopted in just a couple of days. In the same year, the government organised public consultations on less than two-thirds of the bills it worked on, with the average consultation taking less than twelve days. Also, since 2016 in Poland, various civil dialogue bodies operating at the central level have successively either seen their role diminished (such as the Council for Public Benefit Activities, previously the main advisory body of the government consisting of representatives of civil society organisations) or their activities completely suspended by the relevant ministries (USAID, [CSOSI, 2019](#)).

Some governments have questioned environmental organisations' involvement in public processes. In October 2018 in Austria, a last-minute amendment to the Environmental Impact Assessment Act was introduced by the Austrian People's Party (ÖVP) and the Freedom Party (FPÖ) impeding organisations with less than a hundred members to take part in environmental impact assessments ([CIVICUS Monitor 2019](#)). In Germany, a similar attempt was limited to the call during the ruling CDU party congress for a



legislative change so that environmental organisations are prohibited from going to court to ask the government to follow environmental standards. Similar attempts against environmental protection organisations have been carried out in Slovenia and Ireland ([Civic Space Watch](#) 2019; ECNL/ICNL, [Closing Civic Space for Climate Activists](#), 2020). Changes of comparable nature were proposed in 2019 in Poland in relation to transposition of the [Directive 2011/92/UE](#) on assessing the effects of certain public and private projects on the environment.

## 2. COVID-19 pandemic influence on CSOs' access to fundamental rights: literature review

Initiatives monitoring the state of liberal democracy globally and in the long-term show that, in general, most of the indicators of the state of democracy have not deteriorated dramatically from 2019 to 2020, the first period of the pandemic. For example, the Democracy Report 2021 by the Varieties of Democracy (V-Dem), which measures the state of democracy in 202 countries in 2021 in comparison to datasets since 1970, reports that “the direct and immediate effects [of responses to the pandemic on the overall decline of democracy observed] have been limited” in the short-term ([V-Dem Institute 2021:15-16](#)). In particular, the study states that the indicators showing the most substantive negative changes are freedom of domestic and international movement – reflecting the lockdown measures during the pandemic. These correspond to only 3 out of the 46 indicators forming the Liberal Democracy Index (ibidem: 15-16). However, V-Dem also states the more negative and deeper effects of the pandemic on the functioning of selected aspects of our societies or democracies in the long-term are uncertain and need close monitoring. The same report observes commonalities in the trends of how autocratization unfolds across varying contexts globally: “Media and academic freedoms, and civil society, are typically repressed first. Alongside that, ruling governments often engage in polarization by official disinformation campaigns disseminated via social media and by increasing disrespect for counter arguments from political opponents. Only then are formal institutions such as the quality of elections undermined in a further step towards autocracy” (idem: 22).

Such a worrisome landscape is confirmed by other reports taking a more qualitative approach, like the 2021 edition of *Nations in Transit* looking at the situation in 29 countries in Central and Eastern Europe. While covering the events of 2020, it observes that a total of 18 countries suffered declines in their democracy scores. Only 3 EU countries' scores improved (Latvia, Slovakia and Lithuania), while all the others examined in the report saw a deterioration. With such results, it marked the 17th consecutive year of overall decline in the *Nations in Transit* report, leaving the number of countries that are designated as democracies at its lowest point in the history of the report (Csaky, Z, [Nations in Transit 2021: 1](#)).

In this context, it is crucial to note that the COVID-19 pandemic has had a heterogeneous and complex impact on the functioning of civil society organisations. On the one hand, it has put these actors at the forefront when it comes to tackling the socio-economic and health effects of the pandemic. They were the first to offer support for the most vulnerable members of European societies, those most at risk of being affected by the dangerous consequences of the pandemic, while also filling gaps in the preparation of public health systems for a pandemic. On the other hand, CSOs were also strongly affected by the various consequences of the long-lasting health crisis. These consequences had at least several different manifestations. We describe them below based on a content analysis of the available literature on the subject, but will return to discuss them in more depth using the results of our own study.

Firstly, many CSOs were forced to suspend their activities or to reformulate them in order to adapt to the social needs that emerged because of the pandemic (see i.e. [EESC, 2021: VI, 10](#)). In this respect, it is important to note that many of the events associated with the pandemic also had a negative impact on the beneficiaries of the organisation's activities. As a result, CSOs had to modify the way they work. Secondly, a number of legal solutions, often of an extraordinary nature, adopted in individual countries have had a negative impact on CSOs' ability to operate, including on their ability to exercise fundamental rights. Thirdly, all these events have amplified many of the trends of deterioration observed before the COVID-19 pandemic (see: European Civic Forum, [Activizenship #5, 2020](#); ECNL, [COVID-19 and civic freedoms in Europe in 2020, 2020](#)). Fourthly, all these events caused by the pandemic have

simultaneously resulted in a decrease of economic resources of the sector causing limitations not only in their ability to continue to develop, but also in their daily functioning.

In the following sections of this report we will discuss a little more extensively how these trends have manifested themselves in individual EU Member States. In doing so, we will first refer to the analysis of available studies and reports to provide a brief overview of how the operating conditions of our societies and democracies have changed during the pandemic and how they affected CSOs. Then, we will compare these observations with the results of a survey conducted among entities belonging to the broad category of CSOs operating in various European countries.

### **2.1. Emergency rules for the functioning of states during a pandemic**

As stated above, the COVID-19 pandemic had a momentous impact on the functioning of our societies and state institutions. In order to contain the spread of the virus and protect the health and lives of their populations, national authorities have adopted a variety of legal measures. It started at the beginning of 2020, when the majority of EU Member States have officially declared a state of emergency or referred to other equivalent emergency legislation. At the same time, 13 EU Member States (Austria, Belgium, Croatia, Cyprus, Denmark, Greece, Ireland, Lithuania, Malta, the Netherlands, Poland, Sweden and Slovenia) adopted exceptional, emergency and restrictive measures without declaring a state of emergency or introducing equivalent legislation during the pandemic (FRA, [Fundamental Rights Report 2021](#), 2021: 11-12). On these bases, governments have been granted extraordinary decision-making powers that have allowed governments to impose restrictions, including some affecting directly or indirectly the enjoyment of a variety of human rights.

Even in countries where such legislation was adopted according to the binding constitution, they do not necessarily meet international legal standards. Hungary is an example of such controversy: the Authorisation Act was adopted on 30 March 2020 granting excessively broad powers to the government to rule by decree, absolving it from parliamentary scrutiny, without a clear sunset clause ([CIVICUS Monitor](#), 2020 b). Doubts about the legality of the Covid-related rules also concern Estonia, Germany, France, and Poland (see: European Commission, [2021 The Rule of Law Report](#), 2021: 24). Moreover, often no human rights institutions or CSOs were consulted before restrictions were introduced (ECNL, [Civic Space in the Era of Securitised Covid-19 Responses](#), 2021).

Governments across the EU, using authority thereby obtained, have adopted extensive legal measures such as imposing curfews, travel restrictions and bans; preventing gatherings of people; closing schools and restricting the functioning of many economic sectors (FRA, [Fundamental Rights Report 2021](#), 2021: 8). A lot of these measures, even if they did not directly relate to CSOs, indirectly impacted them by defining the conditions for their daily functioning. Among others, they reduced access to beneficiaries, imposed travel bans, or led to the cancelation of events and closing of physical venues. Moreover, “there were far-reaching consequences on the space to operate, notably as regards access to decision-makers, freedom of assembly and, to some extent, freedom of expression” (ibidem: 13). All these trends are discussed in more detail later in this report.

Many legal reports discussing these issues point to the international human rights law standards (i.e. United Nations ICCPR, 2020), stipulating that such emergency measures may alter democratic institutions, rights and proceedings only within certain boundaries ([V-Dem Institute](#), 2021). They must be “proportionate, necessary and non-discriminatory,” and have a clear time limit (meaning that they should be accompanied by “sunset” clauses that limit them to a set period). Moreover, governments

should ensure that measures restricting freedom of movement or imposing self-isolation, quarantines or curfews are not implemented in an excessive manner (i.e. see [UN OHCHR](#) 2020 and many more<sup>3</sup>), and that they do not directly or indirectly discriminate on any ground. Thus, authorities must ensure that these measures do not have a disproportionate impact on specific groups, including, for example, people living in informal settlements or people who are homeless ([Amnesty International](#) 2020: 28). In its resolution, the European Parliament, while recalling Council of Europe's Venice Commission opinions, stated that "even in a state of public emergency, the fundamental principles of the rule of law, democracy and respect for fundamental rights must prevail, and that all emergency measures, derogations and limitations are subject to three general conditions, those of necessity, proportionality in the narrow sense and temporariness" (European Parliament, [Resolution on the impact of COVID-19 measures on democracy, the rule of law and fundamental rights](#), 2020; CoE, Venice Commission, [Interim report on the measures taken in the EU Member States as a result of the COVID-19 crisis and their impact on democracy, the rule of law and fundamental rights](#), 2020).

Notwithstanding this, the variety of restrictive measures that were adopted across the EU "interfered with a wide range of fundamental rights, such as with movement and assembly; with private and family life, including personal data protection; and with education, work and social security" (FRA, [Fundamental Rights Report 2021](#), 2021: 5). Many of these measures had also significant implications on numerous rights enshrined in international human rights laws as well as in the European Charter of Fundamental Rights (eadem). Among others, they interfered with the right to the integrity of the person and the prohibition on selecting persons when practising medicine and biology (Article 3), the rights to liberty and security (Article 6), private and family life (Article 7) and the protection of personal data (Article 8), the freedoms of religion (Article 10), expression and information (Article 11) and assembly and association (Article 12), the prohibition of discrimination (Article 21), as well as the freedoms of movement and residence (Article 45) (ibidem: 9). They also affected how people access and enjoy many social and economic rights. In addition to that, it had also implications on people's access to justice and their right to an effective remedy and a fair trial (Article 47 of the Charter). Behind all these restrictions are people whose living conditions have been significantly affected by them. Alongside them, CSOs often try to provide support to those in need and mitigate the harshest effects of the restrictions.

Compliance with the principles of necessity, proportionality and time-limitation was reviewed by several courts throughout Europe, including the EU. For example, proportionality of restrictions to the freedom of assembly to the aim pursued was reviewed by the German Federal Constitutional Court. In its decision, the Court held that competent authorities cannot rely on blanket restrictions to the right to peacefully assemble and must consider each specific case before deciding to prohibit an assembly (ECNL, [COVID-19 and civic freedoms in Europe in 2020](#), 2020). In response to the restrictions to freedom of movement and assembly in Slovenia, the Constitutional Court ruled that the government has to assess, at least every seven days, if they are necessary to achieve the objectives pursued to follow the principle of necessity (FRA, *The Coronavirus Pandemic and Fundamental Rights: A Year In Review*, 2021). More decisions are yet to be issued. However, based on what is available, we can observe a trend in courts repealing or amending the restrictions due to their non-compliance with the above principles.

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<sup>3</sup> See: Universal Declaration of Human Rights, Articles 1 and 2; International Convention on Economic, Social and Cultural Rights, Article 2; International Covenant on Civil and Political Rights, Article 2; Convention on the Rights of the Child, Article 2; Convention on the Elimination of all Forms of Discrimination against Women, Article 2; International Convention on the Elimination of All Forms of Racial Discrimination, Article 2; and the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 1.

Courts also held that some restrictions were non-compliant with the principle of legality, i.e. they were not issued by a competent authority authorised to restrict fundamental freedoms (ECNL, [COVID-19 and civic freedoms in Europe in 2020](#), 2020).

## **2.2. COVID-19 pandemic influence on the rule of law and the work of democratic institutions**

The abovementioned emergency regulations introduced in respective countries have affected the functioning of many institutions of the rule of law. As a consequence, not only have the rules of operation changed for virtually all organisations, but those CSOs directly involved in advocacy, overseeing the rule of law or watching the hands of the government have faced particularly great difficulties in their work. There are plenty of examples of such changes being introduced from 2020 in various EU countries that are worth mentioning here.

Under the extraordinary measures, authorities in several countries used fast-track decision-making and law-making procedures that were not necessarily related to tackling the pandemic. Fast-track procedures were applied even to the most important issues concerning the functioning of state institutions. It had consequences not only for directly concerned entities or individuals, but also for public consultation with stakeholders as well as for parliamentary work in general. A high number of such urgent procedures have been reported in Czech Republic, France, Belgium, Poland, and Bulgaria (European Commission, [2021 The Rule of Law Report](#), 2021: 21). In Belgium, the Council of State has experienced challenges in giving opinions on draft legislation due to insufficient resources and frequently shortened deadlines for consultations. In Poland, the expedited adoption of legislation has continued to be used long after the pandemic started, including for significant structural reforms of the judiciary, such as the recent amendments to the law on the Supreme Court. In Bulgaria, important legislative amendments were introduced through revisions to other unrelated legal acts, which bypassed public consultation and impact assessment requirements. Moreover, expanded use of executive powers could have been observed, as well as a lack of lower levels of parliamentary oversight over executive power's decisions (ECNL, [Civic Space in the Era of Securitized Covid-19 Responses](#): 2021).

The mode of functioning of parliaments in Italy, France and Poland has changed under the state of emergency. These changes were not only related to organisational measures (e.g., due to social distancing); they also reduced and digitalised activities, often giving more focus to emergency laws and reducing the total number of new laws that were adopted. In all these countries, elections were also delayed, not always based on constitutional principles (as it was in case of postponing presidential elections in Poland) (Hondius, Ewoud, ed., [Coronavirus and the Law in Europe, Intersentia](#), 2021: Chapter 1). Holding elections during the pandemic generated many challenges regarding the involvement of civic activists that were in the frontlines: from ensuring voter safety to organising election observers amidst travel restrictions ([V-Dem Institute](#) 2021: 15-16).

Hurdles in democratic oversight of the authorities' work and access to public information were reported in Hungary, Germany, Spain, the Netherlands, Italy, Slovenia, Bulgaria, Estonia, France, Luxembourg and Czech Republic. They were related to the unconstrained powers of the government during the emergency, lack of a clear and sufficient legal basis for governments to adopt individual measures, providing additional powers to the police and surveillance overreach, as well as lack of transparency in government decision-making (Greenpeace and Liberties, [LOCKING DOWN CRITICAL VOICES. How governments' responses to the Covid-19 pandemic are unduly restricting civic space and freedoms across the EU](#), 2020: 1-49).

New powers were granted to the police, including a mandate to use force if necessary in Ireland, Poland, Italy, Austria, Romania, Spain, Croatia, Belgium, France, and Greece. As the enforcement of the restrictions was carried out by the police patrolling the streets, many instances of abuse and discrimination were observed across Europe (ECF, [Activizenship #5](#), 2021: 18, 20), often disproportionately impacting poorer areas and marginalized communities. Roma living in informal settlements, and refugees, asylum-seekers and migrants living in camps, have experienced disproportionate and discriminatory implementation of lockdown measures including heavy policing, and at times deployment of the army and mandatory testing. Asylum-seekers, refugees and migrants in camps and shared accommodation have also been targeted with selective quarantines, as well as forced evictions. People experiencing homelessness also suffered punitive measures under lockdowns and dozens were fined for not being able to follow measures regarding self-isolation and restrictions on movement (Amnesty International, [Policing the Pandemic](#), 2020: 35).

Enforcement of the ‘lockdown measures’ adopted by many European states have also disproportionately impacted racialized individuals and groups who were targeted with violence, discriminatory identity checks, forced quarantines and fines. Cases of systemic human rights concerns regarding institutional racism, discrimination in law enforcement, and lack of accountability regarding allegations of unlawful use of force by law enforcement officials were also observed (ibidem). Racial injustice and police brutality were specifically reported in Belgium and the United Kingdom ([CIVICUS Monitor](#), 2021 b).

Many restrictive measures adopted during the emergency regime were not revoked once the state of emergency came to an end (in countries, where it happened). Expedited, accelerated and fast-tracked decision-making procedures, with no or very little oversight on the executive, led to poor quality of regulations that were adopted and often remained in power. Also, operation of the justice system was affected with suspension and delays of proceedings and hearings as well as limited access to case files. This sometimes led to violations of fair trial standards in criminal proceedings (Ravo, Linda and Galaski, Jascha, [EU2020: Demanding on Democracy](#). Country & Trend Reports on Democratic Records by Civil Liberties Organisations Across the EU, 2021: 23-26).

### **2.3. Covid-19 pandemic impact on the situation of the beneficiaries of CSOs work**

When discussing the impact of the pandemic on the functioning of CSOs, we should not omit the impact on the beneficiaries of CSOs’ activities. The restrictions introduced during the pandemic and the changes in the way existing law was applied, particularly affected the most vulnerable social groups. In order to respond to their concerns, CSOs have often had to adapt their way of working, invest additional resources, and stretch their capacities.

There were numerous societal challenges which were reinforced by the pandemic. Importantly, the interruption of essential services that took place during the lockdown led to the disruption of several health and caregiving services. Many people lost their jobs and source of income, leading to difficult socio-economic situation and “sharpened inequalities and impoverishment” (EESC, [The response of civil society organisations to face the COVID-19 pandemic and the consequent restrictive measures adopted in Europe](#), 2021: 20). Elderly members of our societies were particularly vulnerable, and in many countries, a rise of domestic violence was reported related to the prolonged confinement of families in a small space and the weakening of control by the competent state institutions (FRA, [The Coronavirus Pandemic and Fundamental Rights: A Year In Review](#), 2021). An increased number of such cases were reported in Belgium, France, Latvia, and Greece (EESC, [The response of civil society organisations....](#), 2021: 19). The conditions deteriorated significantly also for people suffering from

intellectual, mental, physical and learning disabilities, as well as for those who have been confined to care institutions. Moreover, the threats were posed on food supply and agricultural workforce shrinking in several regions and, overall, the economic activities were disrupted what have had a heavy impact on SMEs and liberal professions, alongside influencing trade relations and consumers' habits (EESC, The response of civil society organisations..., 2021: VI).

In France and Spain, violations of labour rights were discussed more intensively than in other countries, especially in relation to the conditions of healthcare workers that were put under the spotlight during the pandemic globally, with many hospitals fighting to cope with the surge in COVID-19 infections ([CIVICUS Monitor](#), 2021 b). In many countries in Europe, health emergencies worsened the conditions of domestic and care workers, especially for those with migrant backgrounds (ECF, [Activizenship #5](#), 2021: 46, 55-57).

Practically in all 26 EU Member States, COVID-19 had an impact on the LGBTI+ community and their rights. Some of the challenges they were faced with include poorer transition-related medical care, deterioration in medical care for intersex people, and related to sexual health, as well as HIV-mitigating services (ECF, [Activizenship #5](#), 2021: 63). In Poland and Hungary, LGBTQI+ rights were also violated through verbal attacks, intimidation and violence. In the former country, gender-based violence was also reported ([CIVICUS Monitor](#), 2021 b). Members of LGBTI+ community also sometimes faced restricted access to housing, food, and subsistence through public relief programmes (ECF, [Activizenship #5](#), 2021: 63-64). In Poland, Ireland and Italy, the community had also restricted access to justice, registration, and other legal processes (ECF, [Activizenship #5](#), 2021: 64).

#### **2.4. CSOs' access to the most affected fundamental freedoms during the pandemic**

In addition to the general conditions of democratic institutions presented above that affected everyone in the country, a number of events and processes that took place amidst the pandemic specifically affected CSOs and activists. In this context, it is worth paying particular attention to events that have affected the exercise of fundamental rights and freedoms.

