

LATVIA

By Civic Alliance – Latvia

Summary:

*The Constitution (Satversme) recognises that the “power of the state is vested in the people of Latvia” (art. 2) and safeguards freedom of association (art. 102). In the last few years, there have been no changes in the main **laws regulating the establishment and operation of CSOs**, which make the process for the registration of CSOs easy and accessible. Nevertheless, amendments to the law on public benefit organisations that could bring significant changes to the legal framework is expected in 2022. With regards to funding, the public support for the sector is increasing – including to respond to the challenges that NGOs face vis-à-vis the Covid-19 pandemic. However, the **financial sustainability remains low**, especially for those organisations engaging in the fields of advocacy and human rights. This has repercussions on the ability of civil society to engage as part of the rule of law infrastructure. According to the CSO Sustainability Index, Latvia is the lowest among the Baltic countries for sustainability of the sector, although well placed compared to the wider Eastern region. The legal **framework for civic participation and dialogue is favourable** and has been improving over the past few years, thanks to the advocacy of civil society. In general, the public administration, both in local and national level, follow the rules. The Covid-19 pandemic also pushed towards new openness and transparency of the decision-making thanks to digitalisation. Still, **officials’ rhetoric** regarding CSOs, and their activities, are often negative when they involve advocacy and citizens participation in politically sensitive matters. While the Covid-19 emergency affected the number of people that can gather, freedom of assembly was protected in respect of sanitary measures.*

*While the right to association is recognised by the law, **the Anti-Money Laundering (AML) laws** and regulations include rather strict and often disproportionate provisions and guidelines that in practice affect this right. Risks of anti-money laundering and terrorism financing for the NGO sector is overly generalised. As a result, banks display overcautious attitude towards CSOs: organisations are classified and viewed as ‘high risk entities’ in terms of AML. Thus, the ability of CSOs to open bank accounts, or even to keep current accounts, is low, which is a serious challenge to the operation of CSOs. After discussions with banks and institutions which supervise banks, CSOs have prepared guidelines on how to correctly estimate risks of affecting CSOs financial viability that improved cooperation between CSOs and banks. A **Constitutional Court decision in 2020 found that same-sex couples** were eligible to receive ten days of paid leave upon the birth of a child, a benefit that was previously generally available only to fathers. This decision sparked an active debate in society about human rights and spurred some members of parliament to initiate a move to define the term ‘family’ as the union between a man and a woman in the Constitution of the Republic of Latvia, in contrast to civil society activists’ stance which supports human rights for all. According to ILGA-Europe’s Rainbow Index, Latvia is the second worst country in the EU to be an LGBT+ citizen.*

Institutional landscape and safe space (including state duty to protect and right to freedom from fear)

State of emergency

The state of emergency was imposed in Latvia due to the surge of the Covid-19 pandemic. The state of emergency is a special legal regime, which allows the government to restrict rights and freedoms of natural and legal persons, as well as to impose additional duties to protect public health and safety. These restrictions, over the time, were accompanied by additional elements, downsizing the number of people who can gather. Nevertheless, pickets and protests were allowed, maintaining safety measures. The Ministry of Justice has taken steps to ensure the guarantee of human rights and freedom of expression in the country.

LGBT+ rights under debate

ILGA-Europe's Rainbow Index (published on 17 May 2021) reported¹ that Latvia is the second worst country in the EU to be an LGBT+ citizen, scoring just 17%² in terms of equality, ahead only of Poland at 13%. The report³ mentioned bias-motivated hate speech in the public space, including from parliamentarians such as MP Jānis Lesalnieks, who retweeted⁴ a post of an "LGBT-Free zone" sign in Latvia, similar to those used in Poland. The use of open homophobic language by

senior politicians is reported to have fueled an unprecedented increase in hate speech against LGBTI people, especially in the last year, resulting in a hostile environment for the LGBTI community.⁵

In December 2020, the Constitutional Court of Latvia granted 'paternity' leave to the female partner of a woman.⁶ This comes after the partner had been refused leave due to not being the biological father of the child. In deciding to grant the leave, the Constitutional Court acknowledged that under Article 110, which obliges the legislator to ensure protection for all families (regardless of marriage), the partner was entitled to leave. It was also stressed that 'family' is not simply a marriage-based union, and thus the state has a duty to protect and support same-sex partner families as well. This Constitutional Court's decision sparked a move by the far right-wing National Union Party to submit an amendment to Article 110⁷ to constitutionally strengthen the concept of family as a union between a man and a woman. The Party commented that *"this is an arbitrary interpretation of the concept of family, which does not correspond to the will of the legislator expressed in the current wording of Article 110 of the Satversme, nor to the understanding of the Latvian society about what a family is"* (translated from Latvian). Their amendment read as follows: *"The state protects and promotes marriage - the union between a man and a woman, a family based on marriage, kinship or adoption, the rights of parents and children, including the right to grow up in a*

