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REPORT

on the shrinking space for civil society in Europe
(2021/2103(INI))

Committee on Civil Liberties, Justice and Home Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the shrinking space for civil society in Europe (2021/2103(INI))

The European Parliament,

- having regard to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU),
- having regard to the Charter of Fundamental Rights of the European Union (hereinafter ‘the Charter’),
- having regard to the European Convention on Human Rights (ECHR),
- having regard to Regulation (EU) 2021/692 of the European Parliament and of the Council of 28 April 2021 establishing the Citizens, Equality, Rights and Values Programme and repealing Regulation (EU) No 1381/2013 of the European Parliament and of the Council and Council Regulation (EU) No 390/2014¹,
- having regard to Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (the Conditionality Regulation)²,
- having regard to the Commission communication of 20 July 2021 entitled ‘2021 Rule of Law Report – The rule of law situation in the European Union’ (COM(2021)0700),
- having regard to the Commission guidance of 23 September 2020 on the implementation of EU rules on definition and prevention of the facilitation of unauthorised entry, transit and residence³,
- having regard to the report of the European Economic and Social Committee Group on Fundamental Rights and the Rule of Law of June 2020 entitled ‘National developments from a civil society perspective, 2018-2019’,
- having regard to the report of the EU Agency for Fundamental Rights (FRA) of 17 January 2018 entitled ‘Challenges facing civil society organisations working on human rights in the EU’, its bulletins published in 2020 on the fundamental rights implications of the COVID-19 pandemic in the EU, and its other reports, data and tools, in particular the European Union Fundamental Rights Information System (EFRIS),
- having regard to the FRA report of 22 September 2021 entitled ‘Protecting civic space in the EU’,
- having regard to the joint Guidelines of the Organization for Security and Cooperation

¹ OJ L 156, 5.5.2021, p. 1.

² OJ L 433I, 22.12.2020, p. 1.

³ OJ C 323, 1.10.2020, p. 1.

in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) and the Venice Commission of 1 January 2015 on Freedom of Association,

- having regard to the Council of Europe report of 11 February 2019 entitled ‘Shrinking space for civil society: the impact on young people and their organisations’,
- having regard to the OSCE/ODIHR and Venice Commission Guidelines of 8 July 2019 on Freedom of Peaceful Assembly,
- having regard to the United Nations guidance note of 23 September 2020 on the protection and promotion of civic space,
- having regard to the UN declaration of 9 December 1998 on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,
- having regard to the general comment No. 34 of the UN Human Rights Committee of 12 September 2011 on Article 19: freedoms of opinion and expression,
- having regard to the general comment No. 37 of the UN Human Rights Committee of 17 September 2020 on Article 21: the right to peaceful assembly,
- having regard to the UN Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 25 June 1998 (Aarhus Convention) and Decision VII/9 of 21 October 2021 on a rapid response mechanism to deal with cases related to Article 3(8) of the Aarhus Convention,
- having regard to UN resolutions 2250 (2015), 2419 (2018) and 2535 (2020) on youth, peace and security,
- having regard to the UN Declaration on Human Rights Defenders of 1998,
- having regard to the recommendation of 10 October 2007 of the Council of Europe Committee of Ministers to Member States on the legal status of non-governmental organisations in Europe,
- having regard to the statement of 16 May 2019 of the Commissioner for Human Rights of the Council of Europe entitled ‘Let’s defend LGBTI defenders’,
- having regard to the opinion of the European Economic and Social Committee (EESC) of 20 March 2019 entitled ‘Resilient democracy through a strong and diverse civil society’,
- having regard to the EESC opinion of 19 October 2017 entitled ‘Financing of civil society organisations by the EU’,
- having regard to the 2020 Annual Report by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists,
- having regard to the Commission communication of 2 December 2020 on a strategy to

strengthen the application of the Charter of Fundamental Rights in the EU (COM(2020)0711),

- having regard to the Commission communication of 3 December 2020 on the European democracy action plan (COM(2020)0790),
- having regard to its resolution of 3 October 2017 on addressing shrinking civil society space in developing countries⁴,
- having regard to its resolution of 19 April 2018 on the need to establish a European Values Instrument to support civil society organisations which promote fundamental values within the European Union at local and national level⁵,
- having regard to its resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights⁶,
- having regard to its resolution of 7 October 2020 on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights⁷,
- having regard to its resolution of 13 November 2020 on the impact of COVID-19 measures on democracy, the rule of law and fundamental rights⁸,
- having regard to its resolution of 25 November 2020 on strengthening media freedom: the protection of journalists in Europe, hate speech, disinformation and the role of platforms⁹,
- having regard to its resolution of 26 November 2020 on the situation of Fundamental Rights in the European Union – Annual Report for the years 2018-2019¹⁰,
- having regard to its resolution of 24 June 2021 on the Commission’s 2020 Rule of Law Report¹¹,
- having regard to its resolution of 17 February 2022 with recommendations to the Commission on a statute for European cross-border associations and non-profit organisations¹²,
- having regard to its resolution of 11 November 2021 on strengthening democracy and media freedom and pluralism in the EU: the undue use of actions under civil and criminal law to silence journalists, NGOs and civil society¹³,

⁴ OJ C 346, 27.9.2018, p. 20.

⁵ OJ C 390, 18.11.2019, p. 117.

⁶ OJ C 363, 28.10.2020, p. 45.

⁷ OJ C 395, 29.9.2021, p. 2.

⁸ OJ C 415, 13.10.2021, p. 36.

⁹ OJ C 425, 20.10.2021, p. 28.

¹⁰ OJ C 425, 20.10.2021, p. 107.

¹¹ Texts adopted, P9_TA(2021)0313.

¹² Texts adopted, P9_TA(2022)0044.

¹³ Texts adopted, P9_TA(2021)0451.

- having regard to Rule 54 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Legal Affairs,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0032/2022),
- A. whereas the Union is founded on the values enshrined in Article 2 TEU and these values are common to the Member States; whereas Articles 11(2) TEU and 15(1) TFEU stress the importance of civil dialogue for the realisation of the Union’s objectives;
- B. whereas civil society organisations (CSOs) are non-profit making organisations independent of public institutions and commercial interests, whose activities contribute to the realisation of the EU values set out in Article 2 TEU and fundamental rights; whereas CSOs can take various forms such as associations and foundations; whereas human rights defenders, activists and informal groups are also key actors in civil society;
- C. whereas an intersectional approach is key both to understand and to successfully address the vulnerabilities citizens are facing when they engage in civil society;
- D. whereas many CSOs struggle to survive and have problems with funding, which can seriously hinder their effectiveness and their ability to fulfil their mandate;
- E. whereas civic space refers to the legal and political framework in which people and groups can meaningfully participate in the political, economic, social and cultural life of their societies, exercising the right to express views, the right to information, and the right to assemble, associate and engage in dialogue with one another and with authorities;
- F. whereas freedom of thought and freedom of expression, including in the online space, are the cornerstone of every free and democratic society; whereas civic activism is the fabric of a truly functioning democracy where the rights of minorities are safeguarded and respected; whereas CSOs should have the right to participate in matters of political and public debate, regardless of whether the position taken is in accordance with government policy or advocates a change in the law;
- G. whereas freedom of association is one of the essential bases of a democratic and pluralist society, as it allows citizens to act collectively in fields of mutual interest and to contribute to the proper functioning of public life; whereas freedom of association does not only include the ability to create or dissolve an association but also the ability for that association to operate without unjustified interference by the state; whereas the ability to seek, secure and use resources is essential to the operation of any association; whereas the prohibition or dissolution of an association should always be a last-resort measure and such decisions should be subject to legal redress;
- H. whereas the right to peaceful assembly is a cornerstone of democracy and is crucial to creating a tolerant and pluralist society in which groups with different beliefs, practices, or policies can coexist peacefully; whereas restrictions to and the policing of peaceful assemblies must respect legality, necessity, proportionality and non-discrimination;