##### **2.4.1 Freedom of peaceful assembly and right to protest**

Freedom of assembly was probably the most affected by the pandemic's restrictions on civic rights all around Europe (see Jarman, N. and Ogenovska, S., [Protest in time of pandemic](#), ECNL, 2020; INCLO, [Protesting During a Pandemic: State Responses During Covid-19](#), 2021). Due to the introduction of restrictions on social distance and bans on public gatherings, this right has been restricted in many EU Member States (see: ECF, [Activizenship #5](#), 2021: 16).

During Germany's first phase of COVID-19, many administrative courts confirmed the bans on assemblies, including total bans. Other restrictions on the 'Right to Assembly' have made demonstrations and expressions of opinion difficult in this country (ECF, [Activizenship #5](#), 2021: 82). In France and Italy there were bans on all public gatherings, including demonstrations. Similarly, in Poland and Hungary, a ban on all outdoor and indoor events, including assemblies and demonstrations, was in place (ECF, [Activizenship #5](#), 2021: 21, 22). In Spain, while the 'State of Emergency' does not allow for the suspension of any fundamental rights, including the right to peaceful assembly, de facto the right was suspended. When appealed, the Constitutional Court confirmed the concrete prohibition of the demonstration due to the risk of virus contagion. In Czech Republic, public gatherings and physical contacts were limited to a maximum of 2 people (ECF, [Activizenship #5](#), 2021: 74; [CIVICUS](#)

[Monitor](#), 2021 b). In Greece, lockdown restrictions prevented people from gathering in groups of more than ten individuals in open spaces (ECF, [Activizanship #5](#), 2021: 110). In Slovenia, “Ordinance on the temporary prohibition of public gathering at public meetings and public events and other events in public places” prohibited all public gatherings, and even restricted people’s movement to work, farming, and essential services (ECF, [Activizanship #5](#), 2021: 144, 145).

With the easing of restrictions over the summer, many countries started allowing assemblies again. In many cases, courts played an important role in recognising this right, including in Germany and France. Nevertheless, freedom of assembly remained restricted in some countries even as other areas of public life were opening up. In mid-June 2020 in Romania, protests remained banned while cultural events were allowed in small groups gathering up to 500 people. In several countries, including Finland, Slovakia and Belgium, while demonstrations were allowed, authorities have introduced additional forms of restrictions respecting sanitary measures. Some of them introduced restrictions on the number of people that could assemble and adopted new and higher sanctions (Jarman, N. and Ognenovska, S. 2020, [Protest in time of pandemic](#): 1-4).

As dissatisfaction grew with how individual governments were tackling the pandemic and the consequent economic difficulties, mass protests were increasingly organised despite the prohibitions in place. In several countries, such as Belgium, Bulgaria, Croatia, France, Germany, Greece, Poland, Slovenia and Spain, the police or security forces replied with violence during peaceful protests and used arbitrary arrests (ECF, [Activizanship #5](#), 2021: 22, 23, 24, 25; [CIVICUS Monitor](#), 2021 b; European Commission, [2021 The Rule of Law Report](#), 2021: 23; Vosyliūtė, L. and Ngo Chun, L., [Protecting civil society space: strengthening freedom of association, assembly and expression and the right to defend rights in the EU](#), study requested by the European Parliament's LIBE Committee, 2020: 46-99). Pressure against protesters grew as the pandemic progressed in some countries, such as in Poland and Slovenia where massive mobilisations took place in 2020 against authorities’ decisions (ECF, [Activizanship #5](#), 2021: 27). Arbitrary restrictions on the right to protest resulting in the decline of physical protests, violent disruptions of already organised assemblies (including illegal or disproportionate use of force), hefty sanctions, introduction of vague wording and arbitrary enforcement, tracking of protesters were reported in Germany, Belgium, Italy, Slovenia, France, Romania, Ireland, Cyprus, Greece, Lithuania, Bulgaria, Spain, Poland, Hungary (Greenpeace and Liberties, [LOCKING DOWN CRITICAL VOICES. How governments’ responses to the Covid-19 pandemic are unduly restricting civic space and freedoms across the EU](#), 2020: 1-49; Ravo, L. and Galaski, J., [EU 2020: Demanding on Democracy](#), 2021: 23-26; INCLO, [Protesting During a Pandemic: State Responses During Covid-19](#), 2021: 1-31).

#### **2.4.2 Freedom of association**

While freedom of association was not directly addressed in the COVID-19 restrictions, a number of states have adopted new rules affecting the freedom of association, in the context of limited public oversight and reduced democratic accountability resulting from the COVID-19 pandemic. As mentioned above, in Greece, a new law was passed requiring CSOs working with refugees and migrants to register and operate, as well as on social inclusion. These CSOs were given 10 days to register with the Citizen Protection Ministry or were at risk of being banned from operating in the country (ECF, [Activizanship #5](#), 2021: 109; Vosyliūtė, L. and Ngo Chun, L., [Protecting civil society space: strengthening freedom of association, assembly and expression and the right to defend rights in the EU](#), study requested by the European Parliament's LIBE Committee, 2020). In some countries, governments have hindered the day-to-day operations of “troublesome” organisations in other ways. In Hungary, Poland, Slovenia, Slovakia,



Greece and France, CSOs critical of government policies were harassed and intimidated by public authorities and officials. For example, the police used violence and threats of criminal sanctions against associations working with migrants in France and Greece. In Slovenia, CSOs were evicted in the middle of the pandemic with little notice (ECF, [Activizeship #5](#), 2021). In Slovakia, verbal attacks from public authorities and politicians against activists and CSOs, as well as reduction of public funds for CSOs that promote gender equality, raise concern about respect for civil society's democratic role (all - see: European Commission, [2021 The Rule of Law Report](#), 2021: 23).

### **2.4.3 CSOs' access to funding**

The most important impact on the right to association involves the huge effects on CSOs' access to funding for their activities, which have not often been adequately addressed by national governments. Like businesses, CSOs' finances have seen a drop due to restrictions imposed on social life as well as due to shifts in funding priorities to tackle the health crisis. This happened at a time when CSOs were also struggling with an increased need to provide support to their constituencies and adapt their work to the socially-isolated world (ECF, [Activizeship #5](#), 2021: 37, 38; [CIVICUS Monitor](#), 2021 b). In many countries, public support to the sector arrived late and was unfit for the scale of challenges CSOs faced (ECF, [Activizeship #5](#), 2021: 38-41). CSOs working with the most vulnerable members of particular communities have been the most affected. LGBTI+ organisations in Europe reported a decrease in their ability to do advocacy work and engage with policymakers as a consequence of these developments (ECF, [Activizeship #5](#), 2021: 64-65). On top of that, in countries like Slovakia, Hungary, Slovenia, Czech Republic, Croatia CSOs were faced with further reductions and restrictions in public support (ECF, [Activizeship #5](#), 2021: 41-43). In Malta CSOs have expressed concerns about new fundraising rules, which would make it more difficult for associations to conduct their activities.

### **2.4.4 Right to public participation**

An important part of the work of a significant group of civil society organisations is participation in the decision-making and law-making process. Unfortunately, the possibility of conducting such activities was also significantly reduced during the pandemic in many countries (Ravo, L. and Galaski, J., [EU 2020: Demanding on Democracy](#), 2021: 23-26). Governments in Bulgaria, Estonia, Latvia, the Netherlands, Romania, Germany, Greece, Slovakia, Czech Republic, Slovenia, Spain, Hungary, Poland and Croatia disregarded civil dialogue mechanisms while creating the law (ECF, [Activizeship #5](#), 2021: 33-35; Greenpeace and Liberties, [LOCKING DOWN CRITICAL VOICES. How governments' responses to the Covid-19 pandemic are unduly restricting civic space and freedoms across the EU](#), 2020: 1-49). In Germany, accelerated legislative procedures significantly limited the opportunities for civil society to participate (ECF, [Activizeship #5](#), 2021: 82). Also in Slovenia CSOs were excluded from influencing policy making and government-hampered public debate and social dialogue (ECF, [Activizeship #5](#), 2021: 146-147).

### **2.4.5 Right to be informed and of access to information**

An important factor for public participation is the right to access to public information, recognised in the constitutions of several countries. However, in some countries (i.e., Hungary, Italy, Spain, Bulgaria, Romania, Poland and Ireland) governments suspended or limited transparency legislation or parts of it (ECF, [Activizeship #5](#), 2021: 35-36, 128; Ravo, L. and Galaski, J., [EU 2020: Demanding on Democracy](#), 2021: 23-26). In Hungary, access to public information was tightened through emergency measures, making timely access to such information harder for independent media outlets. In Poland,

the pandemic led to the suspension of deadlines stipulated by administrative law, thereby limiting or delaying access to public information. In Romania, the pandemic was used to justify delays or refusals to provide information. Regular monitoring conducted by the national authorities revealed differing implementation in the administration, as well as an insufficient prioritisation of transparency measures by public bodies, with lowest compliance levels for local authorities (European Commission, [2021 The Rule of Law Report](#), 2021: 18). Additionally, data protection rules were used to limit access to information (European Commission, [2021 The Rule of Law Report](#), 2021: 20). In Croatia, shortcomings were highlighted about enforcement of decisions of the Information Commissioner (ibidem: 18). In Czech Republic, access to information on public procurement was effectively put on hold under the emergency regime (ECF, [Activizenship #5](#), 2021: 73). In Slovenia, an official communication of the government was reduced to a single public speaker and journalists were prevented from attending press conferences with no possibility to pose questions (ECF, [Activizenship #5](#), 2021: 145).

#### **2.4.6 Freedom of expression**

Some legal regulations and government decisions have also influenced the freedom to express one's own opinion. In Hungary, Romania, Bulgaria, Poland, authorities have sought to control and sanction citizens, activists and journalists. In Hungary, it was done through the Bill on Protection against the Coronavirus, adopted on March 30, 2020 that amended the Criminal Code concerning the crime of 'impairing or conveying false information'. Under this regulation, anyone who publicises false or distorted facts that interfere with the 'successful protection' of the public or might alarm or agitate the public, could be punished by up to five years in prison ([CIVICUS Monitor](#), 2020 a). Similar legislation was also discussed in Bulgaria and Romania (ECF, [Activizenship #5](#), 2021: 25-27).

A similar effect in the form of silencing dissenting voices could have the proposal to ban hate speech on social media introduced in Spain ([CIVICUS Monitor](#), 2021 a). In Romania, under the rules suppressing online speech, at least 12 websites were shut down without judicial review by the government's crisis unit on grounds of countering the alleged spread of COVID-19 related 'fake news' ([CIVICUS Monitor](#), 2021 a). In Greece, a decision issued by the government prohibited hospital staff from speaking with the media about the problems of healthcare, and journalists were mandated to obtain permission for reporting in hospitals ([CIVICUS Monitor](#), 2021 a). Similar measures were adopted by order of the Minister of Health in Poland. In Hungary, any information related to the emergency situation had to refer to official information provided by the government (ECNL, [Free speech under quarantine: when emergencies lead to censorship, EU law might help](#), 2020: 1). In Hungary, Poland, Romania, Spain and Slovenia, prosecutions of those critical of state responses to pandemic were reported, including by misusing laws designed to tackle disinformation, limiting possibilities for independent media and watchdogs to question authorities, as well as initiating smear campaigns against journalists, rights defenders and activists (Greenpeace and Liberties, [LOCKING DOWN CRITICAL VOICES. How governments' responses to the Covid-19 pandemic are unduly restricting civic space and freedoms across the EU](#), 2020: 1-49; Ravo, L. and Galaski, J., [EU 2020: Demanding on Democracy](#), 2021: 23-26). The same purpose served using strategic lawsuits against public participation (SLAPPs) that were filed to muzzle watchdog CSOs and other human rights defenders, criticising openly entities holding economic and political power (Vosyliūtė, L. and Ngo Chun, L., [Protecting civil society space: strengthening freedom of association, assembly and expression and the right to defend rights in the EU](#), study requested by the European Parliament's LIBE Committee, 2020: 46-99; European Commission, [2021 The Rule of Law Report](#), 2021: 19).

In several countries (Slovenia, Italy, Croatia, Germany), journalists were verbally attacked by local politicians and other actors active in the public sphere ([CIVICUS Monitor](#), 2021 a). In some cases, death threats and other forms of journalists' intimidation were observed, like in Greece, Denmark and Malta. Harassment, psychological abuse, legal threats, physical assaults, attacks on property, hate speech, smear campaigns and censorship reported in France, Germany, Greece, Slovenia and Poland (European Commission, [2021 The Rule of Law Report](#), 2021: 18).

Other activities directed against media freedom were recorded in Romania, Hungary, Bulgaria, Bosnia, Czech Republic, Malta, Spain, Greece, Slovenia, Italy, Poland (Wiseman, J., [Media Freedom in Europe in the Shadow of COVID-19. MONITORING REPORT 2020](#), 2020: 1-22). In some of these countries, vaguely defined laws were used to censor critical reporting, even leading to the closing of web portals. In others, disproportionate barriers for journalists trying to take part in public events were imposed; independent media requests for information from public institutions were disregarded. All these events happened alongside media houses facing financial hardships, forcing some of them to either temporarily or permanently cut staff wages or even lay off some editorial staff.

#### **2.4.7 Right to privacy**

Across the EU various measures adopted have been restricting the right to privacy of a significant proportion of the population. In this respect in Bulgaria, Poland, Slovenia, Croatia, Spain and France law enforcement agencies were provided (or attempts were made) with additional powers to collect and use private data, including from cell phones, through tracing apps and other technologies (ECF, [Activizanship #5](#), 2021: 29-30; Ravo, L. and Galaski, J., [EU 2020: Demanding on Democracy](#), 2021: 23-26; ECNL, [Civic Space in the Era of Securitized Covid-19 Responses](#), 2021). The covid tracing apps and other tracing tools were not subject to the data protection impact assessment reviews and/or were not consulted with the data protection authorities, while breaching General Data Protection Regulation (ECNL, [Europe Trends Overview Tracker, 2020 b](#): p. 5). In Germany, new surveillance technologies and registration formalities pose risks, especially for civil society actors (ECF, [Activizanship #5](#), 2021: 82-83). The use of surveillance measures was also reported for Ireland (ECF, [Activizanship #5](#), 2021: 126-127). In Slovenia article 103 of "Anti-corona Mega Law" provided police with wider repressive powers and access to people's personal health information. Article 104 introduced provisions for the surveillance of citizens through their mobile phones (ECF, [Activizanship #5](#), 2021). In some cases, they have particularly affected citizen activists seeking to exercise their rights and freedoms, especially in the context of public demonstrations.

#### **2.5 Conclusions**

Secondary data sources analysis has shown the presence in the available literature of a number of ways in which the capacity of civil society organisations to act, and in particular to exercise their fundamental rights, has been reduced during the pandemic. Such results were often caused by the measures or policies which, on the one hand, must be considered justified by social needs or sanitary risks. However, on the other hand, there have also been cases in various Member States where the measures introduced do not meet the criteria accepted under international law. This concerns above all the extent to which they were proportionate, necessary, and non-discriminatory, as well as whether they had been accompanied by "sunset" clauses that limited them to a set, adequate period. Judicial decisions already taken in specific cases in several Member States may be helpful in assessing the legality of individual measures.

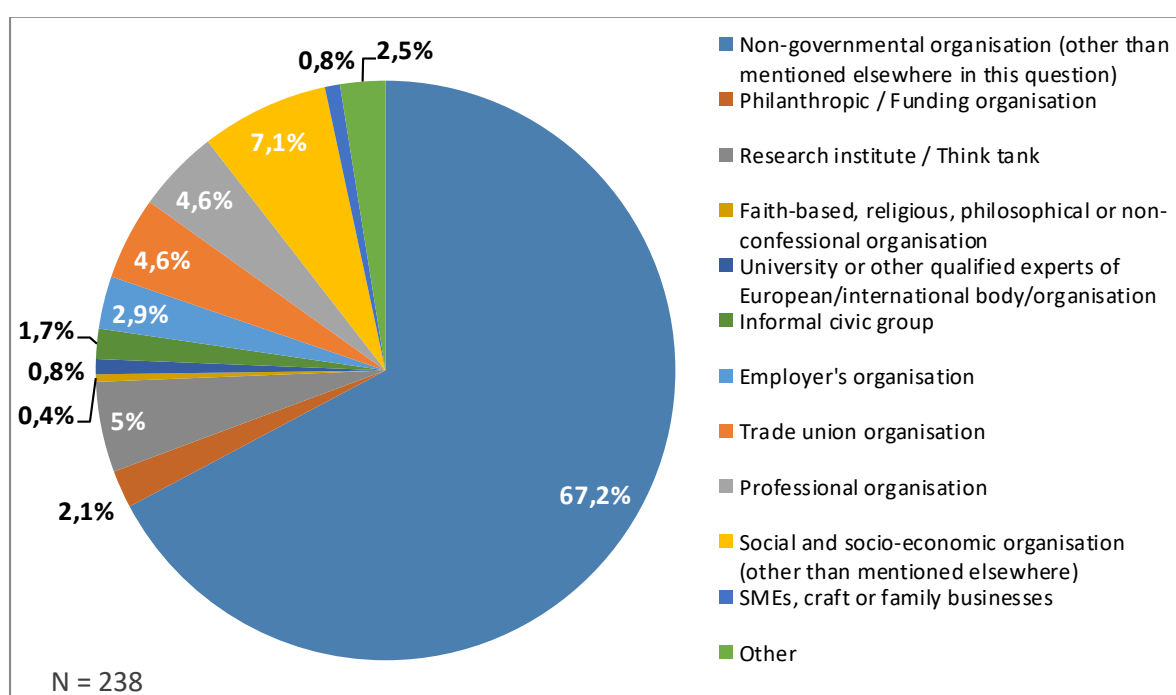
### 3. Impact of the pandemic on the exercise of fundamental rights by CSOs: online survey

In order to corroborate and complement the knowledge from the analysis of the available reports, we carried out an online multilingual survey. Responses were collected from 20 August to 22 September 2021 in 11 languages. 238 responses were received from bodies belonging to the broad category of civil society organisations (as defined above) based in all EU Member States.

#### 3.1. Survey sample composition

The first part of the survey looked at the characteristics of respondents. The distribution of respondents based on the types of entities belonging to the different categories of CSOs is shown in Figure 1. The category "Other" primarily included national NGO platforms and federations.

Figure 1. Distribution of various types of CSOs in the surveyed sample.