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https://twitter.com/lgbt_mozaika/status/1394186974743994369?s=20

2 <https://rainbow-europe.org/#8642/0/0>

3 <https://rainbow-europe.org/sites/default/files/annual-report/Annual-Review-Full-2021.pdf>

4

<https://twitter.com/janislesalnieks/status/1234194690829930498?s=20>

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<https://monitor.civicus.org/updates/2021/06/01/seco-nd-worst-country-eu-lgbti-persons-index-shows/>

6 <https://www.lsm.lv/raksts/zinas/latvija/satversmes-tiesaatzist-viendzimuma-para-tiesibas-uz-berna-dzimsanas-atvalinajumu.a381484/>

7 <https://www.lsm.lv/raksts/zinas/latvija/nacionala-apvieniba-piedava-satversme-noteikt-gimenes-jedzienu.a388007/>

family based on mother (woman) and father (man)." Minister for Welfare Ramona Petraviča also expressed opposition⁸ to the decision of the Constitutional Court, stating that the judgement was a "threat to family values and understanding of the traditional family".⁹ This is a litmus test for democracy and human rights in the country.

CSOs visibility in the public sphere

There are very positive examples of awareness raising of the CSOs, but most of them are in the field of social issues, environment and health. Commercial TV companies are organizing annual charity campaigns, in co-operation with charity funds. However, they are often not so visible and not linked to the broader sector of CSOs. Officials' rhetoric regarding CSOs and their activities are often negative when they involve advocacy and citizens participation in politically sensitive matters.

The regulatory environment for and implementation of civic freedoms

Right to association is protected by the law but anti money laundering rules create barriers

The Constitutions (Satversme) recognises that the "power of the state is vested in the people of Latvia" (Art. 2) and safeguards freedom of association (Art. 102). According to the Lursoft Ltd database, there are more than 25,000 associations and foundations. In the last few years, there have been no changes in the main laws regulating the establishment and operation of CSOs – the Law on Associations and Foundations and the Public Benefit

Organisations Law. The registration process for CSOs is easy and accessible. Due to Covid-19, the Company Register of the Republic of Latvia changed its operation and stopped accepting visitors in their premises, as well as stopped verifying signatures of persons on documents, transferring all its operations to remote mode. Therefore, the documents for registering CSOs can be submitted electronically (signed by secure electronic signature), or sent by post, but no on-site submission of documents is possible anymore.

Since 2019, the Ministry of Finance has initiated to work on amendments to the law on public benefit organisations on the basis of a draft information report on the operation and development of public benefit organisations. The proposal envisaged significant changes not only in the regulation of public benefit organisations, but also in the legal framework for associations and foundations, social enterprises, public foundations, state capital companies. Nothing has much developed in this regard to date as the concept paper still has not been announced at the Meeting of State Secretaries, which is part of the procedure before documents are submitted to the Cabinet of Ministers. Thus, more progress is expected in 2022.

The Anti-Money Laundering (AML) laws and regulations include rather strict and often disproportionate provisions and guidelines. Risks of anti-money laundering and terrorism financing for the NGO sector is overly generalised. As a result, banks display overcautious attitude towards CSOs: organisations are classified and viewed as 'high risk entities' in terms of AML. Thus, the ability of CSOs to open bank accounts, or even

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<https://twitter.com/RamonaPETR/status/1326895540261543937?s=20>

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<https://monitor.civicus.org/updates/2021/03/31/concerns-over-proposed-constitutional-amendment-which-seeks-limit-lgbti-rights/>

to keep current accounts, is low, which is a serious challenge to the operation of CSOs. This negatively affects the freedom of establishment of CSOs, since it is impossible for an organisation to properly operate and receive tax returns without a bank account.

The discussion on prevention of money laundering within the CSOs sector is ongoing. Civic Alliance – Latvia (CAL) has continued dialogue and discussion with the government, the Financial and Capital Market Commission (FCMC) and other authorities, in order to explain and clarify the specifics of the sector and to improve the position of the CSOs in this field. This work is ongoing and will continue also in 2022.

[The framework for civic organisations'](#) [financial viability and sustainability](#)

Public funding for the sector is increasing but financial sustainability remains low

The civil society in Latvia struggle to find ways to sustainably develop with regards to funding. In a relatively better situation for sectoral organisations whose activities are identifiable with one policy area. This allows an organisation to attract funds from state budget resources. The situation¹⁰ is much more problematic for cross-sectoral organisations that operate in the fields of advocacy and human rights.