- I. whereas the right to information is a precondition for an informed public debate and for holding authorities and public institutions accountable;
- J. whereas freedom of expression and access to information has been restricted in some Member States, often under the pretext of fighting disinformation related to COVID-19; whereas measures preventing terrorism or hate speech should not result in undue restrictions on freedom of expression; whereas strategic lawsuits against public participation (SLAPPs) have also been used to target CSOs, human rights defenders and activists working in the fields of the environment, rule of law, LGBTIQ+ rights and women's rights in several Member States; whereas these exert a severe chilling effect on freedom of expression and public activism;
- K. whereas freedom of association is being eroded in some Member States by reforms that put CSOs at risk of deregistration or that introduce unduly burdensome administrative processes, including but not limited to the improper application of anti-money-laundering measures or policies restricting the right to engage in advocacy;
- L. whereas in some Member States, restrictions have been imposed with the deliberate aim of limiting civic space and are accompanied by legal, administrative and fiscal harassment, criminalisation and negative rhetoric aimed at stigmatising and delegitimising CSOs and draining their capacity to carry out their legitimate work; whereas hate speech – both online and offline – and verbal and physical harassment and attacks also emanate from non-state actors; whereas CSOs and human rights defenders working on the rule of law, transparency and corruption, women's rights, including sexual and reproductive health and rights, environmental issues and the protection of minorities and LGBTIQ+ rights, and freedom of media and expression as well as those providing assistance to migrants and asylum seekers and those involved in search and rescue operations are particularly exposed;
- M. whereas civic space restrictions in neighbouring countries also have implications on and impact the state of civil society in the EU;
- N. whereas some national CSOs that act as watchdogs, in particular by engaging in the monitoring and reporting of violations of rights and liberties, and advocacy and litigation, are particularly targeted by restrictions, retaliatory measures and surveillance;
- O. whereas the situation of LGBTIQ+ rights defenders in Europe was described as worrying by the Council of Europe Commissioner for Human Rights, who reported several instances of online and offline harassment, violent assaults, hate campaigns and death threats in Member States and neighbourhood countries; whereas this trend is interlinked with the scapegoating of other minority groups and it contravenes the principle that every person is born equal in dignity and rights;
- P. whereas a good relationship between the state and its citizens implies that all citizens, including children and young people, should be able to participate in debating and influencing public policies; whereas democracies will only prosper if everyone believes in the democratic systems and if institutions are credible to citizens;
- Q. whereas certain Member States have placed restrictions on CSOs' ability to engage in political activities; whereas in others, accusations that CSOs are political have become

tools to stigmatise and delegitimise them; whereas the delegitimation of CSOs in certain Member States could appear to be linked to state or media-run smear campaigns; whereas CSOs report discriminatory and restrictive funding practices in certain Member States;

- R. whereas policies and practices instilling a chilling effect on civic space have been adopted in certain Member States with the aim of achieving self-censorship and deterring civic actors from exercising their rights; whereas such policies often combine vague provisions leaving large discretion to public authorities and disproportionately high sanctions; whereas the mere prospect of their application can be enough to instil self-censorship without an actual need to apply them;
- S. whereas the right to peaceful assembly has been restricted due to necessary social distancing rules in a majority of Member States; whereas some Member States have passed laws restricting the right to peaceful assembly in recent years, and have created requirements for permission and notification; whereas in some Member States, the powers of law enforcement authorities are increasing, generating concerns over their necessity and proportionality;
- T. whereas in some Member States, emergency legislation in response to the health crisis has been used as a pretext to arbitrarily restrict fundamental rights and freedoms and to crack down on civil society and other dissenting voices; whereas these measures have been found in some cases not to have met the necessity, proportionality, time limitations and non-discrimination requirements, meaning that any restrictions to fundamental rights and freedoms stemming from these measures cannot be considered legitimate and lawful; whereas despite their role on the ground, CSOs have not been consulted in the development of emergency measures;
- U. whereas the spread of the COVID-19 pandemic has seen an unprecedented engagement of CSOs in providing solutions to the pandemic and providing support to people in vulnerable situations; whereas youth organisations have had a positive impact during the pandemic in countering misinformation and strengthening trust in public institutions; whereas long-term adequate funding and institutional support for civil society have an added value in times of crisis;
- V. whereas the emergence of government-organised non-governmental organisations (GONGOs) designed to always support the political legitimacy of those in power and to support the government in public debates and in its political goals while presenting themselves as independent voices constitutes one of the gravest forms of attack against CSOs, jeopardising their existence by undermining active citizenship and depriving them of public funding;
- W. whereas while CSOs increasingly perform economic activities and contribute to the social economy, no legislative steps have been taken to unlock their operations at EU level; whereas despite concrete Court of Justice of the European Union (CJEU) case-law, the principle of non-discrimination and the free movement of capital in relation to cross-border donations is still not universally applied in Member States;
- X. whereas participation by CSOs in the development of law and policy should be facilitated by policy frameworks enabling them to engage in dialogue with public

authorities; whereas while progress has been made both at national and EU level, civil dialogue still often remains an ad hoc process;

- Y. whereas foreign funding has been the target of legal and political attacks in some Member States; whereas restrictions imposed on CSOs receiving foreign funding is contrary to Union law, namely Article 63 TFEU on the free movement of capital and the Charter of Fundamental Rights of the European Union; whereas in case C-78/18¹⁴, the CJEU ruled that the law referred to it violated free movement of capital and freedom of association;
- Z. whereas the Union has embarked on a process through the European Green Deal and digital transformation; whereas this process will require a healthy civic space to allow citizens and affected communities to articulate their interests, debate policy solutions and reach new social contracts;
1. Asserts the crucial role played by CSOs in the realisation and protection of the Union values set out in Article 2 TEU, and the formulation and implementation of EU law, policies and strategies, including combating climate change, digital transformation and recovery from the COVID-19 pandemic; stresses their key contribution to informed public debate, articulating aspirations present in society, giving a voice to vulnerable and marginalised people, ensuring access to crucial services, providing expertise in policy-making, promoting active citizenship, acting as schools of democracy and being indispensable watchdogs exercising democratic control over state institutions and ensuring accountability for public action and use of public funds; acknowledges, therefore, that civic space is an integral element of democracy, the rule of law and fundamental rights; stresses that the Union should therefore commit to the preservation and cultivation of civic space at local, regional, national and European level;
 2. Emphasises that for CSOs to thrive, civic space must be an enabling and safe environment free from undue interference, intimidation, harassment and chilling effects by both state and non-state actors; reminds Member States of their positive obligation to ensure an enabling environment for CSOs including access to transparent funding mechanisms and civil dialogue mechanisms, in line with international human rights standards on freedom of association, expression and assembly, and as also reaffirmed by the Charter of Fundamental Rights of the European Union; stresses the importance of media pluralism in ensuring that CSOs can reach public opinion and therefore contribute to public debate;
 3. Warns about the degradation of civic space throughout the EU with policies hampering CSOs' operations, their access to sustainable funding and their ability to participate in decision-making; condemns any form of harassment, smearing, stigmatisation, criminalisation and scapegoating of CSOs; stresses how these actions jeopardise active citizenship and the expression of critical voices, thereby undermining public debate and hence the very foundations of democracy;
 4. Notes that the COVID-19 pandemic has further accentuated many of the existing challenges faced by CSOs, as illustrated by the 2021 report by FRA which found that

¹⁴ Judgment of the Court of Justice of the European Union of 18 June 2021, *European Commission v Hungary*, ECLI:EU:C:2020:476.