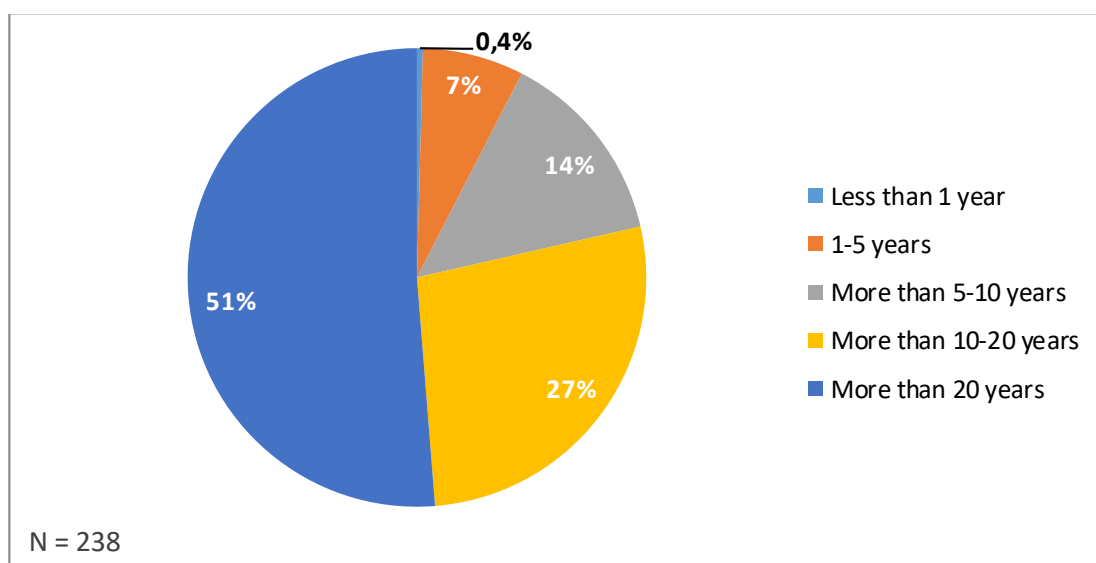


It is important to point out that the size of the sample surveyed, and how it was spread (mainly by direct invitations sent through the various channels available), do not allow the results obtained to be considered representative of all CSOs active in the Member States of the EU. The sample also included different sized groups of entities from different EU Member States. The largest groups were organisations from countries such as Poland, Bulgaria, Croatia, Hungary, France, Germany, and Spain (in that order). On the other hand, one or two questionnaires each were completed by organisations from Cyprus, Estonia, Finland, Ireland, Malta and Sweden. However, this does not mean that the results obtained are not valid. On the contrary, especially the number and diversity of the actors involved makes this material valuable in terms of learning the opinions of a large group of CSOs. Furthermore, due to the size of the sample, this study should be regarded primarily as qualitative in nature. The results obtained were also presented to experts participating in the interviews and focus groups at later stages of the study, who always confirmed the validity of the findings based on own knowledge (see in the following subsections of the report).

The diversity of the entities participating in the study also relates to the nature of their activities. The largest groups of entities surveyed operate in the areas of: Advocacy, campaigns and awareness raising, civic participation and volunteering, community engagement and development, human rights and non-discrimination, democracy, governance, transparency & accountability, youth and education, research and data collection, policy and research, as well as service provision in projects in social integration, social services, healthcare, etc. The smallest group of surveyed entities were involved in religious activities, sport and hobby, agriculture, consumer rights, media and litigation. However, it must be stressed that even these latter groups of organisations constitute a visible part of the sample. Between these extremes, there are also organisations operating in several other important areas (see Annex 1 to this report for a full list of entities included in the survey).

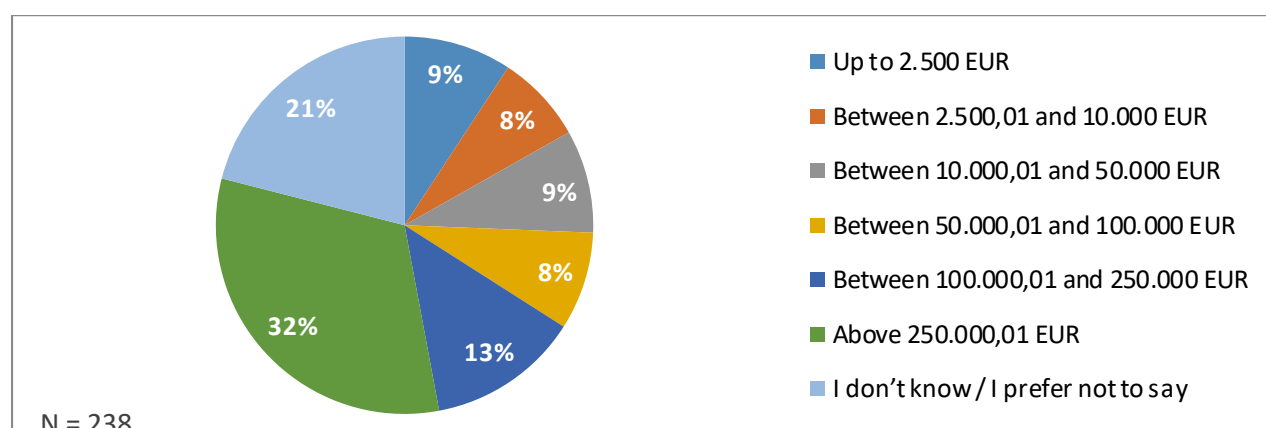
The vast majority of entities in the surveyed group are experienced organisations, existing for over 20 years. Only one entity reported operating for less than a year. The exact distribution of responses is shown in Figure 2.

Figure 2. Length of operation of surveyed organisations



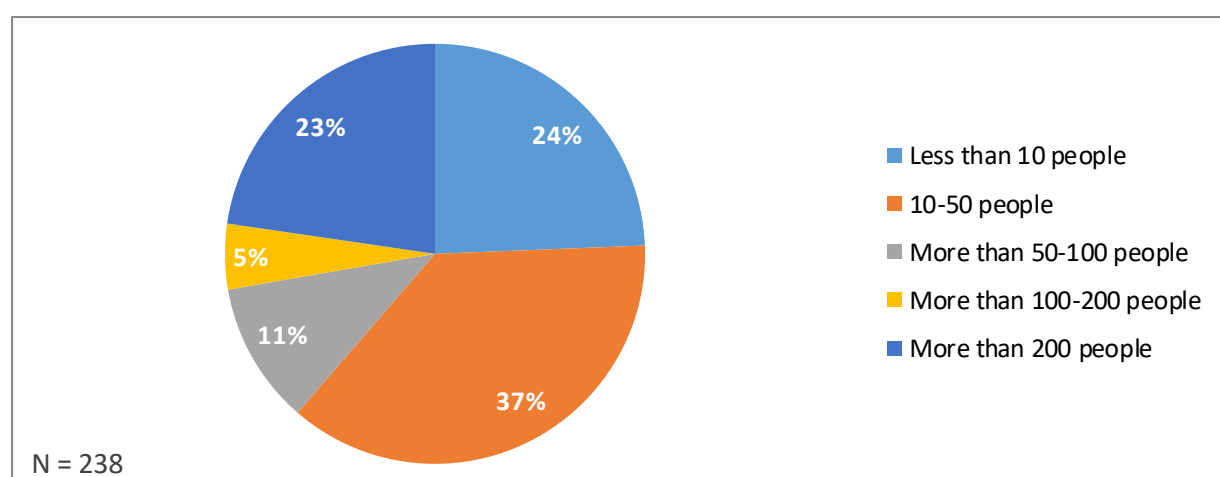
32% of surveyed organisations, the largest group concerning the turnover of the organisations, reported a budget of over 250.000 Euro (see Figure 3). However, it must be stressed that the sample also included significant groups of organisations with smaller annual budgets at their disposal. One-fifth of surveyed organisations have selected an answer allowing them to refuse to provide data on their annual budgets.

Figure 3. Annual turnover in 2020 (in Euro) of the organisations included in the survey



The sample is very diverse in terms of the number of people working with the surveyed organisations. The survey included entities that worked with less than 10 people (who were their employees, volunteers or members) in 2020, as well as those with hundreds of collaborators.

Figure 4. Number of people (employees, volunteers, members) involved in surveyed CSOs' operation in 2020

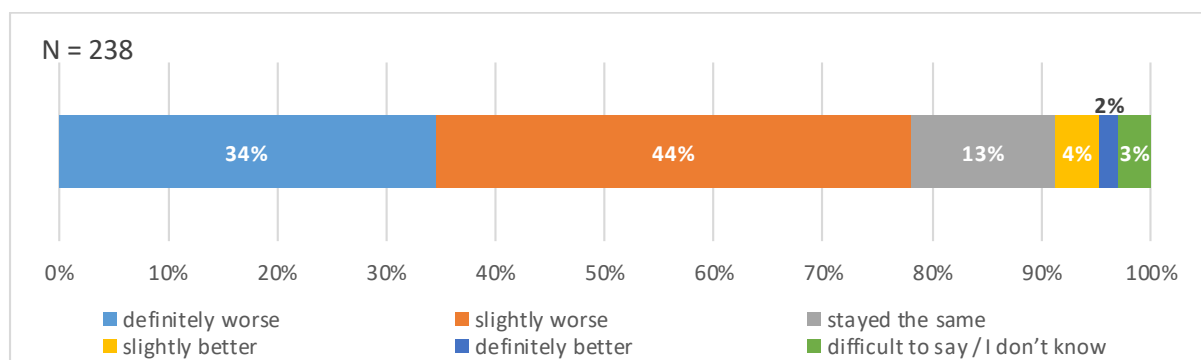


The largest group of surveyed organisations work mostly on the national level (149). Second for frequency is the group of organisations operating at the international/European level (consisting of 76 entities), followed by those working at the regional level (in a number of cities or communities; 53 entities). The smallest one consists of entities that operate mostly in rural communities (16).

### 3.2. Assessment of the impact of the COVID-19 pandemic on the organisations surveyed

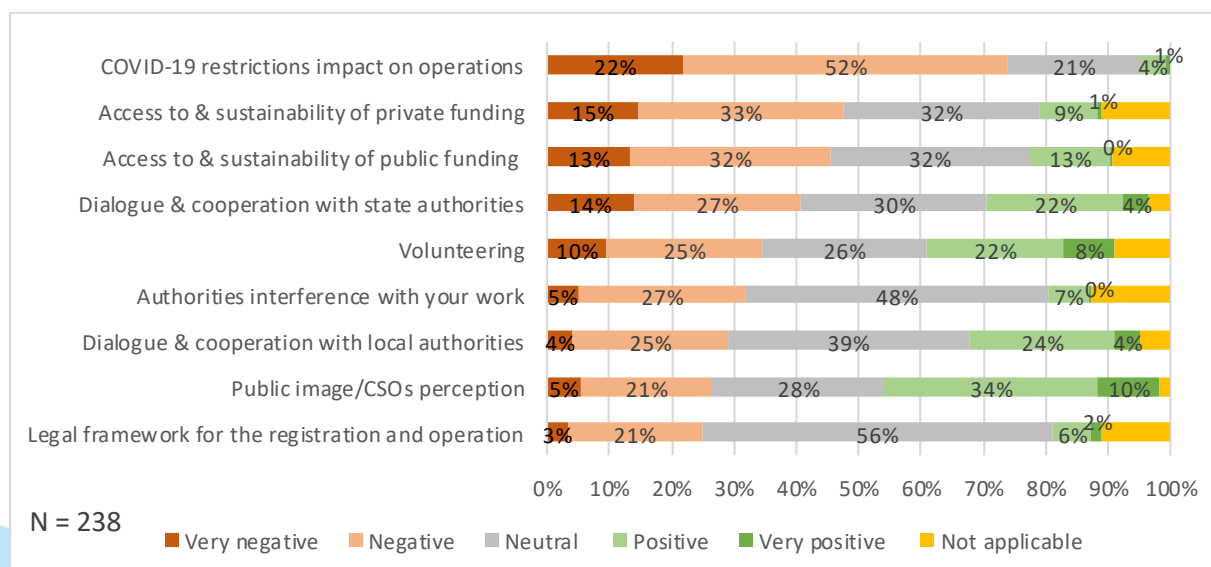
The second part of the survey asked respondents to assess the impact of the pandemic on the operations of their own organisation. The results show a worrying picture. Almost 80% of surveyed CSOs reported that their operating environment (conditions for their work and action) during the COVID-19 pandemic deteriorated as compared to the pre-pandemic environment (see Figure 5).

Figure 5. Answers to the question “How would you evaluate your organisation’s operating environment during the COVID-19 pandemic as compared to the pre-pandemic environment”?



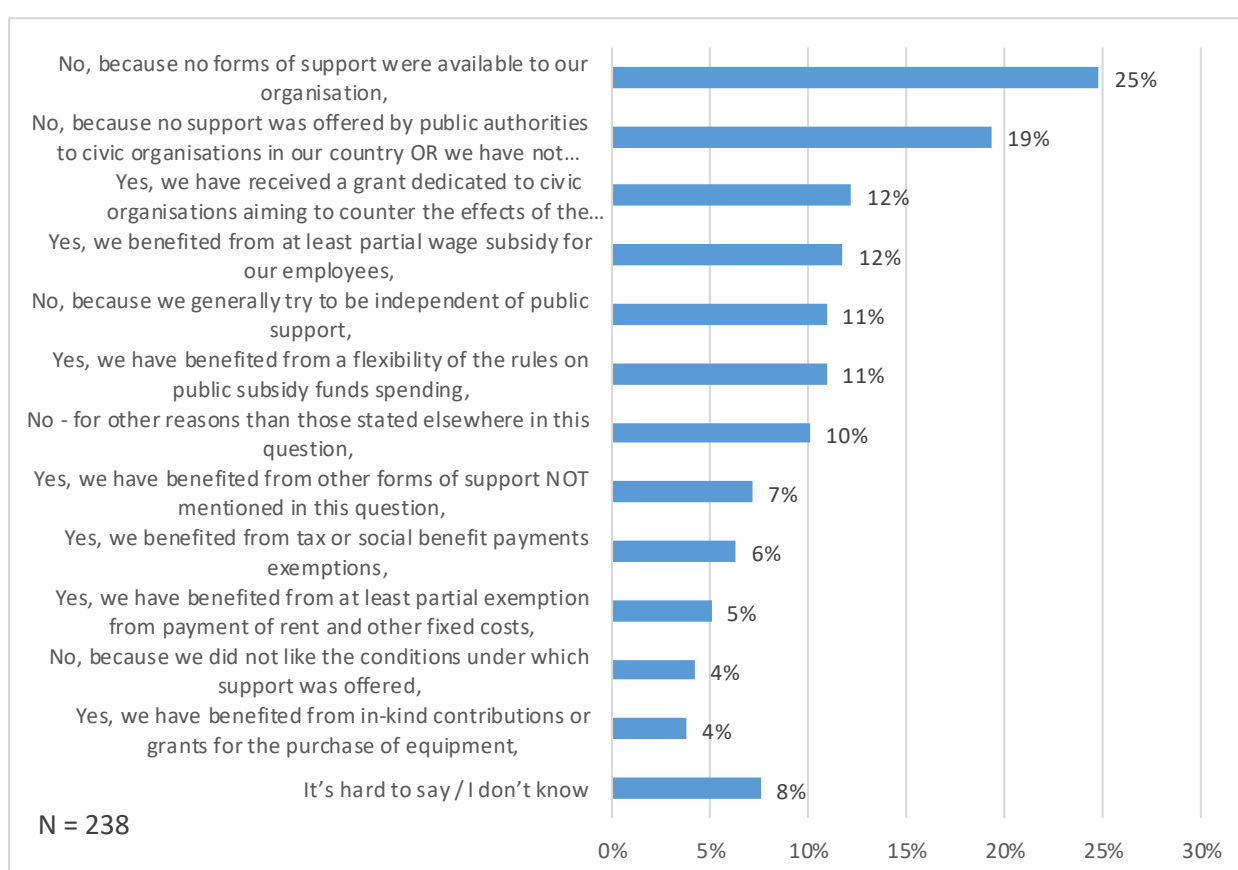
When asked to evaluate the contextual conditions for their organisations, “COVID-19 restrictions impact on operations” was the response receiving the most negative responses in the surveyed group (evaluated as “very negative” or “negative” by 74% of participants). The second category of high concern appears to be the funding environment: the “access to and sustainability of private funding (including donations and philanthropy)” was assessed negatively by 48% of respondents and “access to and sustainability of public funding” was reported having negative or very negative impact by 45% of respondents. 41% of respondents observed negative developments in the area of “dialogue and cooperation with state authorities” amidst COVID-19 and 32% regarding authorities’ interference with individual CSO work (including the right to privacy). 35% of respondents reported deterioration concerning volunteering, but almost the same proportion of the surveyed group of CSOs (30%) indicated an improvement in this area. The same situation applies to dialogue and cooperation with local authorities, where groups of CSOs of the same size indicated that their situation had worsened and improved (almost 30%). “Public image and perception of CSOs” was the only category in respondents indicating positive developments during the pandemic period (44%) as compared to those reporting a worsening of the situation (26%) (see Figure 6 for all the results).

Figure 6. Answers to the question “How do you evaluate contextual conditions for your organisation with regard to legal framework, financing, private donations, public image, state support and attitude, as well as volunteering since the COVID-19 pandemic started?”



The particularly negative assessment of the change that occurred around funding as a result of the pandemic seems even more significant when looking at the forms of public support that surveyed organisations reported having benefited from during the pandemic. The largest group of respondents (59 organisations) stated not having received any support because no forms of such assistance were available to their particular kind of organisation. The second largest group (46 entities) did not benefit from any kind of help because no support was offered by public authorities to civic organisations in the respective country (or surveyed entities have not heard about that). Only 29 have received a grant dedicated to civic organisations aiming to counter the effects of the pandemic; 28 CSOs benefited from at least partial wage subsidies from their employees, and; 26 could benefit from flexibility of the rules on public subsidy funds spending. However, some of the CSOs responded that they have not used any kind of assistance as they generally try to be independent of public support (26 responses) as well as for other reasons than those stated elsewhere in this question (24 responses) (see Figure 7).

Figure 7. Answers to the question “Did your organisation benefit from any kind of support offered in your country by public administration amidst COVID-19 pandemic?” [multiple answers were possible]

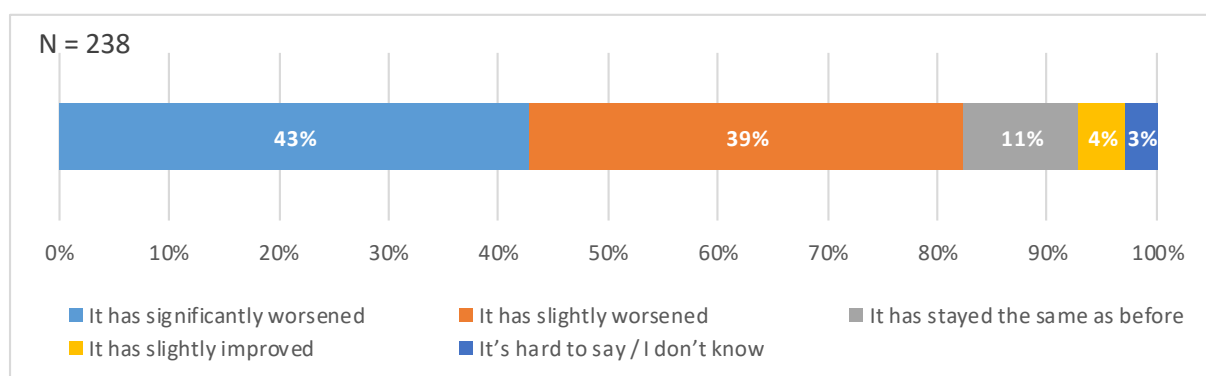


### 3.3. Evaluation of the COVID-19 impact on the situation of civic sector in the country

The third part of the survey requested organisations to assess the general environment for the CSO sector in their country. It is interesting to note that even some of the organisations that had previously indicated that the pandemic had not negatively affected their operating conditions perceived a general deterioration in the operating conditions of all civil society organisations in their country. The overall situation in the country was rated negatively or very negatively by 82% of surveyed organisations (see Figure 8).