At the same time, data¹¹ shows that the number of signed partnership agreements between state institutions and CSOs, and the number of CSOs representatives who took

part in civil participation process, have increased. This proves that CSOs are important partners to public administration, therefore it should be considered by the government that qualitative expertise in different fields requires investments, and there is a need to strengthen the capacity of CSOs to provide sustainability of civil society in common.

The study¹² shows that 82% of municipalities supports civil society with grants to local organisations, communities, and even individuals.

In 2016, thanks to the strong advocacy work by Latvian NGOs, the government established a national NGOs fund, called Social Integration Fund (SIF),¹³ financed by the state with the aim to support CSOs to promote civic participation and cooperation, and to strengthen democratic values. The amount of funds allocated for this purpose has steadily grow over the years, increasing from 400,000 EUR in 2016 to 1.8 million EUR in 2022.

As CSOs mainly are still unable to create stable and sustainable financial model, they lack recourses to communicate to the wider community about their work, therefore people are not well-informed about CSOs and their abilities to participate in civic activities.

Covid-19 pandemic impacts operations of the sector but special public support was made available

The Covid-19 pandemic has caused number of negative effects on CSOs activities, such as interruption or unavailability of services to specific target groups, downtime or downsizing of CSOs' employees, suspension of projects, non-fulfilment of delegation or participation in agreements, significant

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https://nvo.lv/uploads/research_on_the_sector_of_civil_society_organizations_in_latvia_2020202456.pdf

¹¹ <https://www.mk.gov.lv/lv/media/9801/download>, pp. 12-21

¹²

<https://www.activecitizensfund.lv/storage/document/s/esosa-vide-pilsonisko-aktivitasu-un-nvo-darbibas-stimulesanai-un-atbalstam-latvija.pdf>

¹³ <https://www.sif.gov.lv/lv/nvo-fonds>

reduction of planned operating income, etc. Over the time several important support instruments were introduced to support sectors affected in order to continue their activities. For example, some legislative amendments were introduced to prevent or reduce job losses or forced downtime in the crisis. A special support programme for NGOs was established. The parliament also gave to public authorities the permission to exempt CSOs from lease payments and to be flexible in relation to activities and costs.

The National Recovery Plan includes civil society proposals

One of the biggest challenges for Latvian civil society in 2021 was the drafting of the Covid-19 Recovery and Resilience Facility plan. At the first stage, started in 2020, CSOs were not involved in the consultation process – which, instead, was a mandatory requirement set by the European Commission. Thanks to the advocacy work of Civic Alliance – Latvia (CAL), the consultation process eventually started, and the Ministry of Finance invited representatives of NGOs to participate in meetings on the development of the RRF plan.¹⁴

Therefore, the RRF plan approved by the government in April 2021 included proposals made by NGOs to reduce inequalities, introducing:

- Equal access to investment for all: to include associations and foundations as recipients of RRF investments, ensuring equal treatment of different sectors and economic actors. The final version of the RRF plan also includes direct investments in the non-profit sector, associations and foundations, social enterprises in the field of digitisation and inequality reduction;

- Socially responsible public procurement, giving preference to those tenderers who employ social inequality groups (such as people with disabilities, the long-term unemployed, young people and others) through public procurement;
- Funding for NGO support directed to NGOs themselves, social innovation and representation: the final version of the RRF plan includes a program worth more than 2.3 million euro, with the aim of strengthening the social security representation of non-governmental organisations and the monitoring of public interests.

Also, CAL has called for the inclusion of CSOs as an equal strategic partner of the government in all subsequent steps and processes related to the further clarification, discussion and implementation of the RRF plan.

The right to participation and dialogue between the civic sector and governing bodies

Balancing deliberative democracy and civil dialogue

The legal framework for civic participation is favourable and public administration, both in local and national level, follow the rules. Nevertheless, civil society has highlighted the need for more participatory and deliberative consultative processes with the wider society, more meaningful civic engagement and feedback from the institutions' side. The challenge for public administration is to find balance between professional civic dialogue and deliberative process with different groups

¹⁴

https://nvo.lv/en/news_item/ministry_of_finance_promises_to_listen_to_the_civil_society_before_submittin

[g_the_recovery_and_sustainability_mechanism_plan_to_ec](#)

of society. It requires the strengthening of all democratic processes, social cohesion and bring different and even competing interests together with citizens' willingness and ability to compromise and cooperate for common goals.