57 % of national and local organisations said the situation had ‘deteriorated’ or ‘greatly deteriorated’ compared to previous years; notes with concern that certain governments took advantage of the pandemic to roll back civic space and pass controversial laws and discriminatory measures not always related to the pandemic while society’s ability to mobilise was limited, including the ability to participate in public debate and the freedoms of speech, assembly and association;

5. Agrees with the Commission that when civil society’s space to operate shrinks, it is a sign that the rule of law is at risk; welcomes the fact that the Commission has put the environment for civil society under scrutiny as part of its annual rule of law report, which rightly indicates that the rule of law cannot function without a vibrant civil society operating in a secure and enabling environment; urges the Commission, therefore, to step up and structure its monitoring of the situation of civic space in the Member States by creating a ‘European civic space index’ based on existing frameworks for measuring civic space, and by dedicating to civic space a fully-fledged chapter including country recommendations in its annual rule of law report, which should also cover fully fundamental rights; urges the Commission to make systematic use of the reports by FRA and to call on it for methodological advice;
6. Welcomes the Commission’s acknowledgement of the importance of civil society in a number of EU policies and strategies and funding programmes; stresses, however, that the fragmented nature of this approach results in little effective improvement of the situation of CSOs on the ground;
7. Urges the Commission, therefore, to adopt a comprehensive civil society strategy for the protection and development of civic space within the Union that integrates all existing tools, fills monitoring, support and protection gaps, and gives genuine political recognition to the crucial role played by CSOs in the realisation of democratic values and policies, while clearly linking monitoring and reporting tools to EU enforcement mechanisms to ensure timely and effective follow-up action; calls for the Commission to explore initiatives to strengthen the support networks available to CSOs;
8. Considers that this civil society strategy should outline a set of concrete measures that will protect and strengthen civic space, including by:
 - a) introducing minimum standards for the legal and administrative environment of civil society;
 - b) introducing a statute of European cross-border associations and non-profit organisations;
 - c) setting up focal points between European institutions and civil society;
 - d) ensuring consistent access to policy debates and agenda setting on Union level in line with the EU Treaties and the rules of procedures of EU institutions;
 - e) strengthening access to monitor Union policies and the implementation of the Union budget;
 - f) expanding flexible access to Union funding;

9. Calls on the Council and the Commission to ensure consistency of the Union's internal and external policies as regards protecting and enabling civic space, including by adopting internal guidelines on human rights defenders that would correspond to the ones applying to EU external action;

An enabling regulatory and political environment free from chilling effects, threats and attacks

10. Stresses that the ability of CSOs to act depends on the existence of an enabling legal and political environment, in particular on the exercise of freedom of association, peaceful assembly and expression and the right to public participation; urges Member States to guarantee the exercise of these rights in conformity with European and international law and standards, including the European Convention on Human Rights, the recommendation of 28 November 2018 of the Council of Europe Committee of Ministers to Member States on the need to strengthen the protection and promotion of civil society space in Europe, the International Covenant on Civil and Political Rights, the UN Declaration on Human Rights Defenders and the UN guidance note on the protection and promotion of civic space, and to avail of the possibility to request opinions on planned legislation from the Venice Commission;
11. Recalls the importance of independent, impartial, professional and responsible journalism in reporting on the activities of CSOs both in the private and public media as well the importance of access to public information as key pillars of democratic states, which are based on the rule of law;
12. Deplores the growing concentration of media ownership at the expense of plurality, independence and fair public representation of the ideas and actions of CSOs; recalls that independent and responsible journalism and access to pluralistic information are key pillars of democracy and that the actions and input of civil society are vital for any democracy to thrive; calls on the Member States to ensure and maintain the independence of the media from political and economic pressure, to guarantee media pluralism and to ensure transparency; calls on the Commission to propose EU-wide media ownership rules in addition to the rules of transparency of media ownership as a minimum requirements within the upcoming Media Freedom Act in order to strengthen media pluralism;
13. Considers that the contribution of CSOs to the single market and the social economy, as well as their role in the realisation of EU policies and the values set out in Article 2 TEU, is a strong argument for removing the barriers to their operations at EU level; calls on the Commission, therefore, to adequately respond with measures, including legislative proposals, to reach this objective; stresses that such legislation would not only provide basic protection for CSOs but also could create a level playing field allowing them to harness their full potential;
14. Calls on the Commission to include a systematic civic space check in its impact assessments, providing clear criteria for what constitutes an enabling space for civil society, based on international human rights standards on freedom of association, expression and assembly, and as reaffirmed by the Charter of Fundamental Rights of the European Union, in order to prevent planned legislation from having negative effects on

civic space; calls on the Commission to introduce the necessary safeguards and draft guidelines for Member States' implementation when risks are identified, in cooperation with civil society;

15. Calls on the Commission to equally review and monitor the implementation of EU law to ensure that it does not negatively affect civic space and provide the necessary remedies if it does; calls on Member States to adopt similar remedies at national level;
16. Calls on the Commission to use its powers under the Treaties to propose EU legislation to fill gaps and address challenges facing civil society actors across the Union, including minimum standards on the registration, operations and financing of CSOs and procedural safeguards against SLAPPs, and to provide guidance on how to use EU law to better protect civil society;
17. Believes that a statute for EU cross-border associations and not-for-profit organisations could provide an extra layer of protection to CSOs facing undue hurdles to their establishment and operations;
18. Calls on the Member States to respect and facilitate the exercise of the right to peaceful assembly, which can only be limited by respecting the principles of necessity and proportionality, in accordance with applicable laws; warns against the broadening of the powers of law enforcement authorities in policing assemblies in some Member States; condemns any disproportionate use of force against protesters, as well as their criminalisation, prosecution and surveillance; calls on the Member States to immediately repeal laws and regulations that heighten the use of violence against demonstrators and restrict the freedom to demonstrate; calls on the Commission to issue guidelines for the protection of freedom of peaceful assembly both in times of health emergency and in normal times;
19. Points out that since the outset of the pandemic, a significant proportion of civil society activities have moved online; calls on the Commission and the Member States to ensure freedom of expression, to fight against any form of hate speech and to raise awareness of hate speech and the risks it poses for democracy and individuals, including on online social networks in particular;
20. Warns against the detrimental impact of policies and rhetoric instilling a chilling effect on civic space; urges the Commission to make the analysis of chilling effects a key aspect of its annual rule of law report, to build on case C-78/18 to challenge measures having a chilling effect on the exercise of Charter rights when similar approaches are possible and to apply for interim measures to avoid irreparable damage while judicial review is ongoing;
21. Condemns that CSO representatives in some Member States face physical and verbal attacks, harassment and intimidation both in online and offline forms as a direct result of their work; further regrets that the mental health effects faced by these representatives can include burnout, depression, helping-induced trauma and compassion fatigue and that the psychological impacts that their work can have on CSO representatives are under-researched; underlines that children and young people are particularly vulnerable as they may not report acts of hate and harassment due to lack of knowledge of the definition of harassment and how and with whom to address the issue;

22. Condemns any threats and attacks perpetrated on CSOs and human rights defenders by state-owned and state-linked actors, including negative and stigmatising rhetoric, scapegoating and legal, judicial, administrative and fiscal harassment, and condemns the failure of state actors to protect CSOs and human rights defenders against such attacks and threats; equally condemns all instances of attacks and threats perpetrated by non-state actors, including but not limited to SLAPPs;
23. Is concerned by the low levels of reporting of attacks and threats on CSOs at national level; urges Member States to unequivocally condemn such acts, adopt preventive and effective measures and systematically, promptly, thoroughly, independently and impartially investigate any related allegations, and invest in training programmes for authorities to be better equipped to handle such cases; calls on the Commission to accompany such processes by providing recommendations and facilitating the exchange of best practices;
24. Emphasises that good cooperation between civil society, police and relevant institutions is key to address the vulnerabilities and find best practices in the protection of activists, civil society and democracy itself;
25. Expresses deep concern about the increased violence and hatred targeting organisations and activists working with religious minorities or on anti-racism, feminism and LGBTIQ+ rights;
26. Recalls that the scapegoating of CSOs working on women's rights and with minorities and vulnerable groups such as LGBTIQ+ persons is not an isolated event, but functions as a premeditated and gradual dismantling of fundamental rights, which are protected in Article 2 TEU, and constitutes part of a larger political agenda of 'anti-gender' campaigns; calls on Member States to be particularly cautious of initiatives that attempt to roll back on acquired rights which were designed to prevent and protect persons from discrimination and to promote equality;
27. Calls on the Commission to include references to attacks against human rights defenders in its reporting under the framework decision on combating certain forms and expressions of racism and xenophobia, when monitoring and assessing EU rules and tools to protect the rights of victims of crime, and when revising EU provisions on combating hate speech and hate crime;
28. Notes that the Union currently lacks efficient procedures to provide an adequate response when CSOs report that democratic standards and civic space in Member States are under threat; calls for the setting up of an EU alert mechanism allowing CSOs and human rights defenders to report attacks, register alerts, map trends and provide timely and targeted support to victims; considers that such a mechanism would also improve reporting at Union level, provide input for the Commission's annual rule of law assessment and contribute to improved sharing of information with the European public in general;
29. Strongly regrets the refusal both by the Commission and the Council of Parliament's initiative on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights to be governed by an interinstitutional agreement between Parliament, the Commission and the Council; recalls that the monitoring of civic space