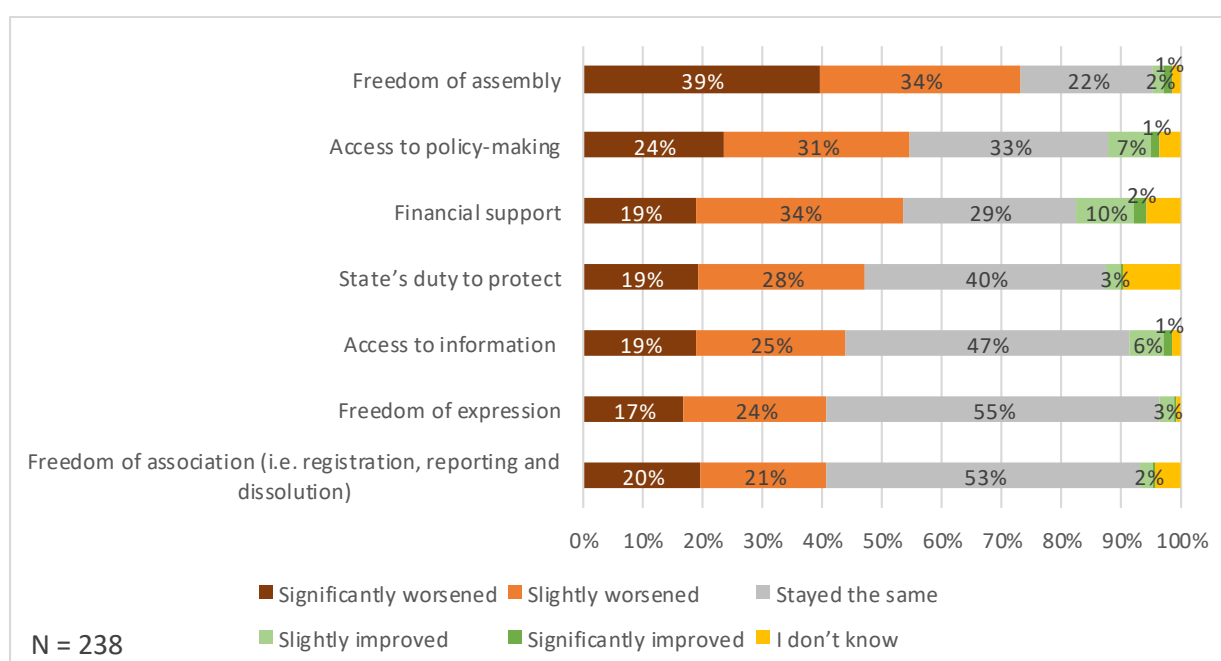


Figure 8. Answers to the question “How would you rate the conditions for civil society organisations operation in your country in general since the COVID-19 pandemic outbreak?”



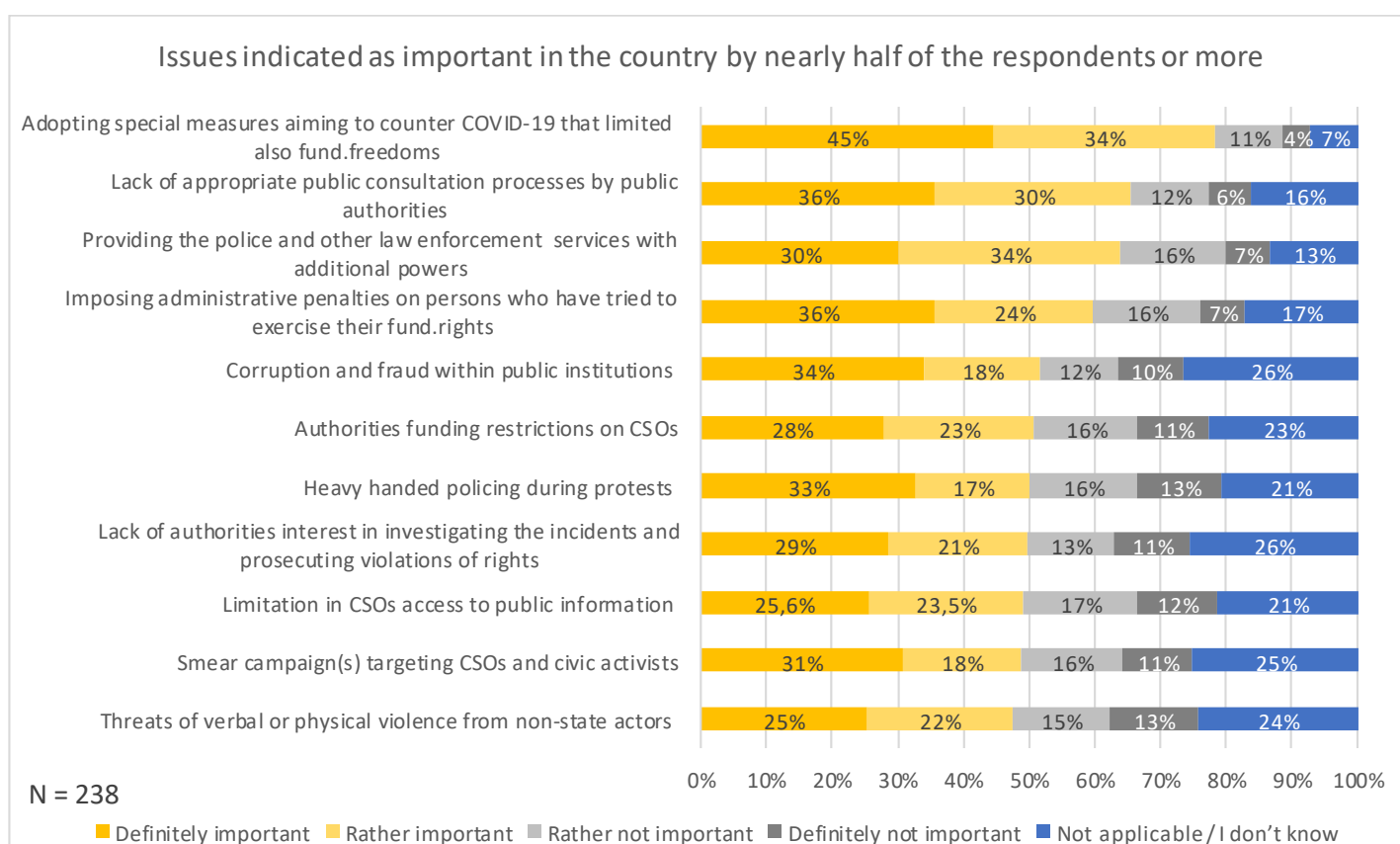
Access to the right of assembly was rated most negatively by the surveyed organisations - with 73% of respondents indicating that the situation in this area deteriorated during the pandemic. 55% of surveyed CSOs observed negative changes in access to policy-making and 53% reported negative developments in relation to financial support. These are the three categories that respondents identified most frequently as areas where deterioration had occurred for the civil society organisations' sectors in the respective countries. At the same time, 12% have also indicated slight improvements in the area of funding. It should be noted, however, that in all areas indicated in this question, significantly larger groups of respondents indicated that conditions had worsened rather than improved. See Figure 9 for all the results.

Figure 9. Answers to the question “How would you assess the change in the situation of civil society organisations in your country since COVID-19 pandemic outbreak when the following operating standards for civil society are concerned?”



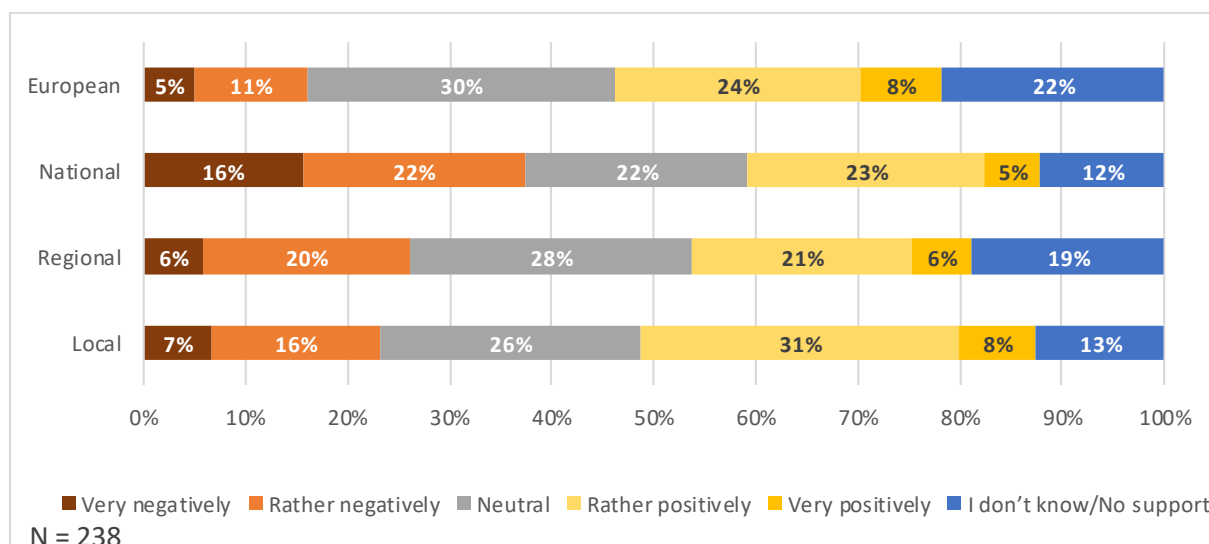
The survey also asked CSOs to assess which factors had the highest impact regarding access to fundamental rights and the functioning of civil society organisations. Adopting special measures aimed at countering COVID-19 that also limited fundamental freedoms was indicated as an important issue by the largest majority of respondents (78%). 66% of surveyed CSOs pointed as important or very important “lack of appropriate public consultation processes by public authorities” and 64% “providing the police and other law enforcement services with additional powers to ensure the measures implemented”. 60% indicated an important trend/event in their country “imposing administrative penalties for allegedly violating extraordinary measures on persons who have tried to exercise their fundamental rights. Other issues that nearly half of the respondents indicated as important in their country include: corruption and fraud within public institutions (52%), authorities funding restrictions on civil society organisations (51%), heavy handed policing during protests and lack of authorities’ interest in investigating the incidents and prosecuting violations of civic groups’ and activists’ rights (both 50%), limitation in civil society organisations’ access to public information (49%), smear campaign(s) targeting civic organisations and civic activists (49%), threats of verbal or physical violence from non-state actors/unknown entities (47%). Among the issues presented for verification of their relevance by respondents (that were formulated basing on the secondary data analysis conducted in the previous stage of the research), none was rated as not important by a majority of the respondents (see Figure 10 for more detailed data).

Figure 10. Answers to the question “To what extent the following issues were important factors in your country for fundamental rights and operation of civic organisations since the COVID-19 pandemic outbreak?”



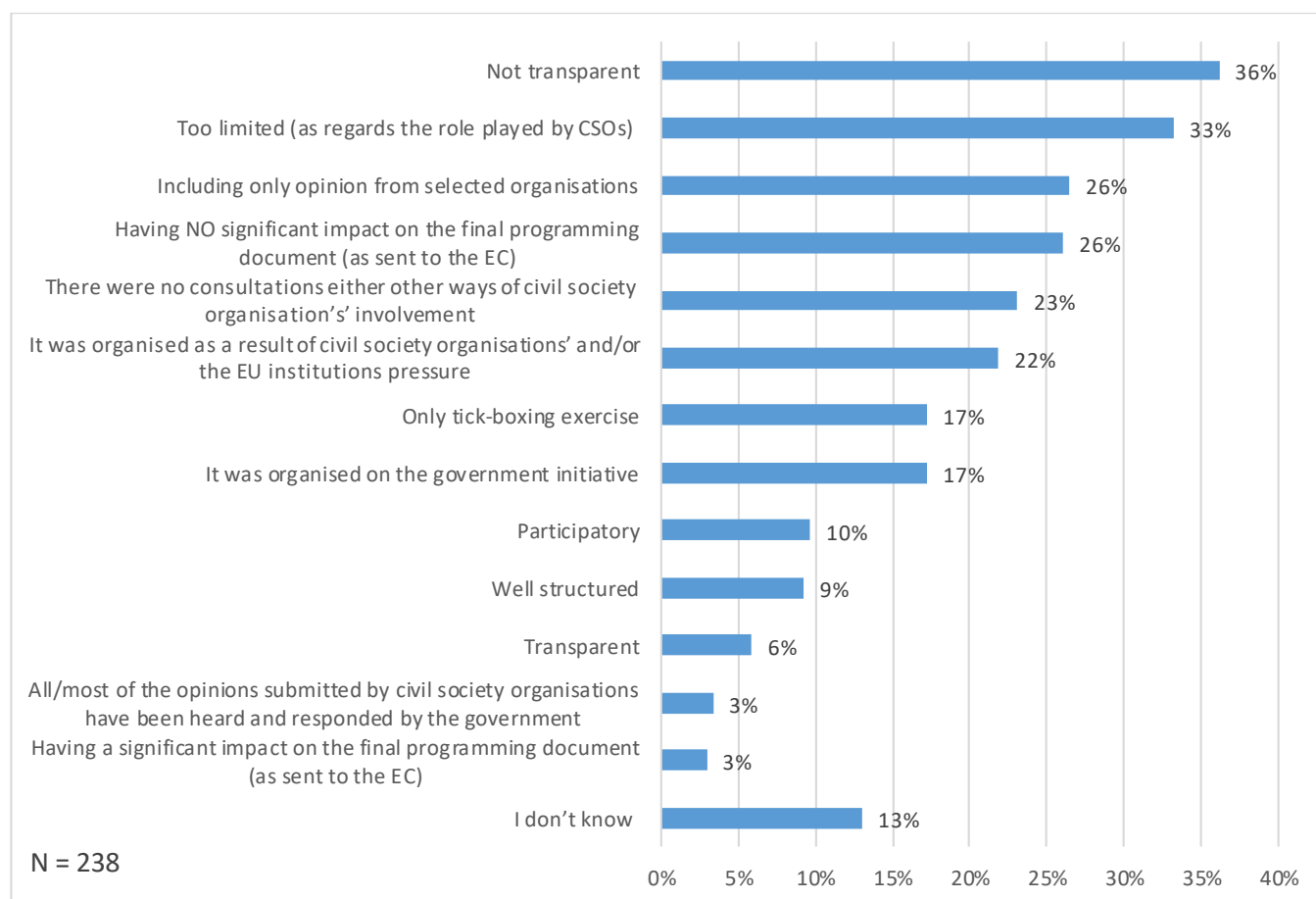
Despite such a clearly negative variety of experiences that the surveyed organisations encountered during the pandemic, it is worth noting that they also experienced some support from public authorities. A large group of organisations reported having received support and recognition for their role from local authorities and European institutions. On the other hand, the most negative experiences concern CSOs' cooperation with central authorities; in this case, the group of organisations declaring negative experiences outnumbered those evaluating their support positively (see Figure 11).

Figure 11. Evaluation of the level of cooperation and support that CSOs in the country experienced during the COVID-19 pandemic from public institutions operating at different levels of government



After discussing different ways of support that CSOs could benefit from and their cooperation with the authorities the survey also asked respondents to assess the involvement of CSOs while preparing the National Recovery and Resilience Plans (see more about this mechanism – in section 4.5 in this report). The largest groups of surveyed organisations indicated that this process was conducted in their country in a non-transparent manner (86 responses), the role envisaged for the organisations in it was too limited (79 replies). In addition, 63 CSOs admitted that only opinions from selected organisations were included and the actions taken had no significant impact on the final programming document (as sent to the European Commission; 62 responses). Moreover, 55 CSOs even said that there were no consultations nor other ways to involve civil society organisations. The number of responses indicating a positive way to organise this process hardly exceeded 20 in two categories – this was the case for the assessment that the whole process was participatory and well structured (see Figure 12).

Figure 12. Evaluation of the level of involvement of CSOs by government / Ministry in charge in the preparation of the EU post-pandemic recovery (National Recovery and Resilience Plans to access Next Generation EU funding)



### 3.4. Conclusions

The results obtained from the survey show how much impact the COVID-19 pandemic has had on many areas of CSO functioning. Individual organisations were most directly affected by COVID-19 restrictions impacting on their operations as well as access to and sustainability of private and public funding. Also, dialogue and cooperation with state authorities, and volunteering were the next most affected areas of activity by the pandemic. It is also important to note that while the negative impact of the pandemic on their own capacities was indicated by a significant number of organisations (78%), an even larger proportion saw a negative impact of the pandemic on the entire CSO sector in their country (82%).

However, not all the picture that emerges from the survey is entirely negative. The results show that for a large group of CSOs, the public image of their respective organisations has improved (this group is twice as big compared to the number of CSO respondents that said they felt their image had deteriorated). This indicates the capital earned by CSOs through their activity during the pandemic. This capital can pay off in the years to come. It is also worth using to advocate now for public policies that respond to the challenges CSOs face.

And the presence of many such challenges was shown by the survey. Often these are not new issues, but rather phenomena whose impact has been amplified by the pandemic. The results of the survey show that in many EU member states, organisations have felt their ability to exercise their fundamental rights curtailed. The most affected were freedom of assembly, access to policy-making, financial support, and the state's duty to protect individuals and legal entities from violations of their rights by public institutions and non-state actors. Of the 17 factors that could affect the exercise of fundamental rights by CSOs in each country during a pandemic, formulated based on the analysis of secondary data, as many as 11 were indicated as important by at least half of the organisations surveyed. The largest group of organisations suffered from: adopting special measures aiming to counter COVID-19 that also limited fundamental freedoms, lack of appropriate public consultation processes by public authorities, providing the police and other law enforcement services with additional powers as well as imposing administrative penalties on persons who have tried to exercise their fundamental rights. It is certainly worth observing to what extent the impact of these factors will persist in individual countries or whether it was only temporary.

The impact of each of these factors on the operation of organisations in individual countries was examined in the subsequent stages of the study. In the course of the study we also discussed what solutions are needed to counteract the effects of these factors and to prevent their occurrence in the future.

## **4. COVID-19 impact on CSOs operation and policies adopted to respond: results of the expert interviews**

### **4.1. Rationale for this stage of research and its methodological note**

The first three chapters of the report contextualised the phenomenon of shrinking civic space and showcased a number of ways in which the COVID-19 pandemic affected the functioning of CSOs as reported by existing literature and captured by the survey. The present chapter delves deeper into the various challenges, in particular how they manifest in individual countries, as well as into public policies put in place at national level to support CSOs. For this purpose, we conducted 29 in-depth expert interviews in six selected EU member states, five for each country.

### **Guiding principles for recruitment of participants and organisation of the interview process <sup>4</sup>**

To ensure diversity and representativeness of the sector in their respective countries, the experts interviewed were selected from different branches of the sector and policy areas. The selection also considered types of organisations which are among the most vulnerable to the challenges posed by COVID-19, as identified during the literature review (See Annex 2 for the list of interviewees and the category they represent).

All interviews were conducted in national languages - where possible based on the competences of the consortium to ensure the inclusiveness of the process – and when not possible in English. A common scenario was developed for all interviews (see Annex 2) in order to allow for comparative analysis of the responses.

### **Selections of countries under the spotlight**

This stage of the research particularly focused on six EU Member States: France, Ireland, Latvia, Poland, Slovenia, and Spain. The selection of these countries considers the geographical balance of regions in the EU and the importance of developments on the ground connected with the COVID-19 pandemic (both positive and negative).