The right to participation and civil dialogue are formalised and structured

In order to ensure the development of civil society in Latvia and improve the co-operation between the parliament (Saeima) and CSOs, based on mutual understanding and support, as well as to strengthen the role of CSOs in a democratic state, the Saeima issued the Declaration on Civil Society Development in Latvia.¹⁵ To structure the involvement of civil society in the policymaking, the government developed the Co-operation Memorandum between the Cabinet of Ministers and Non-Governmental Organisations, as well as the Statute of the Council for Implementation of the Memorandum of Co-operation, which governs the operation of the Council.¹⁶

Since October 2020, Civic Alliance – Latvia,¹⁷ in cooperation with the State Chancellery¹⁸ and the Icelandic Citizens Foundation, has launched a joint initiative “Public Participation - Key to the Future of Democracy”. The initiative will create modern and innovative solutions for effective dialogue between public administration and civil society, their meaningful and effective involvement in decision-making processes, as well as increase the possibilities and capacity of civil society organisations to participate in the development of planning documents, policies and legislation.

CSOs and the wider public have institutionalised tools of communication with

policy makers, and procedures for advocacy and lobbying are developed. Legislation in Latvia provides various forms of civil participation in local and national public administration - by participating in working groups, advisory councils, public consultations, providing opinions, proposals and objections in the process of drafting political and legal acts. In practice, this means that at governmental level each ministry has a consultative council, and parliamentary commissions invite CSO representatives to participate in their meetings and provide input on the legislative process.

The Covid-19 pandemic pushes to new openness

The Covid-19 pandemic pushed government and parliament to change the way civic participation is ensured. Cabinet of ministers, the parliament and other state institutions started to conduct their plenary fully online by video conference. Parliamentary committees, for example, had the option to hold their meetings remotely on a video conferencing platform that makes them accessible also to the general public, including CSOs.

This new approach has continued after the end of the state of emergency, showing the possibility of a new era of openness and transparency. Meetings of the Cabinet of Ministers and Parliament plenary and Commissions sittings are live broadcasted to provide the opportunity for every stakeholder to follow the decision-making process. As a result, the policy-making is more accessible for media, people from regions and diaspora.

¹⁵ <https://www.saeima.lv/en/involvement-of-society/deklaracija/>

¹⁶ <https://likumi.lv/ta/en/en/id/263733>

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https://nvo.lv/en/news_item/a_collaboration_initiativ

[e has been launched to improve public involvement and participation processes](#)

¹⁸ <https://www.mk.gov.lv/lv/projekts/eez-finansu-instruments>

The National Development Plan aims to strengthening civic participation

The Parliament decided¹⁹ to add to the National Development Plan 2021-2027²⁰ the commitment to strengthen civil society, civic initiatives and the promotion of volunteering, as well as to establish an equal approach to dialogue with civil society, as it is to social dialogue. It could bring to a new level of civic participation, but it is too early to assess.

Changes to the law on local governments

In 2020, Parliament approved the administrative-territorial reform, and after the municipal elections in 2021, there will be 42 local governments downsized from 119. The reform also will affect civic participation in local level. CSOs have expressed concern that this could result in local administrations being further away from citizens, leading to limited space for participation and consultation. Nevertheless, the new law includes mechanisms to encourage civil society participation, such as the creation of citizen councils, which will provide input and guidance on laws and decision making. It is also planned to establish the right to create participatory budgeting for local governments, through which residents will be able to directly decide on the use of public funds in their local government.

Civil society's responses to challenges to democracy, the rule of law and fundamental rights

In July 2021, the Civic Alliance – Latvia (CAL) has successfully submitted²¹ proposals for amendments to the Procedure for Assessing the Initial Impact of Draft Legislation, emphasizing that when assessing the initial impact of a legal act, it is also necessary to assess its impact on associations and foundations, democratic values and civil society.

The CAL also called²² for the annotations to indicate not only the participation of the institutions and the public involved in the development of the project, but also to clearly indicate the results of the public participation, as it is important to indicate whether the involved parties have agreed or objected to the project.

¹⁹

https://nvo.lv/en/blog_post/the_saeima_approves_the_national_development_plan_of_latvia_for_20212027

²⁰ <https://likumi.lv/ta/id/315879-par-latvijas-nacionalo-attistibas-planu-20212027-gadam-nap2027>

²¹ <https://likumi.lv/ta/id/325945-tiesibu-akta-projekta-sakotnejas-ietekmes-izvertesanas-kartiba>

²²

https://nvo.lv/lv/blog_post/lpa_tiesibu_aktu_izveide_n_epiecesams_vertet_ari_ietekmi_uz_demokratiju