is deeply linked with democracy and fundamental rights, and that a mechanism to monitor Article 2 TEU values is the best tool for a holistic approach in such respect;

30. Urges the Commission to use its enforcement powers against Member States which unduly restrict civic space in violation of EU laws, including through infringement proceedings, the rule of law framework, the new Conditionality Regulation and the procedure laid down in Article 7 TEU; calls on the Commission to ensure civil society's active participation and meaningful contribution to these processes, and to ensure that the legitimate interests of final recipients and beneficiaries are properly safeguarded;
31. Maintains that Member States should not criminalise or otherwise adversely impact the registration, operations, financing and cross-border movements of CSOs; is concerned in that respect by the interpretation in some Member States of EU provisions, which could lead to the criminalisation of CSO activities and human rights defenders, in particular in the field of migration, often in contradiction with the Commission's guidance; asks the Member States to put an end to the wrongful criminalisation and prosecution of search and rescue activities, and urges the Commission to actively monitor and take action against respective Member States in this regard; equally, reiterates that all actors dealing with migrants for humanitarian reasons and involved in search and rescue activities have to comply with general principles of international and human rights law and the applicable European and national laws respecting those principles;

Sustainable and non-discriminatory access to resources

32. Notes that challenges faced by CSOs in relation to funding include a lack of sufficient sources of funding, burdensome administrative procedures to access funding, a lack of transparency and fairness in funding allocation, and restrictive eligibility criteria;
33. Points out the conclusions in UN Resolution 2535 (2020), namely that an accelerated youth participation is key to creating and preserving peaceful societies;
34. Highlights the important and positive contribution which youth can and do make to the efforts towards democratic and peaceful societies; consequently calls on the Member States to increase investments in youth and youth organisations; further calls for the adequate funding of the Erasmus+ programme, underlining its role in creating a democratic Europe;
35. Urges the Commission to identify existing obstacles and propose a comprehensive set of measures and recommendations to ensure long-term predictable, adequate and enabling financing for CSOs, including the funding of their operational activities related to advocacy and monitoring; stresses that EU funding for CSOs should avoid red-tape measures;
36. Considers that openness and transparency are key to establishing accountability of and public trust in CSOs as long as they serve the purpose of ensuring legitimate public scrutiny and that reporting requirements remain necessary and proportionate; condemns any abuse of transparency measures to stigmatise particular CSOs;
37. Stresses the importance of securing complementary sources of funding, including from

public institutions at all levels, private, philanthropic and individual donors, membership fees and income generated through economic activities as well as from local, regional and national sources, as this could help CSOs to be resilient against any potential government restrictions on external funding; calls for the Member States and the EU to improve the legal environment for CSOs and ease the conditions for them to access diverse sources of funding, including private and foreign funding; emphasises that public funding should cover all types of civil society activities, including advocacy, litigation and watchdog activities, education and awareness raising, service provision, and capacity and coalition building, which promote and protect the Union values set out in Article 2 TEU; calls for the Member States and the EU to go beyond project funding and to provide core infrastructure funding and multiannual funding cycles to ensure the sustainability of civil society;

38. Condemns any form of politically or otherwise motivated discrimination in the allocation of public funds and the ensuing chilling effects; calls on the Member States to ensure clear, transparent and non-discriminatory procedures in this respect; condemns any form of restrictions to access funding, especially those which target CSOs and activists working to protect the rights of women, LGBTIQ+ persons, minorities, migrants and refugees;
39. Underlines that issue campaigns of CSOs should not be subject to funding limitations under the pretext of overlapping with elections or with other political campaigns; notes that often, funds available for CSOs require co-financing, which in turn could mean that the beneficiary needs to raise a share of the required funds from other sources, which could be detrimental to the project or the operation of the organisation; therefore believes that the share of required co-financing should be reasonably limited and that different means of monetisation should be taken into account;
40. Deplores the outsourcing by public authorities of public service missions to CSOs in domains such as housing, health, education and asylum, which goes beyond a balanced cooperation of public authorities with non-profit organisations that have a good experience working with and for the persons concerned and is not supported by sufficient additional resources; stresses that such outsourcing practices use civil society resources for the fulfilment of state responsibilities and do not leave the much-needed space for public participation of CSOs through advocacy, strategic litigation and public education;
41. Is gravely concerned by the emergence of GONGOs and related discriminatory and often opaque public funding practices; warns against their detrimental effect on democracy and on pluralism and diversity within civil society, and on the perceived legitimacy of CSOs and hence on citizens' willingness to engage in active citizenship; calls on Member States to investigate and take action against groups instigating hate in violation of applicable legal rules; emphasises that they can distort public debate which can undermine the very fabric of democracy;
42. Urges the Commission to set out conditions and procedures to ensure that EU funds designated to civil society, whether in direct or shared management, are only awarded to organisations that are strictly independent from any government and fully adhere to the EU values set out in Article 2 TEU; urges the Commission to address allegations

concerning discriminatory distribution of EU funding to CSOs and to take appropriate measures in order to ensure that EU funding is not supporting GONGOs;

43. Welcomes the adoption of the Citizens, Equality, Rights and Values Programme with an increased budget of EUR 1.55 billion for the 2021-2027 period, and recognises that it is a meaningful response to the challenges faced by the civil society in the EU and a first step towards creating a more systemic framework of assistance for CSOs in the EU; calls on the Commission to actively consult CSOs in the definition of work programmes and funding mechanisms so as to ensure transparency, flexibility and user-friendliness; welcomes re-granting mechanisms in the Union values strand; emphasises the importance of securing sufficient funding for watchdog, advocacy and litigation activities, as well as capacity building, as these boost CSOs' contribution to safeguarding EU values and fundamental rights; calls on the Commission to ensure that funding is earmarked to support CSOs in implementing the tasks and roles assigned to them in its various sectoral policies; calls for specific emergency funding and practical support for civic actors and human rights defenders at risk of having their fundamental rights violated;
44. Calls on the Commission to redouble its efforts to boost CSO participation in the Citizens, Equality, Rights and Values Programme and other centrally managed funds, including via further simplification, more flexible eligibility criteria, and targeted information and training; calls on the Commission to step up its monitoring of practices in Member States and to provide recommendations to boost CSO participation in programmes under shared management; calls on the Commission to better involve and train CSOs in monitoring the spending of EU funds at Member State level;
45. Considers that budgetary support for CSOs should not only be planned, but also promoted and supported in all EU programmes; regrets that the European recovery package did not specifically target CSOs in addition to businesses and small- and medium-sized companies; calls on the Commission and the Member States to ensure that CSOs are involved throughout the implementation and the monitoring of the national recovery and resilience plans and of other funds under shared management and to check whether national recovery plans support the funding needs of CSOs; calls on the Commission to ensure that CSOs are not negatively impacted by the withdrawal of funding under the Conditionality Regulation or under the conditions built into funds and programmes under the multiannual financial framework or the recovery and resilience facility which make respect for the rule of law and the principle of non-discrimination a prerequisite to receive funding by providing specific modalities to channel funding to CSOs adapted to the environment in which they operate;
46. Urges the Commission to ensure that EU funds are only awarded to organisations that are strictly independent from any government and fully adhere to EU values;
47. Condemns attempts by certain Member States to impose limitations on foreign funding and the related political narratives they have promulgated and measures they have taken with the aim of stigmatising or harassing CSOs; recalls that the CJEU found that these violate free movement of capital and freedom of association; calls on the Commission to keep initiating infringement procedures in this regard and systematically apply for interim measures; calls on the Commission to conduct a mapping of foreign funding

restrictions across the Union with a view to ensuring that the principles reaffirmed by the CJEU are effectively respected in all Member States;

