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## Recharging Advocacy for Rights in Europe

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### An EU Strategy for Civil Society: Recognition, Inclusion and Protection

#### Advocacy Brief

#### Executive summary

*Civil society is one of the strongest guardians of European values and an indispensable part of our way of life. For years, we have witnessed increasing threats to democracy, shrinking civic space, and rule of law backsliding across member states. **We need to rethink, and transform, how the EU connects with its citizens** based on an overarching engagement strategy. Civil society in Europe is in danger and needs protection now more than ever. This advocacy brief calls for*

- ➔ **policy and legislative change** at the EU and national levels;
- ➔ consistent **civil society access** to policy debates and processes at the EU level;
- ➔ strengthened **existing consultation mechanisms**; and
- ➔ access to **sustainable funding**.

*We urge the European Commission to anchor these four spheres – designed to protect and expand civic space – in an **EU strategy for civil society** in the form of a Communication, within the remainder of its mandate.*

#### 1. What's at stake and why we need change

**Civil society organisations (CSOs) provide direct services, educate and mobilise communities, advocate on others' behalf, gather information and data, ensure policies and rights are enforced, and hold authorities accountable.** The EU Agency for Fundamental Rights has recognised our [role](#) in safeguarding human rights at the local, national and regional level. Through CSOs, people can meaningfully participate in political, economic, cultural and social life. They can exercise their rights to express themselves, assemble and associate.

**Despite our efforts and accomplishments, reports on the shrinking of civic space in a number of EU member states (EUMS) have made headlines in recent years.** The [European Parliament's research services](#), the [Fundamental Rights Agency](#), the UN's Universal Periodic Reports and [academic](#) and [think-tank](#) research confirm this negative trend. Civil society organisations cannot push back against this phenomenon on their own, and even less so in EUMS mired in a rule of law crisis. They need support from EU institutions, which are uniquely positioned to protect them and can at the same time deploy political and financial pressure on governments that restrict civil society's operational environment.

**Protecting civil society and the space it operates in is not only important for citizens; it is also a way to strengthen the EU's legitimacy and secure public**

**trust.** EU institutions cannot implement concrete policies and guard European norms and values alone. They also cannot address major challenges, including economic crises, pandemics, migration, climate change or war in its neighbourhood without the support of its civil societies. The current conflict in Ukraine highlights the critical role civil society plays during crises and why it is a crucial ally for both governments and EU institutions. We complement government efforts to shelter, feed, advise and support people affected by the war as safely and quickly as possible. Our mobilisation capacity aimed at alleviating the impact of conflict enhances the EU's aggregate response to aid victims of the war.

**The EU is also on the verge of a major transition.** Policy objectives captured, for instance, in the European Green Deal or within the commitment to digitalise will not be achieved without civil society addressing social discontent. While CSOs are part of the conversation, effective dialogue and cooperation with authorities is often lacking, hindering their meaningful participation in decision-making. The relationship between CSOs and the EU must therefore gradually change, leaning towards a more participatory and inclusive approach. Top-down policy-making is increasingly questioned from the perspective of democratic politics. The EU needs to think strategically about reconnecting with its citizens; it cannot expect to do so merely through Brussels-based institutions and Member States, several of which challenge and contest EU law and values. To genuinely reengage, the EU needs to connect with citizens directly and through their self-organised intermediaries, CSOs, which are well suited for that purpose.

**EU institutions only have few effective instruments at hand to protect civil society and counter negative trends.** The European Parliament has recently approved a report on a statute for European cross-border associations and non-profit organisations that aims to strengthen civil society in Europe. It has also voted in favour of [proposals](#) to counter the crackdown on civil society in Europe. They include calls for a comprehensive civil society strategy and a European civic space index; fair rules and financing across the EU for CSOs and an enabling environment for CSOs across the Union. These are among the many measures the Commission should urgently adopt and implement alongside other initiatives that will help civil society overcome current challenges.

## **2. Civil society as an indispensable part of the European way of life**

**The EU would function entirely differently as a legal order and a community of values without civic spirit and initiatives.** Measures and policies protecting the climate, for instance, were adopted thanks to awareness-raising campaigns, contributions and actions by cross-border civil society networks. CSOs have successfully backed limits on gas and pollution emissions in European cities. They have worked with member states to promote gender equality, democracy, the rule of law and government accountability. They play an important role in protecting the rights of refugees and other vulnerable populations. Without civil society, dystopian scenarios of corruption going undetected, injustices not being brought to court and human rights abuses not being remedied, could become the norm in Europe.