**Poland:** According to national and international rights groups, the country had witnessed a serious deterioration of the rule of law, democracy and fundamental rights before the pandemic outbreak. During COVID-19, Polish civil society suffered blowbacks as the Government took advantage of the pandemic to bypass institutional checks and balances and sideline civil society. Problems related to the holding of presidential elections have been a major concern for democratic voices in the first half of 2020. COVID-19 laws also included some provisions restricting fundamental rights, expanded the powers of law enforcement bodies, and toughened sanctions for breaking COVID-19 measures. At the same time, the sector was mostly left unsupported in its economic struggles resulting from the emergency. In late 2020, a series of protests erupted against the tightening of abortion laws, met with a violent response from the police. In the months that followed, the ruling majority took further steps to limit the independence of the judicial system and strengthen interference with the independence of private media. Due to these factors, the CIVICUS Monitor – which draws attention to countries globally where there has been a

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<sup>4</sup> In the interest of the study and given the phenomena of shrinking civic space in the European Union, anonymity of interviewees and experts was ensured to create a safe space in which critical views of public authorities and policies could be shared without fear of retribution.

rapid decline in the respect of civic freedoms - included Poland in the watchlist in early 2021 ([CIVICUS Monitor](#)).

**Slovenia:** Before 2020, Slovenia was distinguished by a set of successful steps toward sector development. However, after the formation of a new right-wing government coincided with the declaration of the pandemic, 2020 in this country saw a rapid deterioration of civic space and the rule of law. Since mid-March, the government has repeatedly attempted and often succeeded in changing democratic rules and limiting dialogue with the sector. The government's actions aimed at increasing its control over the media market also influenced the situation in the country. Nevertheless, this sector was often successful in mobilising against such measures and, sometimes, in limiting their impact. An important development was the weekly street protests organised by citizens and CSOs. Due to these restrictions, at the end of 2020, civic space in the country was downgraded from “open” to “narrowed” on the CIVICUS Monitor ([CIVICUS Monitor](#)). In mid-2021, it was included on the CIVICUS Monitor watchlist ([CIVICUS Monitor](#)).

**France:** Many measures taken by public authorities at the local and national levels during the COVID-19 pandemic were repeatedly challenged before the Constitutional Court, the Council of State, and other relevant institutions as violations of the French legal framework, affecting civil society actors' ability to exercise fundamental freedoms, including the right to peaceful assembly, during COVID-19. At the same time, CSOs in the country were able to develop fruitful relationships with authorities at the local level throughout the pandemic, although there were huge differences based on the nature of the relationship between authorities and CSOs before the outbreak. Moreover, despite the restrictions, the sector showed resilience and the ability to mobilise the public against limitation of fundamental rights.

**Spain:** The Law on citizens security--passed in 2015 and dubbed Gag Law for its repeated use against public protests and critical voices--, was used for the enforcement of COVID-related regulations and, in some cases, to sanction mutual support networks and neighbourhood associations providing support to the population during the pandemic. Nevertheless, these groups played a crucial role in supporting those in need and filling the gaps left by public policies. The gag law is currently under reformation after repeated outcry from national and international human rights groups.

**Ireland:** During the pandemic, while the government adopted a balanced approach to mitigate its results, some challenges to *check* and *balances* emerged. These included the use of criminal sanctions to enforce public health guidelines, a lack of clarity regarding the exercise of the right to peaceful assembly, and difficulties in gaining access to policymakers. While the crisis had a significant impact on the sector's economic viability, the government was one of the few in Europe to provide specific, albeit limited, support for the sector.

**Latvia:** During COVID-19, civil society had an open dialogue with the government, and formal mechanisms for civil dialogue were improved. While this did not always result in the concrete policy responses needed to help the sector cope with the pandemic, the sector's proposals were included in the national recovery plan. (see [CIVICUS Monitor updates](#)).

## 4.2 COVID-19 pandemic influence on the daily work of CSOs in the studied countries

### Impact on operations and activities

After a period of initial general uncertainty, the outbreak of the pandemic triggered positive dynamics in the sector, such as speeding up the digitalisation process. Interviewees from France, Ireland, Latvia

or Poland highlighted that the new situation forced civic organisations to adopt creative approaches to be able to continue their work. Thanks to online communication and expanded presence on social media, organisations involved in day-to-day advocacy, humanitarian aid, human rights and anti-discrimination work were able to increase the scale of their impact and outreach beyond their usual audience. For example, the Baltic Pride organised in Latvia, was mostly streamed online attracting a wider public. Activities such as training could also be organised more easily and offered to a broader public. The pandemic also exposed the need for and increased the efforts towards cooperation between different actors and coalition building (e.g. supported by national platforms of CSOs). In Latvia, a group of activists created a volunteer platform called "Stay home" that managed to engage over 800 volunteers in one month in order to help citizens that were digitally disconnected to receive food and medicines. This initiative was implemented through a call centre managed by a social company employing persons with disabilities. In Slovenia, a group of lawyers came together to offer pro-bono support to individuals aiming to challenge sanctions and restrictions to fundamental rights imposed with the pretext of the pandemic. This expansion of communication work and interconnections were also facilitated by the reduced costs and time dedicated to travel.

The necessity of remote working also created a number of challenges. The obstacles impacted organisations to different extents depending on their capacities and location. Bigger entities, especially those in bigger cities, found it easier to switch to new operating conditions thanks to the already existing competences and equipment. On the contrary, smaller organisations, particularly those operating in local communities or rural areas, often lack adequate financial means and digital competencies to support the transition to remote working. Over time, people were also discouraged from participating in remote meetings due to digital fatigue. Additionally, engaging with people was complicated if not impossible due to the digital divide which characterises these areas as well as some groups of the population (e.g. elderly people). For example, 80% of CSOs operating in the rural areas in Poland fully halted their activities. The restrictions had a different impact on organisations depending on their field of action and the type of activities they carried out. In France, 40% of organisations that halted operations during the pandemic have yet to fully resume operations.

The closure of community centers and physical meeting places impacted not only the organisations, but also the people who used them. In Latvia, one of the interviewees stated that the closing of the community house, which had only been open a few months before, left members without a safe place to meet and be supported. Another interviewee stated that because organisations were unable to welcome people in safe environments, training or counselling on sensitive issues became an issue for people who were not living alone due to a lack of privacy. A Spanish professional association had a similar experience with gathering spaces, which impacted their members' ability to share and support one another in difficult situations exacerbated by the pandemic.

The ability to mobilise and sustain volunteers was also affected as reported in France, Latvia and Poland. Online communication was reported as one barrier for those volunteers who were not used to digital tools. The group of people cooperating with civic organisations (including volunteers) in Poland decreased by one third between the beginning and the end of 2020, as people were less willing to get involved, their mobility was further restricted by pandemic constraints, which also made it impossible to organise many of the meetings and initiatives that had previously focused volunteer activity. Among those who remained involved there was a noticeable fatigue. The regular private contacts and relationships built are often an important reason for the involvement of volunteers and the lack of opportunities for these were reported as important factors for the decrease in engagement. As one Polish



interviewee stressed, "the fuel for local and civic activity is contact between people", which leads to the building of social ties. The fear was an additional factor. Another interviewee from Poland indicated that "people have withdrawn from action and shut themselves up in their homes, being afraid of contact with others", which may have particularly damaged the fabric of social activity in rural areas, where, as indicated earlier, people were much less likely to interact online.

Impact on the mental health of members and activists was observed in Ireland and Latvia, although we can assume this trend is present in all countries. One contributing factor was isolation and large stress related to insecurity in times of health crisis. Additionally, many civic organisations stretched their capacities and actions, often working beyond regular working hours. Several organisations from France and Spain stressed that they felt the burden of replacing or complementing the role of public authorities in response to the pandemic.

### **Impact on CSOs funding**

While some CSOs also reported positive changes, such as savings made on travel costs, utilities and reductions in office space, in almost all examined countries, problems with funding for the sector were indicated. In some instances, the challenge was related to the need to adjust project funding to new situations requiring difficult discussions about that with donors (including the EU institutions). However, the impact was very diverse according to the type of organisations and the country. On a positive note, in some countries, including Ireland and Slovenia, public authorities have reacted to the new circumstances by extending the project period to the next year (Slovenia) or providing flexibility on using awarded funding (Ireland).

The organisations' ability to raise and access funds was also affected by the broader financial and economic landscape. A significant amount of funding from public and private donors was reverted to counter the pandemic and its effects. Also, in many countries, large numbers of people lost their regular source of income so they were left with less to no resources to support their chosen organisations. This also affected membership-based organisations which faced a decrease in their income coming from members' fees as reported in France, Spain, and Poland. (However, the trade union from Poland noted that despite initial fears, this did not happen.) In some countries, such as Poland, the budgets of local authorities were hit by the pandemic and related government's decisions. As they are important partners for CSOs, this resulted in effects on civic organisation's financial viability as they had to cut down on funding for CSOs.

An exception to this negative trend was reported in France and Spain (beside what has been indicated in the previous paragraph), where the majority of organisations interviewed did not see a clear impact on their budgets: they indicated increase in costs for materials but also a decrease in remaining spending. Moreover, in France public subsidies distributed both locally and nationally were maintained. Additionally, in Ireland, the government decided to set up a CSO sustainability fund to help CSOs with financial problems caused by the pandemic.

Several interviewees observed that in the long-term CSOs' financial condition can be expected to be affected by a financial crisis resulting in difficulties to access donations, in fundraising from public or private actors, and lack of contributions from public authorities cutting their budgets and private citizens seeing their budget reduced.

#### **4.3. The extraordinary legal measures introduced to mitigate the impact of the pandemic and CSOs and civic activists' ability to act publicly**

As for the aspects discussed above, the impact of the pandemic on CSOs' ability to operate in the public domain depends on the scale and nature of their work.

Because of the paralysis in the functioning of public institutions and bodies – which also struggled to adapt the work to the pandemic, all entities faced problems with daily administrative tasks. For example in Poland, as the courts did not operate remotely everywhere, the process of setting up new organisations was halted for at least several months, and entry of any changes in the court register (e.g. to the statute or authorities of the CSO) took much longer than normal. Importantly, such problems applied equally to all CSOs, including trade unions. In France, Latvia and Poland, it was also unclear how organisations were supposed to fulfill their annual reporting obligations if they could not organise regular members' assemblies and there were no procedures in place to carry out all the required steps remotely. However, after CSOs' advocacy towards their respective governments, these problems were at least partially solved. In Slovenia, the obligation to hold an annual assembly was postponed to the next year for all entities, including CSOs.

Organisations involved in advocacy or lawmaking have noted a significant deterioration in implementing participatory processes by national authorities. However, the extent and nature of these impediments were related to the previous state of civil dialogue in the country. In Ireland, public consultations have deteriorated only to a certain extent and in relation to selected topics or the authorities conducting the consultations. In some cases, CSOs were not consulted, the consultation was too short, or suggestions were not accepted. In Latvia dialogue between civil society and the government was limited, particularly at the beginning of the pandemic with some issues related to transparency of public authorities' work. However, the situation has improved over time. Low levels of cooperation and lack of a structured social dialogue were also reported by a representative of the employers' organisation.

There were also countries where more substantial problems were reported, especially when it comes to adopting extraordinary measures aiming to mitigate effects of the pandemic. In Slovenia, all restrictions in civic rights were imposed without any public consultation. Out of 737 legal acts adopted since the beginning of the pandemic, 501 did not respect the deadlines required for public consultation or did not provide any public consultation. On top of that the government was ruling by decrees without any parliamentary oversight. In France, the sanitary state of emergency adopted led to a concentration of the powers in the executive branch and to an increase in the use of legislative fast-track procedures. In result, the possibility for civil dialogue or consultation on policies were limited.

In Poland, organisations not only had difficulties in accessing the consultation process, which is constantly limited to a narrow group of selected actors and scheduled for a very short time, but were also often faced with no consultations organised. A common practice was for new legislations to be submitted to the Sejm by a group of MPs from the ruling party making it possible to bypass the legal obligation to consult government draft laws. A special legislation aiming to mitigate the results that pandemic caused in the economy, the so-called 'anti-crisis shields', was adopted without any meaningful consultations. These complex laws consist of several hundred pages of amendments to various pieces of legislation concerning the operation of labour and enterprise law. They were presented to the trade unions for consultation over 2-3 days (which sometimes included a weekend). Organisations representing foundations and associations were not invited to participate in the process, neither before the bill was submitted to the Sejm, nor during the work in this lower house of parliament. Thanks to

their own efforts they managed to influence the introduction of minor changes to these regulations only at the stage of work in the upper chamber.

In Slovenia and Poland, COVID-19 legislation and legislation adopted during the pandemic in an expedited procedure also contained a number of provisions that were not related to the pandemic and restricted fundamental rights. For example, in Poland, the anti-crisis shield adopted by the parliament on 31 March to counteract the challenges in the economy contained a measure providing the Prime Minister the right to dismiss on his individual authority any member of the Council for Social Dialogue, i.e. the body bringing together representatives of employees and employers to consult governmental policies. This regulation has not been changed to date, which means that the Prime Minister can independently dismiss persons he did not appoint himself or nominate to the Council (because the latter power belongs to the President). In Slovenia, the government tried to exclude CSOs from the administrative procedure on issuing environmental permits – thanks to the advocacy of CSOs, this was stopped at the Constitutional Court. The government also tried to change the environmental law to prevent inclusion of CSOs in the administrative procedure for issuing environmental licenses.

The possibility of conducting activities for many organisations, including those involved in advocacy or monitoring the activities of public authorities (playing a watchdog role), depends on access to public information. In this area, however, standards have decreased in many countries as a result of the introduction of emergency regulations related to counteracting the effects of the pandemic. These same regulations have also negatively impacted freedom of expression. However, developments in both areas have varied from country to country. In Latvia, the transparency of authorities' work and the communication about ongoing activities were particularly problematic in the first phase of the pandemic. Similarly, in Slovenia amidst the first wave of COVID-19 regular operations of public authorities were shut down and journalists were not able to access information, especially about public spending. The authorities have also adopted offensive measures, attacking journalists and media, while remaining unresponsive to their queries or prolonging responses. As a result, the informational ombudsman received an increase in complaints from journalists and CSOs. In addition, several organisations reported SLAPPs (Strategic Lawsuits Against Public Participation), smear campaigns, or having their lease agreements terminated when renting from public authorities.

In France, public institutions that could have been involved in the management of the crisis were bypassed in favour of a newly-created Public Health Defence Council. This made public information very difficult to access for CSOs working on human rights and conducting watchdog activities. Large parts of the authorities' work were classified.

In Spain, all administrative deadlines were suspended under the state of emergency. This prompted a coalition of civil society organisations, the *Coalición Pro Acceso*, to call on the Spanish government to guarantee the right of access to information. Also in Poland already the first 'anti-crisis shield' relaxed the rigorous control of public money spending and limited statutory accountability of public servants in relation to purchasing goods and services necessary to combat the epidemic (i.e. bypassing standard procedures). One measure also suspended deadlines for administrative proceedings. As a result, citizens' constitutional right to access to public information was suspended (as the 14-day deadline for public authorities responding to requests ceased to apply). This unleashed problems for anyone undertaking civic scrutiny. Although this specific regulation was lifted already in the middle of May, in practice the legislative turmoil caused persistent ambiguity as to the actual regulation governing the right to public information on the side of public authorities and, even more so, among individual citizens. The media

also reported on cases of whistle-blowers in the health service, who reported on the poor state of preparation of the system for the outbreak. It emerged that people who raised awareness about these problems often faced retribution.

Interviews from all countries confirmed that freedom of peaceful assembly and the right to protest was the most impacted freedom by the pandemic as described above in the report. While all countries presented challenges in this regard, the most significant restrictions were imposed in countries where, even before the pandemic, the authorities had already attempted to limit this basic form of civic engagement. Slovenia is an exception in this sense as the crackdown on protests witnessed since 2020 is unprecedented. For the full year since the beginning of COVID-19 there was a complete ban on freedom of assembly. The Constitutional Court found this restriction unconstitutional and, based on this ruling, the government increased the number of allowed participants to 100. After approximately one week, the number of permitted protestors was again reduced by the government. In addition, protesters faced disproportionate fines. Law enforcement authorities also made use of facial recognition tools to sanction people taking part in the protests that have been ongoing on a weekly basis.

In Poland, the first “anti-crisis shield” also included changes to law enforcement authorities’ competencies and harsher penalties for a number of violations, including the vague “willful disobedience to orders” of law enforcement. As the end of 2020 saw the outbreak of mass demonstrations against the near-total abortion ban, 3,000 people were charged, investigated, prosecuted using these new penalties and the pretext of endangering public health.

Freedom of assembly was heavily curtailed through the COVID-19 restrictions, and practices of law enforcement authorities in France and Spain that displayed violence. In France, it was through the work of civil society that legal hindrances to the right to protest were removed after the lockdown. In May 2020, Government decree allowing assemblies for listed purposes excluded the right to protest. While the legislation changed after the ruling, prefects maintained using COVID-19 as a justification to restrict public demonstrations. In France, physical violence towards protests was also a hindrance to the exercise of the right to protest. In Spain, several judicial opinions regarding May 1st demonstrations showed different interpretations of the limitations of freedom of assembly under the state of emergency imposed during the pandemic. In France, Spain and Ireland, the lack of clear guidance on how restrictions should be applied in practice, resulted in a broad discretion of the police forces during their interventions, which further restricted the possibility of peaceful demonstrations. In Latvia, it was reported that police and other enforcement authorities did sometimes go beyond restrictive measures by limiting further the right to assembly. For example, a CSO organised a protest against the construction of a building in a park with full respect of all the rules enforced at that time: distance between people, face masks etc. However, the authorities still found a way to give fines and penalties to those who joined the protest.

In general, we can observe that the fact that civil society organisations and activists could not meet face to face and that there were limitations in gatherings and protests led to a certain level of civic inactivity. Additionally in Ireland, the public space for civil society organisations and groups to meet has been diminishing, which has even been amplified during the pandemic with the existing threat of health implications. The uncertainty of the situation and the fear of risks also affected civic participation. This had an impact on the ability of organisations to engage citizens on the ground and raise awareness of the importance of exercising their civic rights, as it was observed by Latvian interviewees. In Spain, this had a long term impact on the level of participation and on people's will to stay proactive.

Trade union representatives stressed that the right to strike had also been severely curtailed during the pandemic. This was attributed to employers who also went so far as to use online surveillance measures to track their employees.

#### **4.4. Measures adopted by public authorities to the challenges faced by civil society organisations and their impact**

##### **Support at national level**

In response to the financial troubles faced by civil society organisations during the pandemic, national governments have offered them various forms of support. Not surprisingly, however, the extent and type of this support varied from country to country.

In a few countries, dedicated funding for CSOs was made available to face the challenges. The Irish government, following successful advocacy and campaigning by CSOs, established a special sustainability fund for CSOs facing budget loss as a consequence of the pandemic. As Irish interviewees reported the funding was more accessible than before and less bureaucratic. However, one Irish interviewee reported that the support was insufficient compared to the funding decrease in the sector and not accessible to all organisations.

Also in Poland, a special Programme to support NGOs counteracting the consequences of COVID-19 was established as noted during the interviews. However, it was observed that the size of its budget (10 million PLN, approx. 2,2 million EUR) was inadequate to the scale of needs, and its funds were rapidly exhausted, reaching only a small proportion of interested entities. The Programme was mainly aimed at CSOs providing services during the pandemic. Additionally, the fund was administered by the National Freedom Institute, a governmental agency dedicated to civil society development, which has been widely criticised for the opaque and politicised distribution of public funding and, even in this context, interviewees observed that the funding was mostly accessible to organisations close to the ruling party. The Polish Ministry of Funds and Regional Policy also launched a special programme for social partners using the funds remaining from the current EU financial framework, following the European Commission's decision to allow it. This programme has funded several projects aimed at tackling the pandemic crisis. Apart from this mechanism, no other solutions were dedicated to organisations representing workers or employers.