48. Emphasises the importance of tax incentives to boost private donations; encourages Member States to further develop such schemes; calls on the Commission to map best practices and produce recommendations; recognises the importance of CSOs complying with national rules in the field of taxation and in the fight against money laundering but stresses that such rules and transparency around funding in general cannot be abused to obstruct CSO activities or create a chilling effect affecting their members and donors;
49. Recalls that international standards on freedom of association require authorities to apply a presumption in favour of CSOs' freedom to seek and receive funding from any source and of the legality of their activities, with restrictions being possible if prescribed by law, pursue one or more legitimate aims and if necessary in a democratic society for the achievement of the aims in question;
50. Calls on the Commission to produce guidance on the principle of non-discrimination and free movement of capital applied to cross-border donations; emphasizes that an approximation of the definition of the concept of public benefit would enable mutual recognition and equal treatment in terms of cross-border donations and benefits related to such public benefit status; calls for an EU-level definition of the concept of public benefit, as that would boost cross-border donations insofar as it would enable mutual recognition of public benefit status and equal treatment in terms of the related advantages; invites the Commission to set up measures to remove obstacles to cross-border philanthropy and ensure equal treatment of donations across borders in line with CJEU rulings;

Civil dialogue and participation in policy-making

51. Stresses the importance of civil dialogue in informed policy-making and emphasises that CSOs play a key role as intermediaries between citizens and authorities at all levels by ensuring structured dialogue; highlights the important role of CSOs in consistent contact with citizens, including marginalised or vulnerable groups, and acknowledges their expertise, confers on them a key role in civil dialogue and accentuates their role in empowering those furthest away to participate and voice their concerns, while exercising democratic control over and ensuring accountability for public action;
52. Welcomes the positive steps taken in some Member States with new civil dialogue strategies and civil society advisory committees; condemns, however, practices deliberately hampering CSO participation, such as their exclusion from public processes, the recourse to opaque catch-all laws and accelerated parliamentary processes bypassing consultation and deliberation obligations;
53. Recalls that the urgency of COVID-19-related measures often further limited CSOs' access to decision-making; notes, however, efforts made to counter this in a number of Member States;
54. Regrets that civil dialogue often remains an ad hoc process; calls on the Member States to develop coherent policy frameworks that ensure structured, predictable and long-term processes, inclusive participation and systematic review, and to allocate appropriate

resources, including for the training of officials; calls on the Commission to provide recommendations prepared in close cooperation with civil society, based on analysis of existing practices;

55. Considers that all EU institutions should review their terms of engagement with CSOs in line with Article 11 TEU to ensure an open, transparent, meaningful and regular dialogue with CSOs, on an equal footing with other stakeholders; invites the Commission to consider the submission of an interinstitutional agreement on civil dialogue between all main institutions covering all areas of Union policy as well as transversal processes such as, for example, the State of the Union or the Conference on the Future of Europe;
56. Considers, in this respect, that the President of Parliament could appoint one of her Vice-Presidents to carry out an open, transparent and regular dialogue with CSOs; encourages the political groups to devise their own civil dialogue structures;
57. Calls, in particular, for the Commission, in its consultation processes, to restore the balance between representatives of corporate interests and representatives of other interests, such as workers' rights, social rights and environmental protection, and to ensure safeguards against unfair lobbying practices that are not compatible with fair and transparent dialogue;
58. Calls for the Member States, the EU institutions in general and the Commission in particular to ensure close consultation with civil society during the preparation or review of legislation potentially affecting civic space and freedoms;
59. Takes note of the attribution to a Commission Vice-President of the responsibility to maintain an open, transparent and regular dialogue with civil society; stresses that civil dialogue should be further operationalised; invites the Commission in particular to consider setting up within each Directorate-General specific points of contact to enable civil society to be in close contact with the Commission Vice-President; considers it key that a wide variety of CSOs are given a prominent role via a transparent selection process in expert groups and advisory forums assisting the Commission and that emphasis is put on CSOs speaking for vulnerable and underrepresented groups;
60. Calls on the Commission to leverage the definition of national programmes implementing EU funds and the implementation by Member States of EU strategies and action plans to encourage Member States to put in place effective CSO participation and civil dialogue mechanisms; calls for reinforced civil society participation within the European semester process and in the monitoring of the European recovery package;
61. Welcomes the European Year of Youth as an opportunity to further promote civic participation and dialogue in a democratic society;
62. Commits itself to ensuring a genuine follow-up of this report and calls on the Commission and the Council to make the same commitment;

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63. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

This report addresses the long-overdue political recognition at EU level of the fundamental role played by civil society in the functioning of pluralist and democratic societies and the increasing challenges, as well as attacks, faced by civil society organisations and the wider civil society including human rights defenders throughout the European Union.

As a result of their wide range of activities embedding them into society, including education, advocacy and representation or their function as providers of services and support to citizens, civic actors play a crucial role in promoting, monitoring and protecting fundamental rights and principles of our democratic societies without seeking political power for themselves. Their proximity to people and communities allow them to observe the effects of public policies and political discourse on the life of citizens and to witness discrimination and precarity. When fundamental rights, democratic principles or the rule of law are eroded or under attack, they play a key role in raising awareness, advocating for their protection and mobilizing in their defense.

Civil society hence plays a key role in the realisation of the values underpinning the foundations of the EU as enshrined in Article 2 of the Treaty on European Union (TEU). This role is recognized by the Treaties in Article 11 TEU which commits the EU to an open, transparent and regular dialogue with civil society and Article 15 of the Treaty on the Functioning of the European Union that calls for ensuring the participation of civil society.

Yet, in acting to defend or develop these values, civil society organisations often become the targets of policies and measures trying to limit the space in which they are allowed to operate. Shrinking civic space has multiple levels from the establishment of unintentional administrative obstructions to deliberate attacks against the very existence of civil society and its representatives. Such attacks undermine the rule of law and clash with European values. Therefore the situation of the rule of law cannot be fully analysed without an examination of civic space in Europe and in the Member States.

Evidence of some level of the shrinking of civic space can be found in virtually all Member States of the Union according the European Union Agency for Fundamental Rights (FRA)'s successive publications and a wide range of reports by human rights NGOs and watchdogs, but also international organisations such as the OECD or the Council of Europe.

Especially, FRA's latest report entitled Protecting Civic Space in the EU, published on 22 September 2021, builds on thorough analysis as well as interviews and surveys carried out with civil society organisations over the last years and provides a comprehensive and up-to-date image of the situation of civic space and its fundamental building blocks: the overall institutional framework, an enabling regulatory environment, access to sustainable resources and funding, participation in law- and policy making and the maintaining of a safe space civil society actors. For each of these areas, FRA presents ample and documented evidence of the main trends, including reference to measures taken in specific Member States.

The present European Parliament report does not aim to duplicate the work of the Fundamental Rights Agency and other organisations monitoring the state of civic space and fundamental rights. Instead, it intends to raise political awareness and to focus on capturing the types of challenges faced by civil society actors – rather than instances of such challenges

– and to propose policies and measures to address these issues.