**CSOs contribute in vital ways to the Union.** They provide services, engage with communities, raise awareness, advocate on behalf of others, gather information and data, and hold authorities to account. Whether active at the local, regional or national level, they play a crucial role in safeguarding human rights. They advocate for values and rights that have become EU's DNA. Moreover, they play an important part in the implementation of EU policies.

**Given the wide range of CSOs in the EU and their activities connecting them with society, they are essential in promoting, monitoring and protecting fundamental rights and the rule of law, and thus the very principles the EU is founded upon.** Their contribution to EU integration itself has been vital. The Union is founded on values including the importance of civil dialogue to realise the Union's objectives. Effective dialogue requires engagement and commitment by all parties involved. Representing the public interest, CSOs observe the effects of public policies and political discourse on the life of citizens and bring this information back to policy-makers, thus improving the quality and effectiveness of policies. The ability of CSOs to connect society's needs and suggestions with policymakers is all the more important in view of the increasing complexity in and lack of accessibility to decision-making processes, in particular at the Union level.

**While the international community, including member states and EU institutions, have progressively acknowledged the important role of CSOs through treaties,<sup>1</sup> [partnership agreements](#) and other official procedures, their role is still not recognised to its fullest potential.** The EC regularly highlights CSOs' important contribution in the monitoring of the state of the rule of law, democracy and fundamental rights, yet CSOs face challenges that remain unrecognised and unresolved. When democratic principles are under strain and EU values subverted, CSOs must be provided with avenues to effectively engage with, and effectively contribute to, EU decision-making.

### **3. Areas in which we should move forward together**

**The EU has set up mechanisms to engage with, support and protect civil society; nevertheless these have been limited and the EU's overall approach has been meek and fragmented.** The numerous instruments and varying practices, as well as legal and institutional standards, challenge and limit the ambit of civil society initiatives. We need further support in the the following areas:

#### *3.1 Civic dialogue and participation in decision-making processes*

**Institutions competent to initiate and adopt legislation at the EU-level apply different methods to engage with civil society.** The European Parliament, for instance, follows an open, often informal approach by which CSOs can relatively easily feed information to MEPs and their advisors. The European Commission, on the other hand, has adopted a formalised approach to engaging with the general public through consultations. Consultations rarely provide sufficient room for CSOs to present their full perspective and analyses. Furthermore, there are no official channels through which CSOs can request the EC to open consultations on

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<sup>1</sup> E.g., Article 11 TEU and Article 15(1) TFEU.

particular challenges faced by civil society actors, involving for example the unbalanced distribution of domestic funds or smear campaigns directed by governments. On the other end of the spectrum, the Council of the European Union has no process for consulting with CSOs in its legislative and non-legislative activities, which most often remain intransparent. CSOs are rarely, if ever, invited to address Working Parties and other Council configurations. Crucially, none of the above institutions have a dedicated focal point for CSOs where organisations can refer concerns (i.e., a system of early warning). The “Have Your Say” system notifications are not enough as they are based on a strict set of topics and lack a horizontal approach. In general, access to public information on the work of EU institutions is too intricate and labyrinthine to be useful.

**Overall, openness, transparency and a structured approach are missing in the way the EU interacts with its organised civil societies.** The EU should invest more in inclusiveness and participation through civic dialogue. It should revisit its processes for civil society participation in EU policy-making and develop new tools that correspond to contemporary needs and challenges. Dedicating more resources to enhance participation in decision-making processes is necessary.<sup>2</sup>

### *3.2 Access to financial support*

**The EU’s funding programmes are not accessible to all CSOs.** The EU has several programmes to fund the civil society sector. These programmes are, however, not easily accessible especially for smaller organisations, do not cover all activities carried out by CSOs (e.g., strategic litigation) and may come with certain geographical or activity restrictions. The establishment of the Citizens, Equality, Rights and Values (CERV) programme under the 2021-2027 Multiannual Financial Framework is a positive development, nevertheless further steps are needed to achieve equal, fair and unrestricted access to all EU funding instruments for CSOs. EU funds for CSOs should undergo diligent evaluation, adjusting their accessibility and reporting criteria so that organisations operating at different levels (international, national and local), including smaller, community-based organisations, may access them. Grants should focus on the actual needs of CSOs and the communities they support. The heavy administrative burden that comes with them should be reduced, and they should also become more flexible and easily dispersible. It is equally important that CSOs participate in the design, implementation and monitoring stages of the various funds to make access to financial support more open and transparent.