In Latvia, interviewees observed that the Fund for CSOs which is administered by the Social Integration Foundation, a governmental entity aiming to financially support and promote the integration of society, was neither increased nor modified. Nevertheless, the Latvian government established a crisis group led by the Prime Minister and including representatives from CSOs, social partners (7-8 experts) and state ministers to discuss the needs of vulnerable groups in the midst of the pandemic. Representatives of CSOs were designated through an election organised by the national platform of NGOs, Civic Alliance Latvia, in compliance with the NGO Memorandum of understanding with the Government, which foresees an NGO Council with State representatives. In order to formulate CSOs' input in the crisis group, focus groups were organised by the Civic Alliance Latvia. On the contrary, in France and Spain, most interviewees said that authorities did not do enough, especially for the most vulnerable groups and CSOs working with them.

In several countries the rules on spending of public funding that was awarded to CSOs already in 2020 were relaxed in order to tackle the problem that many could not have been delivered in the context of the pandemic (reported explicitly in Ireland, Poland, France and Latvia). Because of these decisions, not only did this funding become more flexible, but it could also be used for other activities than initially planned. Moreover, administrative measures were adopted facilitating annual reporting (i.e. postponing its deadlines) and enabling organising CSOs' general assemblies and all statutory meetings online (in Latvia, Poland, Slovenia and France).

With regard to CSOs' inclusion in the recovery measures for the economy, the situation also varied from country to country. Several countries included CSOs to benefit from subsidies to cover their employees' salaries (reported in Latvia, Poland, Slovenia, Ireland, France and Spain), the freezing of social security contributions (in Poland and France) and other forms of compensation for the loss of income for enterprises (Latvia). However, the requirements to access these funding mechanisms created barriers for CSOs to be able to benefit from this support. Financial state support was provided also in France and Spain, but was difficult to access by most of the CSOs.

While Latvia can be considered a positive example of dialogue between CSOs and the government, no support was made available to the sector until very late in the unfolding of the pandemic. CSOs advocated to allocate funding to ensure that people from vulnerable groups would not be left behind towards the government, and especially the Ministry of Finance. By the time public funding was made available, for some CSOs it was already too late to sustain their activity. The funding allocated by the government aimed at supporting two types of organisations: 1) CSOs working directly with selected target groups (most vulnerable people, against women violence, with children and elderly people, etc.) and assisting them to cope with the pandemic and its consequences (according to a source this represented 0,5 million euros with more than 20 funded projects); 2) organisations that could not access any other resource.

In some countries interviewees also mentioned some support offered by local administration. In Latvia, numerous municipalities supported CSOs to ensure they could deliver services on the ground. For example, municipalities partnered with CSOs on a project to have healthier food distributed to children and youth at school. Some Municipalities also advocated towards the government for extra funding for CSOs but most of these requests were not heard. In Poland, large cities offered organisations various forms of in-kind support - for example, the possibility to suspend payments for renting office space from the city for up to 3 months. They also organised competitions under which they awarded subsidies for the purchase of computer equipment.

### **Support at the European level**

When asked about forms of support offered to CSOs by EU institutions, a large majority of the interviewees, especially those representing smaller organisations, could not name any. It has to be noted that the responses to this question depended on the type of organisations and especially on their engagement in work at EU level.

The few mechanisms mentioned concern the financial support planned within the new EU financial framework for 2021-2027, such as the European Values Instrument within the Citizens, Equality, Rights & Values Programme, CERV. Additionally, many interviewees observed that EU funding schemes are complex and require a large administrative burden, thus are not accessible to smaller CSOs. There was also criticism regarding the slowness of the European Commission to unroll these funds. As it is

currently mapping national sub-granting organisations, it is possible that these funds will not reach national/regional level NGOs before 2023 (end of 2022). One interviewee stressed that it will be important to observe how these funds will be spent, also in response to the current crises caused by the pandemic.

The European Commission's work on rule of law and democracy was mentioned as a European policy support going beyond funding, that could be useful or promising to tackle the challenges described above. In particular, the European Rule of Law mechanism was described as a tool enabling reaction to situations of fast deterioration of the rule of law. The efforts of the European Commission on media independence and the use of SLAPPs, which restrict the freedom of action of media and civic activists, were also indicated. The debate on the Conference on the Future of Europe through an open Platform was considered by one interviewee as a positive initiative to promote debate and bring added value to the EU. According to the same person, if it remains an open tool and is used properly by the EU institutions, it could contribute to bottom-up decision-making. It could become a helpful tool for reaching out to rural areas and smaller communities.

The European Parliament's and EESC work on the statute of European associations was also pointed at as an important solution that can strengthen the functioning of civil society organisations at European level. However, one of the interviewees also noted that the current draft proposal by the rapporteur in the European Parliament includes provisions that could defeat the purpose of this mechanism by making organisations more dependent on EU Member States, which would retain the right to decide whether or not to grant the European status to an organisation.

Interviewees from employers organisations and trade unions referred to the European Social Fund projects aiming to support social dialogue within the implementation of the European recovery package as a positive measure, also contributing effectively to the European Semester Process. One of them stressed that it is a good idea to dedicate 0.25% of the resources of the new European Social Fund+ towards social partners' capacity-building. However, to date, it is still uncertain (and important) how these funds will be spent in each country. The European Action Plan for Social Economy was also identified as hopefully providing the necessary leverage to bring progress for the social economy sector.

#### **4.5. CSOs involvement in National Resilience and Recovery Plans (NRRPs) preparation**

In the experts' interviews, we considered it relevant to ask about the Recovery and Resilience Facility as the European Commission proposed the instrument as the centerpiece of NextGenerationEU which responds to the economic and social damage caused by the coronavirus pandemic. Civil society organisations have been affected by the loss of funding and are crucial actors in fair recovery. Therefore, it seemed necessary to investigate their involvement in the NRRPs which will implement the Recovery and Resilience Facility<sup>5</sup> at the national level. The thematic scope of these documents naturally extends well beyond the situation of civil society organisations. However, the latter can and should be included in at least 3 different contexts.

Firstly, it is about involving CSOs in a meaningful way in the preparation phase of the National Plans, so that they respond as accurately as possible to societal needs. As CSOs are part of and work closely with local communities, they are in a privileged position to understand the needs, impact of policies and lack thereof for the wider population and specific groups. Thus, they can be important allies for

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<sup>5</sup>see: [Recovery and Resilience Facility | European Commission](#)

authorities that want to tackle societal vulnerabilities and environmental concerns by providing data and proposals. Secondly, civil society organisations should also be included as beneficiaries of particular forms of support planned in the Programmes. Not only do they often have extensive knowledge on how to support different social groups, but also support for organisations themselves will be tantamount to social reconstruction after a pandemic. Thirdly, civil society organisations, due to their knowledge and experience, should also be involved in a significant way in the process of monitoring the implementation of individual programmes. Thus, we tried to address all three themes during the expert interviews conducted as part of the study.

In general, the level of satisfaction of CSOs from different countries with their involvement in the development of National Resilience and Recovery Plans (NRRPs) is low. In Ireland and Slovenia CSOs were included in this work, but not in a meaningful way. CSOs suggestions presented in the official process were not accepted and those proposed through informal procedures were rejected. Both governments have only done minimal work regarding the consultation of their National Plans and most of CSOs suggestions were not accepted.

A similar situation could have been observed in Poland, where the involvement of organisations in National Recovery Plan development has come full circle. The work mainly started in ministerial offices (although in mid-2020 working groups with trade union and local government representatives were also established), without involving CSOs. When CSOs became aware of the work in progress, they organised a campaign aimed at convincing the government to change its approach. The government accepted their proposal and agreed to hold a series of public hearings, but these were organised and financed by the CSOs themselves. Despite the success of this participatory process and the government's introduction of a number of amendments to the previously drafted version of the Plan, many of CSOs' suggestions were not included by the government without explanation. One of the proposals left aside by the government was to establish a special component within the Plan aiming to enhance social resilience and recovery. Afterwards the government has sent a new version of the Plan for acceptance to the European Commission without presenting it to CSOs. Finally, a draft bill appeared at the end of summer with no meaningful consultations which establishes a system of oversight over European funds spending, where CSOs are given a minimal role.

At the start, negotiations on the Latvian NRRP were not transparent as the only document available was a communication on large priority strands. CSOs managed to be involved in the discussion on the Plan mainly as part of the memorandum adopted between the government and CSOs signed by at least 500 Latvian organisations (with monthly meetings with 8 CSOs representatives and 8 State Secretaries from the ministries to discuss different social issues). The meetings were also open to the public in the Ministry of Finance homepage and links were sent to CSOs who signed the Memorandum. Detailed proposals were prepared and many debates were organised with participation of CSOs. However, this process had a very limited impact on the resulting plan. The main reason was that politicians had agreed among themselves on the allocation of funds prior to the start of the discussions. This situation caused a public debate and raised criticism on the use of these funds. Thus, discussions were organised and a part of the funding was allocated for two specific programmes that would benefit CSOs (although these are very small programs – worth 2.5 million Euro). The first is a program to support creation and development of impactful organisations that would represent citizens not currently represented in the social dialogue (self-employed, disenfranchised). The second is a program that would allow some 20-30 Latvian CSOs to learn watchdog skills. It is not clear yet what structures will be used to monitor the spendings. Social partners also participated in the NRRPs consultations in Latvia. According to the



respondent from this sector, although this only happened in the later stage of the process this involvement was quite positive as compared to the situation of other employers in other EU countries.

The majority of French interviewees appeared to claim that they were not consulted during the country's NRRP preparations. Sectoral consultations have taken place for organisations working in youth, tourism, and sports. When these consultations were held, they were at a later stage of the process, which did not allow for meaningful participation. It was reported that entities in the social and solidarity-based economy were included as potential beneficiaries through calls for proposals, but no funds were directly allocated to the development of civil society.

When it comes to CSOs participating in the Plan's development in Spain, there are two opposing views that vary depending on the type of organisation. Grassroots CSOs appear to have been excluded from most other countries, and some were openly told by public authorities that the NRRPs were not intended for CSOs. As a result, they have advocated for participation in the implementation and monitoring of EU funds. On the contrary, two interviewees (the social and economic actor and the NGO platform) stated that they were involved in the process. According to them, the government has begun a program of public consultations in order to gain political and social support for the Recovery Plan. Companies, civil society, and CSOs are expected to submit projects to be funded by the NRRPs along the way, with the aim of co-designing the instruments through which the aid is distributed. Finally, it has to be mentioned that the Plan includes CSOs as part of its implementation and monitoring.

## **5. What are the solutions to support the CSO sector and respond to the challenges to fundamental freedoms brought by the COVID 19 pandemic? Voices from the CSO**

The previous chapters of the study showcased a number of ways in which COVID-19 pandemic has affected the functioning of civil society organisations in the EU, in at least some areas leading to reduced access to fundamental rights by both organisations and individual activists. Often, the challenges observed during the pandemic were not new. Rather, pre-existing problems and shortcomings were exacerbated during this time.

This chapter looks at policy proposals that emerged through the research process. They have been raised either at the final stage of each expert interview, or during a series of three focus group interviews (FGIs; referred to also as: group discussions) conducted during the first two weeks of November 2021 that were largely devoted to finding solutions (their methodology is presented below). While presenting the findings of these discussions, this section of the report also indicates the proposals' strengths and weaknesses, as well as how different CSOs position themselves in relation to them.

It has to be also noted that because the challenges are pre-existing, as already discussed above, experts participating in the interviews and focus groups have stressed that policy proposals that have been long on the CSOs' agenda are still relevant and just made more urgent by the crisis. Moreover, this long-term nature of the challenges for the CSOs sector reinforced by the pandemic must be taken into account when proposing solutions to respond to them in the short and long term.

### **Group discussions (FGIs) methodology**

Experts from a variety of civil society organisations, mostly at the national level in one of the EU Member States, were invited to the first two discussions. They are all experts in various aspects of local civil society functioning. The first group discussion included participants from national NGOs and other social partners working on a national level, while the second included representatives from national platforms of CSOs/associations. The third FGI brought together members of European networks of civic organisations. Each group discussion included 6-7 people coming from different EU member states (altogether 20 participants took part in this stage of the research). Each discussion lasted for 2 hours.

The aim of all of these group discussions was to fine-tune recommendations for public policies that would address the various challenges that CSOs in Europe faced because of the COVID-19 pandemic. Material for such discussions was developed by the project team based on the analysis of the results of the earlier stages of the research. In this respect, as an introduction to each of the discussions, a brief presentation of the findings from previous stages of the study was presented, together with main policy recommendations that were already put forward by experts participating in the in-depth interviews. There was also a space for FGIs participants to present their own proposals (see a list of the most important topics discussed during FGIs – attached as Annex 3). As a result, ideas for solutions worth implementing at both national and European levels were gathered, as well as comments on the implementation and the impactfulness of such solutions.

### **National level support**

Regarding national support, most of the proposed solutions referred to the creation of new sources of funding for CSO activities that are better suited to their needs. Such funding should not be limited to projects but take the form of core funding and structural support. New funding for CSOs should also entail fewer administrative requirements and long-term funding cycles to ensure the sustainability of the

sector, and enhance their digitalisation process. According to one Irish interlocutor, funding for CSOs in the next few years should focus on recovery rather than new activities, and innovation. Interviewees from Slovenia and Spain mentioned that new funding should encourage CSOs to further digitalise their activities, develop their capacities, and also help them to become more resilient and adapt to new situations. Also, funding for the monitoring and advocacy activities of the civil society sector should be ensured according to one of the FGIs. According to Polish voices, small local legal and human rights organisations in the country need financial support and training to expand and develop their capacity to reach out to the regional and European level. Special attention should be given to the psychological wellbeing of CSOs' staff and volunteers as well as the general population, especially those from rural or marginalised communities. The support provided to vulnerable and discriminated groups, as well as health protection, should be increased. During one of the FGIs, it was mentioned that funding possibilities should also be opened for social movements (who are not formally registered).

The necessity for a stronger recognition of CSOs' role in society and enhanced understanding of the specificities of their operation was also underlined in Ireland, France and Spain. The need to improve CSOs inclusion in law-making processes was also pointed out in Slovenia, Poland, Latvia, France and Spain. Besides, organisations have voiced the need to be treated as partners by the government in their interactions. The necessity for enhanced multi-stakeholder cooperation and discussion was raised in Slovenia, Latvia and Spain. Organisations also mentioned that improving transparency of decision-making would be a crucial need. In this regard, proposals like online streaming of meetings emerged, as well as the possibility to participate remotely. Moreover, authorities should refrain from online smear campaigns, and respond to the ones organised by non-state actors.

One interviewee highlighted that multiple crises are taking place: financial, climate, and socio-economic. In order to prepare our societies for the related struggles, public authorities at all levels must develop a strategy to promote the resilience of our societies, notably by recognising the importance of engagement at the community level. This is an important element as part of implementing the National Recovery and Resilience Plans (more on this mechanism – see below).

## **EU level support**

Experts involved in the interviews and focus groups had a number of suggestions regarding the support expected from EU institutions.

### **A. Flexible and sustainable financial support**

An important policy area regards EU financial support that should enable CSOs to tackle the socio-economic and democratic consequences triggered by the pandemic. In this context, it was noted that the European Institutions should promote and protect economic and social rights. Similarly to what was recommended for national level support, European funding should be dedicated to core support and be accessible to smaller organisations. According to FGI participants, it is critical to ensure core funding for CSOs as well as distinguishing between overheads pertaining to administrative costs for a project and the administrative costs of an organisation related to its existence. Core funding should cover the latter. It is also important to ensure the independence of national operators selected for the regranting of the CERV programme. It should be ensured that the process cannot be influenced by national governments.

Moreover, in allocating their support, the EU institutions should bear in mind that in some countries such as Poland, civic space is not only "shrinking" but also "shifting" as anti-rights groups are becoming increasingly strong, occupying traditional spaces for democratic CSOs and attracting funding. A key objective should be developing CSOs capacities to build *soft* and *hard* infrastructure of the organisations. This includes the digital transition and advocacy capacities. Increasing the support for independent media and fighting disinformation were also highlighted. The European Commission should also reconsider how it provides funding to member states to support civil society, as it is up to national authorities to decide whether or not to implement them. One of the ideas presented during FGIs in this regard was the establishment of intermediaries who distribute funds to CSOs operating at the national level (a good model is the system EEA and Norway grants or the one adopted in the CERV programme). Furthermore, it was highlighted that the EU should be more adamant about organising consultations and involving CSOs when planning and utilising EU funds under shared management with respective governments.

#### B. National Resilience and recovery plans

Clear instructions are needed on how to include CSOs in the Resilience and Recovery Plans, and on how many resources these Plans should allocate to the civil society sector at the national level. According to some Latvian CSOs, the European Commission should step up its efforts to ensure that CSOs are properly involved in the implementation of the European Recovery Package and in NRRPs. In the Latvian planning, the role of civic engagement and CSOs is not fully recognised. According to the same interviewees, measures designed in the European Recovery Package are not adjusted to benefit CSOs. The indicators used are based on different types of businesses: for instance, concerning digitalisation, the indicator is the number of SMEs. As a result, CSOs are not included in the data and it is unclear whether they can apply for funding. This funding should also be more accessible to small organisations; this requires reducing the bureaucratic burden and reporting requirements. According to the same respondents, the EU should also introduce procedures in place enabling a fast response in case the implementation of National Recovery Plans goes in the wrong direction.

As a result, one proposal that emerged was to introduce a precondition of involvement of CSOs to disburse funding, and block the funding stream if civil society was not adequately engaged. Additionally, it is also important to note that some respondents expressed concern on this type of sanctions as it might also affect access to CSOs' fundings.

CSOs should also be included in monitoring of these Plans' implementation. To this end, funding should be provided to cover costs related to participation of CSO in these monitoring activities. In this way, representatives of CSOs would be able to participate in monitoring committees on an equal footing with that of representatives of public administrations who work in monitoring committees as part of their professional duties (although this observation does not apply to countries where civil society organisations already receive public funding for their advocacy work).

#### C. Strengthening policies on democracy and rule of law

Regarding the European work on democracy and the rule of law, there was a general agreement among participants in expert interviews and focus groups that European institutions should better acknowledge the role of CSOs in this field, and strengthen their commitment to the protection of civic space, fundamental rights and freedoms in member states. In order to do so, several participants discussed the adoption of a civil society strategy which would give recognition to organisations, and allow for their

inclusion in EU policies and legislations. During FGIs, it was underlined that a good step towards creating a holistic strategy would be recognising the role of CSOs and setting mechanisms for their funding, monitoring their situation on the national level, as well as including their voices in a meaningful way in civil dialogue processes. On the other hand, participants of the group discussions highlighted that a new document will not directly solve the problems of CSOs operating on the local level if it is not implemented in practice. It is also important how such a document will be communicated to national governments (e.g. how it will address the anti-CSOs rhetoric and CSOs' labelling as "foreign agents" by state and non-state actors that have been observed in several EU Member States over the recent years).

Additionally, in cases of violations of rights or civic space restrictions, the EU should react decisively. The elaboration of European guidelines and standards on promotion of freedom of assembly and association were mentioned as an interesting tool to be developed at a European level. In this regard, some FGIs' participants considered that this would help to raise standards. However, there are also risks of creating further restrictions and bureaucracy if such guidelines are not in line with international standards, and do not take into consideration the differences across the sector in Europe.

There should be more guidance for CSOs on how to use EU law to defend civic space. The same group of experts agreed that the rule of law monitoring undertaken by the European Commission raises attention and can create momentum to tackle restrictions on civic space at national level, but there is a need for enforcement and follow-up on the findings. One of the suggested ideas was related to requesting Member States' authorities to prepare a plan to address the recommendations that the European Commission will put forward in the new review cycle. Regarding the possibility to suspend EU funding for violations of the rule of law and restrictions on civic space, it was stressed that such a mechanism should not endanger support for organisations and individual activists. Moreover, it is important to address not only pressure from state authorities but also attacks from third parties (i.e. in this respect online smear campaigns and surveillance were mentioned, as well as the limitation of the right to strike).

#### D. Improvement of already existing mechanisms: better involvement of CSOs in the European policy-making

An important point that emerged during discussions with experts participating in interviews and focus groups was that beyond creating new monitoring mechanisms and standards, it is crucial to improve the participation of CSOs in already existing procedures. Thus, instead of thinking about the creation of a new Democracy Semester, it may be better to include organisations in the work related to the European Semester at the national level. This would create more impact than establishing new processes.

Another solution proposed during the FGIs was to create a special focal point for civil society within the EU institutions. In this respect various models of this solution have been discussed: a) creating an inter-institutional structure/cooperation within the EU dedicated to civil dialogue (e.g. a separate body), (b) adding such competencies (with additional funding) to an already existing institution (e.g. the EU ombudsman) or (c) a dispersed system of focal points for civil dialogue in each DG of the European Commission. As originally observed, whatever alternative is chosen, we must avoid bureaucracy and avoid duplicating what is already in place. It was also discussed that it is important to improve the dialogue on the European issues at national level in order to bring concerns from the national level to the European one as there are issues regarding trust in the EU institutions. To this end, the establishment of a network of national contact points was also considered. Again, these could be linked to already existing EU representative structures in each Member State, as such bodies should be independent from

national authorities. Consideration was also given to the remit that should be provided to such focal points. As it was observed, it has to be more than just collecting information; it can also serve as a help centre and provide financial aid as a form of rapid response to emergency situations. As FGI participants concluded, in order to be meaningful, such a mechanism needs powers to react/act.

Finally, a number of interviewees touched on the need to implement civil dialogue at the European level (article 11 of the Treaty of the EU). A case in point was the Conference on the Future of Europe where it was stressed that civil society engagement should be better included, and for which it is necessary to ensure a meaningful follow-up. However, it should be stressed that this mechanism in particular has also been pointed out as a negative example of how participatory processes should not be organised. Experts stressed in this context its low transparency (especially as regards the selection of participants and the decision-making process), the lack of visible real opportunities to deliver tangible results and the way it was organised and promoted, which meant that only a relatively small group of EU citizens heard about it. So it is certainly an area where there is still much room for improvement.

#### E. European statute for associations

Participants in group discussions discussed the adoption of the European association statute. At first glance, the proposal was evaluated positively as reflecting the fact that many CSOs work is conducted at the European level or across borders. However, the more it was discussed in detail, the more problems and doubts related to this mechanism were pointed out by experts during the focus groups. They stressed that it was not really related to COVID-19 as demands for such a mechanism have been present for over 30 years. There was also concern about its bureaucracy as the proposal by the European Parliament currently under discussion calls for a European authority, composed of national representatives, that would oversee, accredit and possibly dissolve European associations (European Parliament, [Draft report with recommendations to the Commission on A statute for European cross-border associations and non-profit organisations](#), 2021). It is also unclear how it would help with the issue of shrinking civic space. Moreover, there may be a risk that only Member States that agree to this mechanism will accept it, which raises a question of what would happen to organisations that have members in a country that has not adopted the European association status. Thus, to sum up all the voices, we can observe that the experts participating in the research have expressed rather more concerns than hopes for this solution (especially as they highlighted the work that has been going on for several decades).

## **6. Closing remarks**

The analysis of available studies and reports, as well as research conducted for this paper showcases a number of ways in which the pandemic has affected the functioning of civil society organisations in the EU. The observations emerging from the different stages of the research were characterised by a high degree of consistency, validating the picture depicted.

On the positive side, civil society organisations have proved to be extremely flexible during the pandemic. Many of them were the first to be able to reorganise their activities to respond to the needs of local communities. Organisations have usually done this much faster than public administration or the private sector. Moreover, the pandemic has changed the way many civil society organisations operate, such as moving their activities online. This led to an acceleration of the digitalisation of the sector. All of these have allowed many CSOs to reach out to new audiences, or to carry out their work more effectively on a wider scale. It also became easier to build coalitions of organisations, to exchange experiences, and develop common positions on the measures taken by the authorities. Moreover, all this has increased the visibility of civil society organisations in society and understanding of the role they play on a daily basis. This is a very important asset on which organisations can build their position in the future.

The pandemic also has serious negative consequences on the functioning of civil society organisations. Many entities, especially smaller ones and those operating outside big cities, suspended their activities. The same happened to organisations bringing together specific social groups with a higher proportion of digitally excluded people - for example, older people or people with disabilities. A significant proportion of such organisations have not returned to activity to date. Many people active in organisations have had to deal with additional challenges to their mental health, fatigue from working remotely and growing uncertainty about the future, exacerbated by long-term social isolation. Work-life balance was often difficult to maintain, while work was carried out at irregular hours.

The pandemic has also often been an opportunity for governments of several EU Member States to reduce the transparency of their operations and to hinder citizens' control over their actions. Moreover, sometimes, under the pretext of counteracting the effects of the pandemic, governments have introduced measures which have restricted fundamental rights - above all, freedom of assembly and freedom of expression. They have also sought to silence critical voices, particularly those from journalists and civil society activists. Several governments have also lowered standards for civil dialogue in law-making. Civil society organisations, especially foundations and associations, have not even been involved in consultations on key laws aiming to address the impact of the pandemic. Many laws were introduced in parliaments without public consultation. Even when the social partners received these documents to present their opinion, it was done at the last moment and under extremely tight deadlines.

The pandemic also hit many civil society organisations financially. Foundations and associations were most affected, as the solutions proposed by individual governments to mitigate the impact of the pandemic were usually not tailored to their needs. Some trade unions and employers' organisations managed to get through the pandemic period with much less economic impact. However, particularly when it comes to organisations representing workers, their financial situation depends very much on the sector in which they operate. The situation of those working in the sectors most affected by the pandemic, particularly in countries where there was a lack of adequate forms of support guaranteed by the state, was decidedly poor. Such difficult personal experiences for trade union members have not

only translated into their psychological well-being, but also their willingness to engage in trade union work.

Some forms of support were provided to civil society organisations but, in general, representatives of various organisations report that these were insufficient in scale and nature. This was the subject of the final stage of our research work which focused on developing ideas regarding forms of support and policies that are needed to respond to CSOs' needs at national as well as European level. In this regard, the results of the interviews were used to assess specific recommendations for action during the three focus group interviews (FGIs) conducted in the final stage of this study. On this occasion, we also paid attention to solutions that are already being discussed in the EU institutions. All the results of these activities were used to draft a set of recommendations that all institutions standing behind this report put forward in its last section below.



## **7. Policy recommendations**

The previous chapters of the study showcased the many ways in which COVID-19 pandemic has affected the functioning of civil society organisations in the EU. The study also presented policy solutions that have emerged through research, and how civil society positions towards them (see chapter 5). As above-mentioned, experts involved in interviews and focus groups tend to agree that often, the challenges observed during the pandemic were not new, but rather, pre-existing problems and shortcomings exacerbated during this period. As a result, it is not surprising that policy-proposals coming from the discussions pre-exist the COVID-19 pandemic.

Among these proposals, the consortium carrying out the research identified five that were most reiterated by participants of interviews and focus groups as positive and as European priorities. Based on the findings of the expert interviews and focus group discussions, the literature review, and the consortium's extensive expertise, we analyzed the recommendations and highlighted short-term and long-term actions that we believe European institutions and Member States should take to implement them.

### **1. More sustainable, flexible and accessible funding for CSOs**

Access to funding is one of the most pressing needs of CSOs, which was exacerbated by the COVID-19 pandemic. Adequate funding is also an important tool for recognising and supporting the role that organisations play in our societies. Participants in expert interviews and focus group meetings proposed some basic principles for financial support policies, both for national and European funding. These proposals concerned both the establishment of appropriate formal rules for fund disbursement and the areas of assistance to which the funds should be directed.

In terms of the first aspect, participants in the expert interviews emphasized that funds should be allocated in a sufficiently flexible manner, without excessive administrative obligations. This would enable small organisations working at the local community level to access support. The assistance should be structural (core funding) rather than focused solely on the implementation of individual projects. This would give organisations the flexibility to choose how their funding is spent. Participants in focus group meetings also suggested that a distinction should be made between administrative costs for a project and organisational administrative costs. Moreover, rules for transparent processes should be established, allowing access to a wide range of organisations while limiting the political influence on disbursement decisions to selected entities close to governments. This should apply also to European funds which, ideally, should be distributed on a regranting basis by independent intermediary operators.

One positive example is the Citizens, Equality, Rights and Values Programme (CERV). After an intensive advocacy campaign by European civil society, the financial budget foreseen for this programme in the EU Multiannual Financial Framework 2021-2027 amounts to €1.3-1.6 billion. All this was confirmed in the [Regulation \(EU\) 2021/692 of the European Parliament and of the Council establishing the programme "Citizens, Equality, Rights and Values"](#), issued at the end of April. It is to be commended that this instrument generates more favorable and flexible conditions for the access of funds by various actors, including smaller civil society organisations. Furthermore, a disbursement model has been made possible whereby regional programme operators (including community organisations) can be involved in the distribution of funds to smaller organisations, acting in the form of indirect programme management (see Article 9.1 of Regulation (EU) No 2021/692). This is also a solution that facilitates the accessibility of these funds, and for this reason it was the object of great campaigning and advocacy by civic organisations.

As far as the areas of support were concerned, there was particular emphasis on building capacities in organisations to be able to operate remotely, as well as to be able to participate effectively in decision-making processes, especially at the local and national level. Such financial support for organisations should also provide resources for the wellbeing and mental health of staff and activists.

In order to ensure the above-mentioned principles are reflected in the European funding streams accessible to civic organisations, in the **short-term**, in implementing the Citizens, Equality, Rights and Values Programme (CERV), the European Commission should ensure that the selected national/regional intermediary grant operators are sufficiently independent of the Member State authorities. As a result, the resources allocated from this programme should address the phenomenon of "shifting civic space". It should fill the funding gap for organisations working on the rule of law and EU values in countries where public funds have been diverted to organisations whose work often stands against these values and the fundamental rights. Grants should be divided into small, medium and large ones, to enhance access to funding for organisations from different regions with various levels of capacity and experience. Application procedures for small grants should be simplified.

The European Commission should also ensure that Member States apply appropriate spending rules in the implementation of their National Recovery and Resilience Plans and ensure that civil society organisations are involved in their implementation (see separate recommendation below).

In the **long-term**, the European Parliament and the European Commission should start discussion on the development of new rules for support to civil society organisations under the new European Multiannual Financial Framework (to be implemented after 2027), looking in particular at the different 'flagship programmes' such as Life, ESF+, Horizon Europe, Creative Europe, Health programme, Erasmus +. These rules should guarantee greater flexibility in the spending of European funds aimed at civil society organisations. Resources from European structural funds (e.g. from the European Social Fund) should be made more accessible also for small entities operating at the local level. Financing projects aimed at promoting and safeguarding EU values, including through awareness raising and educational activities, is more important than ever. However, for CSOs to have the capacity and resources to engage in such activities, it is crucial for the EU Funding mechanisms to also provide core funding to support CSOs own existence and operations, in particular for organisations which operate at the local or national level. It should also help building capacity of CSOs, as well as support their organisational development, alliance and constituency building and resilience.

## **2. Ensure meaningful participation of civil society in the adoption, implementation and monitoring of National Recovery and Resilience Plans (NRRPs)**

As extensively discussed above, CSOs have been affected by the loss of funding at a time when their work was most needed to respond to the health, socio-economic, and democratic challenges posed by the pandemic. They are also key actors to ensure a fair recovery, including by contributing to identifying societal needs and acting to respond to them. Thus, they should be consulted in the preparation and included in the implementation and monitoring of the National Recovery and Resilience plans. They should also be considered as beneficiaries and access to this funding should be enabled.

As raised during the expert interviews and focus group meetings, the participation of civil society in the preparation of the National Recovery and Resilience Plans was perceived by CSOs as far from satisfactory in many EU countries (see also ECNL and CSE, [Participation of Civil Society Organisations in the preparation of the EU National Recovery and Resilience Plans](#), December 2020; ECNL and CSE,

Civil Society and the National Recovery and Resilience Plans: a reality check, September 2021; EESC, [The EESC calls for real involvement of organised civil society in the implementation phase of the National Recovery and Resilience Plans](#), 2021).

As the majority of NRRPs have been already adopted, a **short term-priority** for the European Institutions is to mitigate gaps identified in the meaningful inclusion of civil society. Where the consultation processes was missing, poor or not completed, the EU representatives, especially the European Commission, should request additional information to the Member State in question, and issue guidelines as well as recommendations on how such involvement could be improved (including the participation of CSOs in the monitoring and implementation of the plans), even if the NRRP has already been approved. An overview of which economic actors, including CSOs, are beneficiaries of the funds should be included in the review report on the implementation of the Recovery and Resilience Facility that will have to be submitted to the European Parliament and the Council of the EU by July 2022.

The monitoring of the implementation of the plans should be done in a rigorous way, so that funding disbursed is effectively used to meet the priorities, actions and expected results declared in the plans and agreed with the European Commission. The inclusion of CSOs and all relevant stakeholders in the monitoring should be guaranteed. To ensure that CSO representatives can participate on an equal footing with public administration representatives, several participants of expert interviews and focus group meetings suggested that funding should be provided to cover the costs of CSOs participating in the monitoring activities. Measures should be taken to ensure that all CSOs have appropriate access to media in all Member States. The European Parliament should involve civil society organisations in the Recovery and Resilience Dialogues foreseen in the Recovery and Resilience Facility Regulation.

A **short-term recommendation for Member States** is to ensure that CSOs have access as beneficiaries to the funds that are part of the NRRPs. Member States should make use of funding facilities for technical assistance to support capacity building of CSOs and not just of civil servants to ensure the monitoring of the plans.

In the **long-term**, the **European Commission** should set up coordinated mechanisms and structures to allow CSOs participation in the implementation and monitoring of the Recovery Package and NRRPs, European Semester, EU cohesion policies processes.

In the **long-term, Member States** should develop adequate mechanisms to involve civil society in all processes related to the implementation of EU funds. Involvement should be transparent and allow for meaningful participation. It is also critical that in all monitoring mechanisms the majority of members are independent from the government and have voting rights.

### **3. EU Civil Society Strategy**

A recurrent recommendation emerging from the discussions with experts in focus groups and interviews regards the adoption of a EU civil society strategy by the European Commission. While the importance of civil society in fostering and protecting the EU values and advancing European policies is reflected in a wide variety of EU policies and strategies (such as the Strategy for the Implementation of the Charter of Fundamental Rights or the European Democracy action plan but also in a number of sectoral policies such as in the areas of rule of law, anti-racism, LGBTQI+ equality, Roma inclusion, children's rights, disability, victims' rights, women's rights and migrant integration), experts stressed that the European institutions tend to view civil society as an ally to implement EU policies, rather than a partner or a

sector in itself. This is seen as an important reason why the EU approach to addressing the sector and the challenges it faces remains reactive and piecemeal, lacking a comprehensive vision.

As called for by the European Parliament own-initiative draft report on shrinking civic space in the EU, currently under discussion, the EU Civil Society Strategy should “*genuinely and unequivocally recognise the EU’s commitment to protect, nurture and support civil society and civic space. It should integrate all existing tools and complement them with new ones to fill existing monitoring, prevention, support and protection gaps*” (European Parliament, [Draft report on the shrinking space for civil society in Europe](#), 18 October 2021). The goal of such a strategy would be to identify civil society organisations as key actors for the European institutions and European market, defining the sector at the European level, and setting political priorities to develop its capacities and support it when facing attacks.

While the call for a “strategy” in itself is fairly recent (Environmental Partnership Association, [RECOMMENDATIONS for a Comprehensive European Policy and Strategy on Civil Society](#), 2020), the demand for a comprehensive policy framework and support for the sector beyond funding is long-lasting. Ahead of the 2019 European elections, European civic organisations identified five principles that should guide EU action towards civil society, that should also be at the core of the European Strategy on civil society (Joint statement, [Civil Society on the Frontline - 5 points for EU action 2019-2024](#), 2019).

The European civil society strategy should recognise and be based on the five principles

1. Recognise and speak up for civil society;
2. Secure an enabling environment for civil society;
3. Monitor, document and analyse challenges faced by civil society;
4. Protect civil society from attacks;
5. Take legal actions to uphold the role of CSOs.

The strategy should be grounded on Article 2 and 11 of the TEU and define civil society and civic space, recognise the diversity of not for profit actors in terms of structures, modus operandi, scope and actions.

The Strategy should also be a political tool for the European Commission to use its powers under the Treaties to propose EU legislation filling gaps and addressing challenges affecting civil society actors across the EU (e.g. on SLAPPs or regulatory standards), providing guidance on how to use existing EU rules to better protect civil society (e.g. rules on hate speech and crime and internal market freedoms), to use its enforcement powers against Member States which unduly restrict civic space in violation of EU laws and to regularly engage in dialogue with the sector (see recommendation 5).

A possible risk linked to such an endeavor identified by experts participating in focus groups and interviews is that if it remains a written document without serious commitment to implement it with concrete actions, it will not lead to real changes for grassroots organisations. Nevertheless, it can institutionalise the need to address civic space problems in Member States as a European issue.

Given the complexity of reaching agreement among several stakeholders, the development and approval of such a strategy or policy is a **long-term priority**. As said above, the strategy would create a structure and comprehensive vision to coordinate existing measures, providing harmonization

and guidance, and filling the gaps of existing policies. In this sense, there are already positive developments at EU level that are promising and showcase the willingness of the European Commission to develop policies in this area, including on SLAPPs, rule of law and protection of whistleblowers and journalists. The EU should also address issues related to the increased use of surveillance techniques used both by State non State actors that have a chilling effect on the freedom of assembly and the right to strike. The issue of civil society and civic space is gaining traction and relevance at the European level also thanks to the work of the EU Agency for Fundamental Rights (FRA, [Protecting civic space in the EU](#), 2021), the European Parliament and the long term campaigning of European networks and national organisations. Additionally, methods developed and work done regarding civil society in external relations may provide a good starting point.

Nevertheless, elements of the strategy can be implemented in the **short-term**, such as to monitor, document and analyse challenges faced by civil society and recognise and speak up for civil society (see the recommendation 4) as well as better engaging civil society in already existing European mechanisms (see recommendation 5).