The impact of measures instilling a chilling effect

Policies and measures designed to instill a chilling effect on civic space are of particular relevance as they lead to self-censorship and deter civil society organisations and citizens, but also certain professions (e.g. judges and journalists) from exercising their civic rights or carrying out their legitimate work.

While their nature can be very diverse, such policies often combine vague provisions leaving large discretion to public authorities with disproportionately high potential sanctions. Their arbitrary application is often used to strengthen further the desired chilling effect. In certain cases, the mere prospect of their application can have a deterrent effect strong enough to instill self-censorship without an actual need to apply them. Beyond merely legislative measures, negative rhetoric, stigmatization, smear campaigns, harassment, intimidation and criminalisation also lead to chilling effects.

Some of the country chapters of the Commission’s Rule of Law report already address the issue of chilling effects but a more systematic approach making chilling effects a key element to be monitored in the Rule of Law report would help further document the impact of such policies on civic space and their characteristics. In turn, further strategic infringement procedures could be initiated such as the one in Case C-78/18 where the concept of the “deterrent effect” played an important role in the Court’s conclusion that the measures at stake were violating freedom of association.

Attacks, hate speech and intimidation are also perpetrated by private actors, including in the form of Strategic Lawsuits Against Public Participation which warrant decisive EU action along the lines called for by the Parliament.

The emergence of Government-organized Non-governmental organisations

A less documented phenomenon that this report aims at highlighting is the emergence of government-organized non-governmental-organizations, or GONGOs, designed to support the political legitimacy of the power in place.

By presenting themselves as independent voices, these organisations inflate a sense of public support to the political goals of the power in place. In doing so, they threaten basic building blocks of democracy such as public debate and deliberation and their presence in the public sphere undermines active citizenship, thereby threatening civic space in the long term.

While further study and documenting of the phenomenon would help better grasp the impacts of these practices, it is important to ensure that mechanisms and strategies are devised to ensure that EU funds are not awarded to GONGOs or organisations that do not respect EU values.

A comprehensive EU Civil society strategy

The importance of civil society in furthering the Union’s objectives is reflected in a wide variety of EU policies and strategies. These include horizontal policies 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 anti-racism, LGBTQI+ equality, Roma inclusion, children's rights, disability, victims' rights, women's rights and migrant integration.

The Citizens, Equality, Rights and Values programme was adopted with an increased budget compared to the Commission's initial proposal, notably under a strong push by the Parliament to complement the fundamentally important three strands by a fourth one focusing on Union values.

The European Commission also regularly emphasizes the important role played by civil society organisations in the monitoring of the state of the rule of law, democracy and fundamental rights, notably its contribution to inform the drafting of the Annual Rule of Law report.

Yet, while the Commission highlights its reliance on civil society organisations for the promotion, monitoring and protection of EU values and the realisation of many EU policies, its approach to addressing the challenges faced by civil society organisations remains both fragmented and incomplete.

The present own-initiative report therefore calls for an EU Civil Society Strategy that will 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.

To be comprehensive, such a strategy should encompass the political recognition of civil society as a key partner for EU institutions, enhanced and structured monitoring of the situation of civic space in the Member States, dispositions to develop and protect the regulatory environment in which they operate including prevention and support when they are targeted by attacks, a framework to secure their financial sustainability and measures to ensure genuine participation in policy-making processes.

In particular, in terms of monitoring, despite worrying trends and evidence of attacks on civil society organisations, the Commission's annual rule of law report still only dedicates a few paragraphs to civic space in its chapter on "institutional issues linked to checks and balances" while recognising that when civil society's space to operate shrinks, it is a sign that the rule of law is at risk. A fully-fledged chapter dedicated to civic space, including country-specific recommendations would not only recognize the key role of civil society organisation, it would also help build political momentum thereby strengthening the EU's voice in the protection of civil society.

Country-specific recommendations in all chapters of the Rule of Law report would help improve the effectiveness of the report as they would allow not only to take stock of violations but to set out concrete measures for the protection of key institutions and actors protecting the rule of law, democracy and fundamental rights.

A key step in this would be the creation of a European Civic Space Index that would structure and systematize the monitoring of civic space in the Member States and enable the observation of its evolution over time. As evidenced in FRA's report, methodologies and frameworks to measure the situation of civic space have already been developed and these should be built upon. The index would then feed into the elaboration of the annual Rule of

law Report.

Crucial measures and policies to protect civil society organisations' political and legal environment, to prevent and protect them from threats and attacks, to secure sustainable funding and to ensure access to policy-making are listed and connected in the three related parts of the report.

17.1.2022

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Civil Liberties, Justice and Home Affairs

on the shrinking space of civil society in Europe
(2021/2103(INI))

Rapporteur for opinion: Manon Aubry

SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

General remarks

1. Notes with deep concern the overall shrinking of space for civil society in some Member States, which represents a serious threat to the rule of law, democracy, fundamental rights and other EU values; notes with concern that the situation has worsened considerably during the COVID-19 crisis;
2. Underlines that in 2020, 57 % of the national and local organisations of the European Union that responded to the Fundamental Rights Agency's consultation said that the situation had 'deteriorated' or 'greatly deteriorated' compared to previous years¹⁵;
3. Recalls that civic space is the environment that enables civil society to play a role in the political, economic and social life of our societies, including by accessing information, engaging in dialogue, expressing dissent or disagreement and joining together to express views¹⁶;
4. Notes that in many Member States, CSOs are considered to be valuable interlocutors for policymakers and respected service providers; recognises that a vibrant and plural civic space requires a culture of active participation; welcomes civil society engagement in public interest advocacy, activism and active social life; points to the importance of creating favourable conditions for the development of civil society in the EU;

The responsibility of Member States and their obligations under EU and international law

5. Underlines that Member States are primarily responsible for establishing and maintaining a favourable environment for civil society and public participation to

¹⁵ Report of the Fundamental Rights Agency of 22 September 2021 entitled 'Protecting civic space in the EU'.

¹⁶ UN guidance note on the protection and promotion of civic space.

ensure the freedom of civil society, but in some cases fail to do so or deliberately restrict this space;

6. Stresses that this responsibility is established by various instruments of international law as a legal obligation for Member States to ensure civil society is able to thrive and to protect CSOs, human rights defenders and their civic space;
7. Recalls that those instruments of international law include the International Covenant on Civil and Political Rights, the European Convention on Human Rights and more specifically the UN Declaration on Human Rights Defenders;
8. Underlines, in particular, the obligation of Member States to protect and promote the rights to freedom of association, peaceful assembly and expression, as underlined in the recent UN guidance note on the protection and promotion of civic space;
9. Draws the attention of the Member States to the recommendation of the Council of Europe's Committee of Ministers of 28 November 2018 to member states on the need to strengthen the protection and promotion of civil society space in Europe; reaffirms that protecting and promoting civil society space requires Member States to ensure 'a conducive political and public environment' for CSOs and human rights defenders;
10. Recalls that those obligations are also mirrored in the European Union legal order, in particular through the Charter;
11. Underlines, therefore, that the main responsibility for the current restrictions on civil society space in the EU lies with the Member States;

Member-State legislation and public policies aimed at controlling and censoring civil society

12. Condemns all attempts by Member States to control, intimidate and deter civil society actors and discriminate between them on a political basis or because they receive foreign funding, including by over-regulating the sector through national legislation, creating hurdles for their establishment or operation, restricting funding, imposing spurious and unnecessary audit requirements, attempting to delegitimise the sector or actors within it, supporting GONGOs and adopting other measures instilling a chilling effect on civic space;
13. Condemns the centralisation of civil society supervision in several Member States, which is aimed at increasing government control over CSOs;
14. Expresses concern regarding the adoption of disproportionate provision criminalising live and online speech;
15. Strongly condemns the adoption by several Member States, in particular the Hungarian, Slovenian and Polish authorities, of acts that restrict the access of non-governmental organisations to funding and that target in particular activists working to protect the rights of women, LGBTIQ+ persons, minorities, migrants and refugees;
16. Supports CSOs campaigning for gender equality and women's rights, particularly in

Poland, where they are campaigning for the right to safe and legal abortions, and strongly condemns government attempts to shrink the space for women's rights activists;

Difficulties faced by civil society actors in relation to funding

17. Deplores the insufficient efforts of some Member States and calls on them to step up their efforts to facilitate and guarantee access to stable long-term funding for civil society actors;
18. Notes that challenges faced by CSOs in relation to funding include a lack of sufficient sources of funding, burdensome administrative procedures to access funding, lack of transparency and fairness in funding allocation and restrictive eligibility criteria;
19. Deplores the outsourcing by public authorities of public service missions to CSOs in domains such as housing, health, education and asylum, which goes beyond a balanced cooperation of public authorities with non-profit organisations that have a good experience working with and for the persons concerned and is not supported by sufficient additional resources; stresses that such outsourcing practices use civil society resources for the fulfilment of states' responsibilities and do not leave the much-needed space for public participation of CSOs through advocacy, strategic litigation and public education;
20. Condemns the adoption by some Member States of laws restricting access to specific sources of funding, including foreign funding, in deliberate attempts to silence and selectively delegitimise critical CSOs and media outlets;

Non-legislative threats restricting civic space

21. Condemns the severe restrictions imposed by some Member States on the right to free speech, freedom of assembly and the right to protest, whether through the prohibition of demonstrations, including by misusing state-of-emergency measures, the disproportionate use of violence by public authorities, or the arbitrary arrests of protesters for activities that do not constitute criminal offences;
22. Expresses concern that journalists and civil society actors in some Member States are increasingly subjected to targeted violence, threats, smear campaigns, acts of intimidation, hate speech and other forms of harassment, both on- and offline, including by public authorities;
23. Condemns the hostile rhetoric and smear campaigns by political figures and allied media outlets designed to undermine public trust in and support for CSOs and human rights defenders, and often designed to target minority groups such as migrants, refugees and LGBTIQ+ people;
24. Notes with deep concern the growing hostility of some governments and political forces against academics who carry out scientific research and produce analysis that go against their ideology or political agendas; stresses that this is a serious threat to academic freedom and the right to access information and knowledge;

25. Condemns the increased trend of closing digital civic space and the continued deterioration of digital rights;
26. Condemns the increasing criminalisation and judicial harassment of civil society actors, in particular those working with minority groups, refugees and other migrants, those working against racism, and those working on women's rights, sexual and reproductive health rights and LGBTIQ+ rights; is concerned about the growing use of SLAPPs by powerful public and private actors as a way to silence and intimidate independent media outlets, journalists and civil society actors; deplores the public use of verbal violence and hate speech at the institutional, political and journalistic levels to undermine civil society actors;
27. Emphasises that states have an obligation to investigate and protect victims when smear campaigns, threats and attacks are carried out by individual representatives of the state or non-state actors;
28. Expresses deep concern regarding the growing, unjustified and disproportionate use of surveillance technologies in the public space and underlines the threat to civic space that this represents;
29. Expresses concern regarding and condemns the on- and offline surveillance of protesters; also highlights the chilling effects that surveillance targeting journalists and civil society actors can have in that regard;
30. Notes with concern the increasing harassment of human rights defenders online and offline, in particular threats and attacks against LGBTQTI+ rights and women's rights defenders and their organisations' physical locations; is also concerned about recent legislative proposals designed to prevent such organisations from campaigning publicly;
31. Calls for the immediate abrogation by the Member States of laws and regulations that heighten the use of violence against demonstrators and restrict the freedom to demonstrate;

Restriction of the space for civil society during the COVID-19 crisis

32. Notes that while the COVID-19 pandemic underlined the value of and need for CSOs, they often had to overcome significant challenges to continue their work, with the overall space for civil society being more constrained during the crisis;
33. Deplores the instrumentalisation of the COVID-19 crisis by some governments that have used emergency measures and fast-track procedures as an opportunity to limit public debate and the freedoms of speech, assembly and association, and introduce laws and discriminatory measures unrelated to the pandemic;
34. Calls on the Member States to identify tools to promote and encourage civil society action, especially in the context of the COVID-19 pandemic;

Recommendations to monitor and protect the space for civil society in the European Union

35. Stresses that the responsibility for the positive development of civil society in the EU

lies with both the Member States and the EU institutions; believes that Union action, including legislation supporting CSOs and non-profit organisations, is needed;

36. Stresses that the adoption of the Citizenship, Equality, Rights and Values Programme with a budget of EUR 1.55 billion is a meaningful response to the challenges faced by civil society in the EU;
37. Urges the EU to lead by example and calls on the Commission to propose a comprehensive EU strategy to promote the freedoms of expression, association and assembly for a strong civil society and a vibrant civic space and give guidance on how EU law can be used to protect civic space, acknowledging its vital role in the promotion and application of EU values; stresses that the aim of this strategy should be to establish a concrete definition of civic and democratic space, bring together existing instruments and develop clear policy, protection and accountability tools to protect civic space; believes that it should, furthermore, allow for a meaningful, open, balanced, transparent and regular dialogue between the EU institutions and civil society to enable citizens and associations to exchange their views in all areas of Union action;
38. Urges the Commission to also examine, in this context, how the framing, interpretation or implementation of EU regulations and directives may lead to undue restrictions on civic space at national level and provide guidance to ensure that Member States comply with the Charter when implementing EU law;
39. Calls on the Commission to expand the European democracy action plan with a new strand dedicated to strengthening the efforts to provide education on democratic citizenship and human rights across the EU;
40. Supports the Commission in continuing its annual rule of law assessment and reporting work and calls on it to enhance its timeliness and effectiveness; urges the Commission to make strategic use of the annual report on the application of the Charter and the annual rule of law review cycle;
41. Calls on the Commission to monitor the challenges and attacks faced by civil society and to include a specific section and country-by-country recommendations on this topic in its assessments;
42. Encourages the Commission, in cooperation with the Member States, to identify effective tools for monitoring, supporting and protecting civic space in the Member States;
43. Notes that the European Union has adopted guidelines on human rights defenders that provide practical suggestions for enhancing European Union action to support them, which should be applied thoroughly and in cooperation with Member States;
44. Notes that with the CSO Meter designed under the European Neighbourhood Instrument and the Commissions' Directorate-General for Neighbourhood and Enlargement Negotiations guidelines for EU support to civil society in enlargement countries, the European Union has paradoxically developed more specific standards regarding the respect of civil society abroad than within the European Union;

45. Urges the Commission, in particular, to create a European civic space index for monitoring civic space in the Member States;
46. Supports the Commission in closely monitoring the situation across the Member States and in launching infringement procedures against Member States that arbitrarily restrict civil society space, obstruct their work or otherwise unduly and disproportionately restrict the fundamental freedoms of expression, assembly and association; encourages the Commission to ask the Court of Justice to adopt interim measures when there is a risk of irreparable harm;
47. Urges the Commission to make full use of Regulation (EU, Euratom) 2020/2092¹⁷ as a matter of urgency and to ensure that when implementing this regulation, the legitimate interests of final recipients and beneficiaries are properly safeguarded;
48. Acknowledges that attacks on civic space cannot be seen as separate from the wider trend of autocratisation occurring at the global and national levels; recognises that it is also the product of social tensions linked with growing inequalities and a long process of degradation of social cohesion that has produced deep socio-economic, cultural and geographical divides within our societies;
49. Urges the Commission, if it comes to withholding funding – including under the Recovery and Resilience Facility – from Member States that fail to respect the rule of law or misuse EU funds, to ensure that CSOs are not affected and that funding is channelled directly to them to enable them to continue their work;
50. Supports the creation and balanced and proportional functioning of an EU alert and response mechanism for attacks on civil society actors and human rights defenders, to report attacks, register alerts, map trends, provide timely and targeted support to victims, propose adequate responses to the EU institutions and also provide input for the Commission’s annual rule of law assessment; calls, in this context, on the Commission and the Member States to ensure regular and meaningful contact with civil society actors, both at national and EU level;
51. Urgently requests that the Commission present proposals for binding Union legislation on common and effective safeguards for victims of SLAPPs across the Union, including through a directive establishing minimum standards for protecting actors legitimately engaging in public participation against SLAPPs and providing access to justice in the victim’s Member State;
52. Believes that a statute for EU cross-border associations and not-for-profit organisations could provide an extra layer of protection to CSOs faced with undue hurdles to their establishment and operations;
53. Calls for the Member States and the European Union to improve the legal environment for CSOs and ease the conditions for them to access diverse sources of funding, including private and foreign funding;

¹⁷ Regulation (EU, Euratom) 2020/2092 of the European Parliament and of the Council of 16 December 2020 on a general regime of conditionality for the protection of the Union budget (OJ L I 433, 22.12.2020, p. 1).

54. Calls for the Member States and the European Union to go beyond project funding and provide core infrastructure funding and multiannual funding cycles to ensure the sustainability of civil society;
55. Notes that the funding of non-profit organisations often requires co-financing and that requiring non-profit organisations to have too high a share of own resources can be prohibitive; underlines, therefore, that the share of own resources required for co-financing should be evaluated;
56. Calls on the Member States to provide sufficient resources to their national human rights institutions to allow them to engage with civil society actors and monitor and react to restrictions of their civic space;
57. Calls on the Member States to ensure that criminal offences committed against CSOs and human rights defenders are properly recorded, investigated and prosecuted;

Limitations on open and transparent dialogue between public institutions and civil society, and recommendations

58. Recalls the importance of an open, transparent and constant dialogue between the institutions of the European Union and civil society and its contribution to the realisation of the Union's values, objectives and policies;
59. Recalls that as regards EU institutions, Article 11 TEU states that 'the institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action', that 'the institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society' and that 'the European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent';
60. Calls for the adoption of an innovative mechanism based on Article 11 TEU to ensure a fair and balanced representation of CSOs in the legislative and decision-making processes of the European Union; calls for equal access to information of public interest and decision makers to be ensured, both at Member-State and EU level;
61. Calls, in particular, for the Commission, in its consultation processes, to restore the balance between representatives of corporate interests and representatives of other interests, such as workers' rights, social rights and environmental protection, and to ensure safeguards against unfair lobbying practices that are not compatible with fair and transparent dialogue;
62. Calls for the setting up of an independent ethics body that can provide guidance on ethical matters, monitor compliance with ethical rules and issue recommendations on sanctions against unfair lobbying practices and other ethical breaches which could endanger the independence of the EU institutions;
63. Calls for the Member States, the EU institutions in general and the Commission in particular to ensure close consultation with civil society during the preparation or review of legislation potentially affecting civic space and freedoms;

64. Calls for the European Union to ensure that the working methods of the Conference on the Future of Europe guarantee the inclusion of civil society;

Media concentration and threats to the fair representation of civil society

65. Recalls that independent and high-quality journalism and CSOs play a crucial role as guardians of democracy and the rule of law by holding the powerful to account and fighting disinformation, misinformation, foreign political interference and manipulation;
66. Deplores the growing concentration of media ownership at the expense of plurality, independence and fair public representation of the ideas and actions of CSOs; recalls that independent and responsible journalism and access to pluralistic information are key pillars of democracy and that the actions and input of civil society are vital for any democracy to thrive; calls on the Member States to ensure and maintain the independence of the media from political and economic pressure, guarantee media pluralism and ensure transparency;
67. Expresses deep concern over the fact that some media outlets engage in smear campaigns against civil society actors, including when those smear campaigns are initiated by a government;
68. Encourages the Member States to adopt laws to guarantee the independence and plurality of the media, including by putting in place democratic safeguards for the governance of media outlets to protect journalists from hostile shareholders, guaranteeing more transparency and regulation of media ownership, and, if necessary, reforming the public funding of media outlets to foster democracy and citizen participation in media-funding processes.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	10.1.2022
Result of final vote	+: 18 -: 4 0: 0
Members present for the final vote	Pascal Arimont, Manon Aubry, Ibán García Del Blanco, Jean-Paul Garraud, Esteban González Pons, Mislav Kolakušić, Sergey Lagodinsky, Gilles Lebreton, Karen Melchior, Jiří Pospíšil, Franco Roberti, Marcos Ros Sempere, Stéphane Séjourné, Raffaele Stancanelli, Adrián Vázquez Lázara, Axel Voss, Marion Walsmann, Tiemo Wölken, Javier Zarzalejos
Substitutes present for the final vote	Patrick Breyer, Daniel Buda, Nacho Sánchez Amor, Bettina Vollath

**FINAL VOTE BY ROLL CALL
IN COMMITTEE ASKED FOR OPINION**

18	+
PPE	Pascal Arimont, Geoffroy Didier, Esteban González Pons, Jiří Pospíšil, Axel Voss, Marion Walsmann, Javier Zarzalejos
Renew	Pascal Durand, Karen Melchior, Yana Toom, Adrián Vázquez Lázara
S&D	Franco Roberti, Marcos Ros Sempere, Bettina Vollath, Tiemo Wölken
The Left	Manon Aubry
Verts/ALE	Patrick Breyer, Sergey Lagodinsky

4	-
ECR	Raffaele Stancanelli
ID	Gunnar Beck, Jean-Paul Garraud, Gilles Lebreton

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	15.2.2022
Result of final vote	+: 53 -: 10 0: 6
Members present for the final vote	Magdalena Adamowicz, Abir Al-Sahlani, Konstantinos Arvanitis, Malik Azmani, Katarina Barley, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Patrick Breyer, Saskia Bricmont, Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Damien Carême, Caterina Chinnici, Clare Daly, Marcel de Graaff, Anna Júlia Donáth, Lena Düpont, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Jean-Paul Garraud, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Fabienne Keller, Peter Kofod, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Nuno Melo, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Emil Radev, Paulo Rangel, Karlo Ressler, Diana Riba i Giner, Ralf Seekatz, Birgit Sippel, Sara Skytvedal, Vincenzo Sofo, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Yana Toom, Milan Uhrík, Tom Vandendriessche, Bettina Vollath, Elissavet Vozemberg-Vrionidi, Jadwiga Wiśniewska, Elena Yoncheva, Javier Zarzalejos
Substitutes present for the final vote	Malin Björk, Tanja Fajon, Daniel Freund

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

53	+
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Lukas Mandl, Nuno Melo, Emil Radev, Paulo Rangel, Karlo Ressler, Ralf Seekatz, Sara Skyttedal, Tomas Tobé, Elissavet Vozemberg-Vrionidi, Javier Zarzalejos
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Tanja Fajon, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Birgit Sippel, Bettina Vollath, Elena Yoncheva
Renew	Abir Al-Sahlani, Malik Azmani, Anna Júlia Donáth, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Maite Pagazaurtundúa, Ramona Strugariu, Yana Toom
Verts/ALE	Patrick Breyer, Saskia Briemont, Damien Carême, Daniel Freund, Alice Kuhnke, Diana Riba i Giner, Tineke Strik
The Left	Konstantinos Arvanitis, Malin Björk, Clare Daly, Cornelia Ernst
NI	Laura Ferrara, Martin Sonneborn

10	-
PPE	Nadine Morano
ID	Nicolas Bay, Nicolaus Fest, Jean-Paul Garraud, Marcel de Graaff, Peter Kofod, Annalisa Tardino, Tom Vandendriessche
ECR	Jorge Buxadé Villalba
NI	Milan Uhrík

6	0
S&D	Maria Grapini
ECR	Joachim Stanisław Brudziński, Patryk Jaki, Assita Kanko, Vincenzo Sofo, Jadwiga Wiśniewska

Key to symbols:

+ : in favour

- : against

0 : abstention