### *3.3 A legal framework protecting civil society*

**While Member States are obliged to respect the independence of civil society actors, unjust government interference has become a worrying trend.** Restrictions on freedom of assembly, association and expression, as well as changes in relevant regulatory frameworks in countries across the EU, hinder the work of CSOs and put them at risk. The EU should take measures to protect civil society and reverse this trend.

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<sup>2</sup> For a full list of recommendations, see [here](#) (European Civic Forum 2021).

**So far, the EU has not fully recognised the role of civil society in its legal order, nor has it addressed many of the challenges it faces.** Certain pieces of draft legislation (e.g., the anti-SLAPP [directive](#)) aim to address key issues, yet the scope of this work is too limited given the wide spectrum of existing threats. More such legislative initiatives are required to address these challenges. In addition, mechanisms to better monitor member states' interference and restrictions on CSOs, including legal and policy tools to hold them accountable, should be established. Common registration requirements and other minimum standards across the EU are another example of how the EU could protect CSOs from government attacks.<sup>3</sup> These regulations could be a powerful tool for CSOs in countries where civic space is subjected to unnecessary and disproportionate limitations, and could also strengthen the position of CSOs in well-established democracies.

#### **4. EU strategy for civil society: the way forward**

**With these concerns in mind, we, civil society organisations across the EU, including the Recharging Advocacy for Rights in Europe initiative, urge the European Commission to develop an EU Strategy for Civil Society that recognises it not only as an essential element of democracy, but enhances its crucial role in upholding EU rights and values.** The Commission strategy should, in the form of a Communication to Council and EP, outline how CSOs could more effectively contribute to EU law-making, policy-making and programming processes. Such a strategy would not merely preserve and protect them but widen civic space throughout the Union. Without it, CSOs will become even more vulnerable, and EU values will be undermined. **The Union is as strong as its civil societies.** This strategy will strengthen EU institutions and CSOs, ensuring citizens have a more effective say in EU policy-making.

**Our vision for the Strategy places emphasis on the need for shared ownership of values by EU institutions and Member States.** Accordingly, proposed measures should involve both the Union and national levels. At the level of EU institutions, the Strategy should aim at establishing a comprehensive approach to CSOs, reflected through targeted legislative initiatives, institutional changes within the Union bodies, as well as financial programming:

##### *4.1 Legislative initiatives*

As part of the Strategy, the European Commission may wish to consider:

- setting out a clear commitment to **propose legislation on the European Statute for Cross-border Associations** and minimum standards for non-profit organisations;
- exploring amendments to existing EU instruments to **enshrine the right of CSOs to participate in (social and political) life and greater access to agenda-setting and policy-making**, taking account existing good practice within EU Agencies (e.g., dedicated organisational units on stakeholders and civil society within the Fundamental Rights Agency and EU Agency for Asylum, as well as thematic and horizontal consultative forums);

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<sup>3</sup> For more recommendations, see [here](#) (EP study 2020).

- considering ways of **formally involving CSOs in evaluating the implementation of the Union *acquis***, through formats equivalent to that of Contact Groups.

#### 4.2 *Policy initiatives*

The European Commission should:

- explore ways to **formally incorporate CSOs in implementing EU policies**, including seeking and relying on information from CSOs regarding the implementation of EU policies at the national level;
- further **develop the existing Rule of Law mechanism to periodically monitor respect for human rights relevant to the free and autonomous work of CSOs** (e.g., the rights to freedom of association, assembly, expression, etc.) based on the EU's Charter of Fundamental Rights and complementary Council of Europe standards. This mechanism should include making country-specific recommendations, which should be regularly monitored;
- **develop formal ways for civil society to contribute input to the Commission as it works to uphold EU values**, such as in the course of infringement actions as well as in the implementation of the Rule of Law conditionality regulation for the EU budget as well as NextGenerationEU; and
- **ensure CSOs are promptly and effectively shielded from government backlash** in their work to safeguard the EU's financial interests and core values.