#### **4. Monitoring and responding to attacks against civic actors**

A consistent number of recommendations emerged from the expert discussions refers to the European Commission work on democracy and rule of law. In particular, there is a wide understanding that the European institutions - especially the European Commission, should be more proactive in responding to negative developments in these areas. For years, civil society organisations have called the European Commission to establish an early warning mechanism, monitoring the state of civic space and civic actors in Europe (see, for example, Joint statement, [Civil Society on the Frontline - 5 points for EU action 2019-2024](#), 2019). This would enable stakeholders to alert in real time on worrying developments, like those observed during the COVID-19 pandemic. Such an alert mechanism should lead to a rapid (re)assessment of the situation allowing for timely and concrete reaction at the EU level, such as recommendations, dialogue, sanctions and emergency funding when needed, the impact of which should be regularly reviewed.

In order to trigger such reactions, civil society has been stressing the necessity of developing European benchmarks or indicators to assess the state of freedom of association and assembly in Member States and emerging threats. These indicators should be developed in accordance with international standards and in cooperation with civil society (CSE, CSE Contribution to the 2021 Rule of law Report, CSE contribution to 2021 Rule of Law Report consultation, 2021). They should respect the diversity of civil society organisations and the different national contexts. They should also be broad enough to be applicable to organisations of all sizes, including those only composed of volunteers. This would provide a harmonised basis at the European level while allowing nuances to be introduced to take into account national situations. In this regard, the European Parliament is currently calling for a ‘European civic space index’ (European Parliament, [Draft report on the shrinking space for civil society in Europe](#), 2021) based on an adaptation of the methodology of the European Commission’s ‘CSO Meter’ applied in Eastern Partnership region (FRA, [Protecting civic space in the EU](#), 2021). If such a tool is developed, it is crucial that it is not limited to a reporting exercise, but it is backed by concrete political actions to ensure impact. This assessment should guide the action of the European Commission in proposing recommendations, starting a dialogue or imposing sanctions on national actors responsible. This monitoring should also aim to identify situations in which support to civil society actors is needed and tailor the help provided, including emergency funding and diplomatic tools. The European Commission

national representations also have a role to play in this by providing information and contacts from the ground to the European Commission in Brussels and acting as support for civic actors on the ground.

While setting up a full-fledged civil society index and early warning mechanism might be a **long-term priority**, there are related measures that can be actionable in the **short-term**. The European Rule of Law framework and its annual Rule of Law report were identified as policy frameworks for this monitoring and reaction to take place. Nevertheless, these existing mechanisms present important limitations that need to be overcome in order to become effective tools for change and protection. In particular, the European Commission is currently adopting a too narrow scope to this mechanism, failing to capture systemic violations of human rights and marginalising civic space in the assessments (ECF, *Civic space in the rule of law framework*, upcoming 2021; CSE, *CSE Contribution to the 2021 Rule of law Report*, CSE contribution to 2021 Rule of Law Report consultation, 2021; Joint Statement: *Civil Society Recommendations for the Commission on the Rule of Law Report*, 2021). Additionally, the review is not sufficiently linked with enforcement mechanisms (*ibidem*). Finally, there is a risk that further deterioration can occur between one cycle and the next if no follow up action is taken where issues have been identified and there is no further engagement of the European Commission on developments emerging between two cycles.

The European Commission should structure the assessment of the civil society environment in the European rule of law mechanism on the basis of above mentioned existing methodologies and dedicate a separate chapter in the review (ECF, [Civic space in the rule of law framework](#), 2021; European Parliament, [Draft report on the shrinking space for civil society in Europe](#), 2021). When pressures on civic actors are identified, EU leaders should stand up for civic actors by speaking up for them. In particular, the mandates of the EC Vice President should be given content, and supported with appropriate staffing. Political groups in the European Parliament should also reflect on how to engage Members of the European Parliament and national parties that promote anti-NGO narratives and restrictive policies and practices. The introduction of recommendations to the rule of law review could also be a positive step forward if they require authorities to show concrete steps towards addressing them as suggested by some participants of the focus groups.

Each DG of the European Commission and European institution should establish clear contact points (focal points) that can assume the role and the responsibility of maintaining an exchange with civil society. These focal points should be engaged when civic actors dealing with specific policy areas are under attack to provide remedy. Additionally, these focal points should involve civil society for structured dialogue and consultation during the preparation or review of legislation, including to carry out structured impact assessment of how EU laws could impact Rule of Law, and civic space in particular. Respect for freedom of expression, association and assembly should be part of all fundamental rights impact assessments for EU legislative proposals, and part of the continued monitoring by the European Commission of existing EU and national legislation (Civil Liberties Union for Europe, [A New Fundamental Rights Strategy for the EU: Recommendations from Liberties](#), 2021).

## **5. Towards a structured framework for an open, regular and transparent EU civil dialogue**

The study has highlighted how participation of CSOs in decision-making is a key area of concern that was exacerbated by the COVID-19 pandemic. The lack of (or poor quality) consultation and dialogue with policy-makers has been identified by experts consulted for this study as main reason for little reactivity to the needs of vulnerable groups and lack of tailored support for the civil society sector in the frame of the emergency measures and recovery plans. Longstanding gaps in the consultation and

involvement of civil society in the policy-making have been pointed out by CSOs over the last decades both at national and EU level, and the pandemic crisis had a magnifying effect. At the **EU level**, although Article 11.2 of the TEU sets since 2009 a legal obligation for EU institutions to engage into an open, transparent and regular dialogue with organised civil society, according to a recent study (Civil Society Europe & the European Civic Forum, [Towards an open, transparent and structured civil dialogue](#), 2021), current practices of institutional dialogue with civil society on European policy-making, both at EU and at national level, “*are clearly failing to meet the basic standards of enabling environment, openness and transparency, accountability and responsiveness, equality and inclusiveness as well as sustainability and structural nature*”.

When discussing possible solutions, some of the experts consulted stressed that besides creating new European mechanisms and tools, which might lead to the duplication of bodies and additional bureaucracy, there is need to look into better ways to include CSOs in existing ones. Additionally, CSOs should be better involved in the European policy-making at national and European level. The lackluster inclusion of CSOs in the National Recovery and Resilience Plans is a case in point. Balanced participation of stakeholders in policy-making would allow EU institutions to have a complete view of all issues at stake and avoid undue influence. This would also support policies to identify and respond to the needs exposed and exacerbated by the COVID-19 pandemic. More generally, by improving the quality of impact assessments and ensuring meaningful opportunities for civil and social dialogue, the social and environmental impacts of national and EU legislation would be better balanced with economic impacts, and fundamental rights would be taken more adequately into account when designing legislation and policies. Better and fairer policies would create more fertile ground for trust in democratic institutions, fundamental for the functioning of the rule of law and democracy.

Implementation of civil dialogue along the Article 11.2 of the TEU is a longstanding demand of the European civil society, supported through various EESC opinions and the work of its Liaison Group ([Participatory Democracy A success story written by the EESC](#), 2020), as well as by several European Parliament reports and resolutions, starting with the [Resolution of 13 January 2009 on the perspectives for developing civil dialogue under the Treaty of Lisbon](#). It has been repeatedly brought into discussion throughout the focus groups. Civil dialogue is a complement to social dialogue, which is particularly critical given the impact of the pandemic on employment and the rights of workers. Member States and EU institutions should respect the prerogatives of trade unions and the role of social partners in providing solutions for the working people. It is also critical to ensure capacity building for trade union affiliates.

Some positive examples related to a structured dialogue with civil society organisations are related to the accession of the EU to two international Conventions: the Convention on access to information, public participation in decision-making and access to justice in environmental matters that has led to the [Aarhus regulation](#), recently reinforced as to strengthen the capacity of European civil society to exercise scrutiny over decisions affecting the environment, as well as the United Nations Convention on the rights of persons with disabilities, and its [framework for implementation at EU level](#).

In the **short-term**, this can be achieved through establishing basic coordination structures (focal points) for civil dialogue within each EU institution - including each DG of the European Commission, formalising and structuring the involvement of CSOs on sectoral policy issues beyond consultation along all phases of policy making, including its implementation and evaluation phase.

In the **longer-term**, existing mechanisms and good practices both at EU level across institutions and at national level should be strengthened and harmonised to avoid red tape and duplication. This entails

reviewing and harmonising the methodology of consultations to reach out more civic and civil society organisations at EU and national level and establishing civil dialogue infrastructure at national level on EU legislation (for example by strengthening the role of European affairs ministries, Parliamentary committees, the European Commission and European Parliament representations).

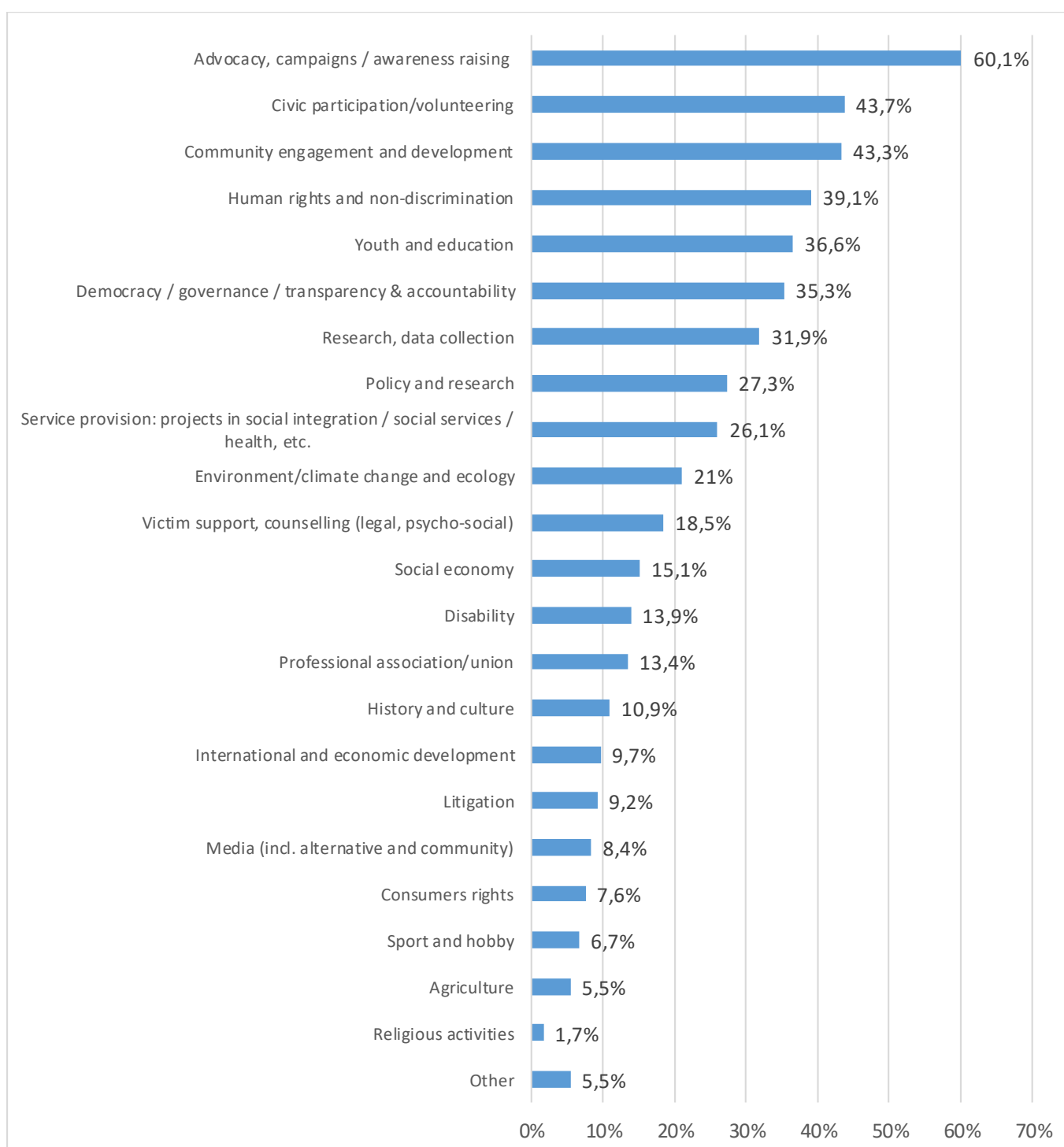
One possible way is to develop an **inter-institutional agreement** on civil dialogue which could provide the framework to establish coherent practices across the EU institutions, particularly looking at:

- basic principles related to an open, transparent and regular EU civil dialogue;
- a harmonisation of civil dialogue standards, procedures and mechanisms common to all EU institutions and to all Member States (national mechanisms for civil dialogue on EU legislation);
- Similarly, Member States should be required to prepare and adopt **national implementation plans**, which may build as appropriate on already existing civil dialogue frameworks and structures;
- a strong monitoring and reporting framework to regularly assess implementation of basic principles and standards, procedures and mechanisms, at both EU and national level;
- the allocation of appropriate staffing and budgets within the different EU institutions and bodies, also for the purpose of reinforcing the civil dialogue infrastructure;
- permanent inter-institutional coordination entity for transversal civil dialogue at EU level (Civil Society Europe & the European Civic Forum, [Towards an open, transparent and structured civil dialogue](#), 2021).

Dialogue structures both at EU and national level that offer opportunities for transnational and grassroots civil society to engage in EU policy making would contribute to ensure better quality and effectiveness of EU legislation, and its ability to respond to people's needs on the ground.



### Annex 1. Full list of the categories/areas of work of the entities included in the survey



Source: Own elaboration based on the results of the questionnaire survey (N=238);

Answer "Other" includes individual indications on: insurance, health care financing; NGOs development; migrants and asylum; labour market; peer support groups; development of ski resorts; issuing of publications; civic education (and history); European Union; not-for-profit/voluntary activity, financed only from membership fees; children's rights (mentioned twice – once also in connection with child protection); patients' rights, compulsory vaccination, obstetrics.

## Annex 2. Participants and questions for in-depth expert interviews

### List of categories of actors selected for interviews in each country

Country	Type of organisation
<b>FRANCE</b>	National platform of CSOs
	Trade union
	CSO working on specific topic (migration)
	Human rights organisation
	Social economy actor
<b>IRELAND</b>	National platform of CSOs
	CSO working on specific topic (youth)
	Human rights organisation
	Rural organisation
<b>SPAIN</b>	National platform of CSOs
	CSO working on specific topic (environment)
	CSO working on specific topic (tenant's union)
	Human rights organisation
	Social economy actor
<b>POLAND</b>	National platform of CSOs / coalition
	Trade union
	CSO working on specific topic (women's rights/human rights)
	Foundation (donor organisation)
	Organisation supporting civic activism in rural areas
<b>LATVIA</b>	National platform of CSOs
	Professional association
	CSO working on specific topic (LGBTI+ community)
	Foundation
	Rural organisation

<b>SLOVENIA</b>	National platform of CSOs
	Professional association
	CSO working on specific topic (youth)
	Human rights organisation
	Rural organisation

## Questions for in-depth expert interviews

### I. Overall assessment of the CSOs' operating conditions and impact of the pandemic on them

1. Let's start with talking a little while on how COVID-19 pandemic influenced the work of your organisation and similar entities in your country. Could you briefly explain in what areas some improvements could have been observed (if there were any?) and what the deteriorations were?

Did the pandemic have an economic and financial impact on CSOs financial viability and sustainability in your country? If so, in what way? Can you see any long-term impact in this respect?

2. And in your opinion what impact (if any) have had COVID-19 pandemic and extraordinary legal measures introduced in your country by the government to mitigate the impact of the pandemic on the ability of civil society organisations as well as civic activists to act publicly? Please specifically focus on such issues as access to freedoms of association, assembly/peaceful demonstration and expression, as well as access to public information.

### II. Public authorities responses that have already been proposed

3. How have public authorities responded to the challenges that your organisation and/or other CSOs in your country faced that limited the possibility to exercise fundamental rights (if they reacted in any way)? Were any positive actions / public policies dedicated to CSOs started by the authorities at local or national level to ensure the respect of their fundamental rights? Have they produced any positive results?
4. Did the government include the sector in the recovery measures for the economy or implemented specific measures to financially support CSOs in the country? Have there been similar solutions adopted by the local authorities
5. Has the government involved the civil society sector in a meaningful way in the National Resilience and Recovery Plans (NRRPs) preparation as well as included CSOs as beneficiaries of drafted programmes? Please explain your opinion by referring to how this document consultation and drafting process looked like in your country.
6. And do you know of any forms of support during a pandemic proposed by the EU that have been dedicated also to CSOs? If so, please tell us what is your opinion on them - above all, do

they constitute an accurate and sufficient response to the needs of the civil society sector in your country, and especially organisations like yours?

### **III. What still can be done?**

7. Do you have any recommendations as to what kind of support is still lacking and what still needs to be done in your country to counteract main challenges that CSOs faced during the pandemic?
8. Do you know of any valuable solutions implemented in other regions within your country or in another country that could be useful to support CSOs?
9. Do you know any measure(s) that are/is being discussed within European institutions which could support CSOs in your country in exercise of their fundamental rights and freedoms? If so, what do you think about their potential effectiveness when it comes to mitigating the challenges CSOs have faced?
10. And do you maybe have any ideas, what more can be done at EU level to support the work of civil society organisations in EU member states? If you do not have any ideas for such concrete actions, perhaps you could at least try to indicate areas where something should be done?

### **IV. Conclusion**

11. Is there anything else relevant to the topics covered in this interview that we didn't ask about? Is there anything else you would like to add to what we have already discussed?

### Annex 3. List of the most important topics discussed and participants of the focus group interviews (FGIs)

List of participants

Type of CSO	Country name	Focus group n° *
National NGO	Bulgaria	1
National NGO	Slovakia	1
Trade Union	Luxembourg	1
Trade Union	Slovenia	1
National NGO	Hungary	1
National platform of CSOs	Hungary	2
National platform of CSOs	Romania	2
National platform of CSOs	Croatia	2
National platform of CSOs	Germany	2
National platform of CSOs	Finland	2
National platform of CSOs	Czech Republic	2
European platform of CSOs (youth)	Belgium	3
European platform of CSOs (volunteering)	Belgium	3
European platform of CSOs (social)	Belgium	3
European platform of CSOs (human rights)	Belgium	3
European platform of CSOs (philantropy)	Belgium	3
European Trade Union	Belgium	3
European platform of CSOs (environment)	Belgium	3
European platform of CSOs (LGBTI+)	Belgium	3

Each of the meeting was divided into three main parts with the following content:

1. After a brief presentation of the main results of the previous research stages (an online questionnaire and in-depth expert interviews) these findings were opened for the discussion with each FGI's participants, enabling them to support or criticise any of them, as well as adding anything they thought is missing;
2. Participants were asked to comment on the presented recommendations for solutions at the national level coming from expert interviews. There was also time to present additional solutions, which according to the participants are worth introducing. Each time people were asked to consider not only how specific solutions should look like, but also who should be responsible for their implementation, how they should do it, what kind of support they might need, etc.
3. The third part of the meeting was devoted to the discussion on solutions to be implemented at European level. It was divided into two parts:
  - 3.1. A number of solutions that have already been identified in the course of the study or are under discussion in European bodies/fora were discussed:
    - European Instruments to finance CSOs – their shape, accessibility, etc.
    - CSOs' inclusion in the Resilience and Recovery Plans

- European association status
- EU internal guidelines on human rights defenders/standards on freedom of assembly and association, an EU civil society stability index
- Adopting an EU's strategy for civil society
- Creation of a Democracy Semester
- Establishing an EU focal point for attacks against civil society
- Enhancing civil and social dialogue at the European level – i.e. through the Conference on the Future of Europe

3.2. Participants had the opportunity to propose their own additional recommendations for measures addressed to the EU institutions. In relation to each recommendation experts were asked what are its strengths, weaknesses, opportunities as well as threats, and how, if desired, these could be implemented.

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