#### 4.3 *Programming*

The European Commission should:

- **programme mid-term and long-term funding schemes to enable CSOs to participate in the Union's agenda-setting and policy-making**, and enable them to carry on rights- and fact-based advocacy;
- **carry out an independent evaluation of the implementation of the partnership principle** in funding instruments across Member States to ensure CSOs' meaningful participation at all stages of fund management, including the preparation and implementation of programmes as well as their monitoring and evaluation.

#### 4.4. *National-level measures*

Importantly, the Strategy should also encourage Member States to:

- **adopt national civil society strategies** to strengthen the implementation of the Commission's Strategy with a view to removing obstacles and creating an enabling legal and policy environment for civil society in every EU member state; and
- take concrete measures at the national level to **complement existing Union funding schemes with national funding**, especially for programmes and initiatives aiming to promote EU values.

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The following organisations endorse this initiative:

Amnesty International Hungary  
Anticorruption Fund  
Association for the Defense of Human Rights in Romania – the Helsinki Committee (APADOR-CH)  
Bulgarian Institute for Legal Initiatives (BILI Foundation)  
Citizens Network Watchdog Poland  
Civil Liberties Union for Europe  
Democracy Reporting International  
epicenter.works – for digital rights  
Expert Forum  
Gender Alternatives Foundation  
Helsinki Foundation for Human Rights  
Human Rights House Zagreb  
Human Rights League Slovakia  
Hungarian Helsinki Committee  
Netherlands Helsinki Committee  
Open Society Fund Prague  
People in Need  
PIC – Legal Center for the Protection of Human Rights and the Environment  
PRO ASYL  
Refugee Support Aegean  
Stefan Batory Foundation

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## Recharging Advocacy for Rights in Europe

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### Why RARE?

We observe deteriorating protection for human rights and the rule of law in a number of EU Member States. A lack of meaningful and effective participation by civil society has become a key feature of shrinking civic space. Watchdog organisations active in Bulgaria, Greece, Hungary, Malta, Poland, Romania and Slovenia report about restrictive laws, unnecessary bureaucratic burdens, verbal and physical assaults and smear campaigns. On the other hand, across the EU we observe how, through supermajorities in Parliament, political power becomes entrenched at the expense of internal checks; how, as a consequence, the separation of powers is eradicated; how election systems are manipulated and elections thus “managed” to ensure the dominance of a ruling party; how state resources are deployed to undermine judicial independence, how captured national courts cherry-pick jurisprudence of European courts; how media is made subservient to powers-that-are. In a word, a wider backlash of democratic principles is occurring while those countries continue to have an interest in profiting from EU membership.

### Who We Are

Organised jointly by the Hertie School in Berlin, the Hungarian Helsinki Committee and the Netherlands Helsinki Committee, RARE brings together 25 leading human rights defenders from 13 EU member states in a two-year capacity and alliance-building initiative that aims to invigorate joint advocacy and solidarity action for protecting the rule of law and civil society space in the EU. RARE participants cooperate and co-create tools to enhance their communication towards their constituencies, reach-out beyond their sector and develop policies to enhance the civic space needed for democracy to flourish. More information about RARE is available [here](#).

### Where We Are At

Efforts to strengthen democracy and the rule of law in Europe should include robust efforts at supporting civil society itself, in all its roles - as watchdogs, policy advocates, community builders and service providers. Particularly in EUMS where democracy, fundamental rights and the rule of law are under threat, these efforts should be boosted and led by the EU itself. In our view, civil society should become a permanent, empowered and engaged actor in European governance. This calls for moving beyond diagnosing the shrinking of civic space in the context of democratic erosion in Europe. Instead, our focus is on expanding the space for citizen action, creating an inclusive space that provides effective citizen participation, and also to defend the rule of law.

While picking up skills along the two-year-long project path, RARE participants will also engage with a project that they themselves are shaping and implementing. Combining various inputs from work streams in the areas of policy, advocacy and communications, this umbrella project will work towards nudging the European Commission to develop a



strategy for enhancing civic space in the EU, recommending a **Communication to the EP and the CoM**, which should acknowledge the key importance of civil society in Europe for both preserving democracy as well as achieving the EU's strategic priorities.

### How You Can Help

- concrete and practical solidarity in the HR / rule of law field;
- advocacy vis a vis the EP, the Commission and national policy makers;
- advice and support to current RARE participants;
- support RARE's second programme cycle starting September 2022.

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RARE is grateful for the support of the following organisations. The views expressed herein can in no way be taken to reflect the official opinion of the funders:

