

CSE guidance note for civil society organisations' monitoring and participation in the European Commission's annual Rule of Law Cycle at the national level

This guidance note is designed to help national civil society organisations (CSOs) across the European Union participate in monitoring the implementation of **country-specific recommendations on civic space** and developing additional ones, in the context of the European Commission (EC)'s annual Rule of Law (RoL) Report.

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1. What is the Rule of Law (RoL) Report?

The Rule of Law (RoL) Report is a **core element of the EU Rule of Law Mechanism** which “provides a process for an annual dialogue between the [European Commission (EC)], the Council and the European Parliament together with [EU] Member States as well as national parliaments, civil society and other stakeholders on the rule of law.”¹

Respect for the rule of law is one of the founding values of the Union, values which are also common to the Member States, as set out in Article 2 of the Treaty on European Union (TEU) and in the preambles to the TEU and the Charter of Fundamental Rights of the EU.

The aim of the Rule of Law Cycle is to assess the respect for the rule of law within all EU Member States. In particular, **the RoL Report “monitors significant developments, both positive and negative, relating to the rule of law in Member States”**.² As of 2024, the RoL Report will also cover selected accession countries.

The annual RoL Report is composed of **four key areas**: 1) the justice system, 2) the anti-corruption framework, 3) media pluralism and freedom, and 4) other institutional issues related to checks and balances.

2. What are the checks and balances to the rule of law and what is civic space?

Checks and balances to the rule of law cover all issues that relate to the guarantees and exercise of the freedoms of association, assembly and expression, which include the right to participate in decision-making processes, access to information and the ability to hold governments accountable.

In particular, the institutional issues that are part of the checks and balances within the rule of law are:

- The process for preparing and enacting laws, including consultations, the use of fast-track procedures or emergency procedures, and the regime for the constitutional review of laws.
- The existence and functioning of independent authorities.
- The accessibility and the judicial review of administrative decisions.
- The existence of an enabling framework for civil society.

Civic space is “the environment that enables people and groups – or “civic space actors” – to participate meaningfully in the political, economic, social and cultural life of their societies. [...] A vibrant civic space requires an open, secure and safe environment that is free from all acts of intimidation, harassment and reprisals, whether online or offline. Any restrictions on such a space must comply with international human rights law”.³

According to the Organisation for Economic Co-operation and Development (OECD), **civic space** is “the set of legal, policy, institutional, and practical conditions necessary for non-governmental actors to access information, express themselves, associate, organise, and participate in public life”. Its

¹ European Commission, “[Rule of law mechanism](#)”, Brussels.

² Ibid.

³ United Nations, “[United Nations Guidance Note – Protection and promotion of civic space](#)”, September 2020.

protection and promotion “is a precondition for good governance and inclusive growth, as well as for effective and efficient open government policies and stakeholder participation initiatives.”⁴

3. How can civil society contribute?

Civil society organisations (CSOs) can contribute every year to the Rule of Law (RoL) Report by:

- Providing written contributions to the European Commission (EC)’s annual targeted stakeholder consultation on the situation in your country.
- Alerting the EC about key urgent developments throughout the year.
- Having meetings at the national level with the EC, and also at the EU level through (your) EU civil society networks, notably as part of the EC’s country visits on the rule of law.
- Having consultations with national governments, who also prepare their own report for the EU.
- Organising or participating in meetings/events on the RoL and its findings at the national level.

Here is the [link to the consultation on the 2024 RoL Report](#). Below you will find the timeline of the Rule of Law Cycle, from the consultation process to the follow-up discussions on the published report.

Timeline



Source: European Commission, [“2024 Rule of Law Report”](#), Brussels.

For more information, [here is a one-page infographic](#) prepared by the EC that describes the annual Rule of Law Cycle. **Since 2022, the EC has included country-specific recommendations (CSRs) in the annual RoL Report.**

4. What is the role of the Council of the EU, the European Parliament and other bodies?

The **Council of the European Union**, composed of the EU Member States, organises an [annual dialogue](#) among all Member States to promote and safeguard the rule of law in the framework of the EU Treaties. This annual dialogue includes **horizontal discussions** that cover general rule-of-law developments in the EU, and **country-specific discussions** that address key developments in five

⁴ Organisation for Economic Co-operation and Development, [“Civic space”](#), Paris.

Member States each semester. To this date, the Council has organised **four horizontal discussions** and **seven country-specific discussions**, so that all Member States have been covered at least once.⁵ However, the Council's dialogue does not foresee any involvement of civil society organisations (CSOs).

The **European Parliament** (EP) is at the origin of the annual Rule of Law (RoL) Report, although the Members of the European Parliament (MEPs)' ambition was to have a report with a wider scope, also covering fundamental rights and democracy at large. Every year, the EP adopts its own report on the European Commission (EC)'s RoL Report (the next one on the 2023 RoL report will be adopted in early 2024). The EP can also address issues in specific countries through dedicated resolutions (until now: Hungary, Poland and Romania).

The **EP's Committee on Civil Liberties, Justice and Home Affairs** (LIBE) also holds an annual [Interparliamentary Committee hearing](#) on the rule of law, in cooperation with the EC. Moreover, LIBE has set up a working group called [LIBE Democracy, Rule of Law and Fundamental Rights Monitoring Group \(DRFMG\)](#). The DRFMG "focuses on threats to democracy, the rule of law and fundamental rights, as well as the fight against corruption within the EU, across Member States[, in order] to recommend specific actions to the LIBE Committee".⁶ MEPs involved in the DRFMG have an annual work programme in which they focus on both thematic issues and country reviews. The working group is not open to the public but CSOs may be invited to intervene on specific topics.

National parliaments can also hold national hearings on the RoL Report. For instance, in 2023, Cyprus' House of Representatives held a [discussion](#) in July in which CSOs also participated, while Luxembourg's Chamber of Deputies [received the EU Commissioner for Justice](#), Didier Reynders, in January. The EC aims to present its RoL Report to parliaments across the EU.

The **European Economic and Social Committee** (EESC), a tripartite consultation body to the EU institutions, includes an [ad hoc group on Fundamental Rights and the Rule of Law](#) which engages in dialogues on the rule of law with CSOs and social partners. The ad hoc group is "tasked with [providing] a forum for European [CSOs] to meet and share their assessment on the state of fundamental rights, democracy and rule of law in [Member] States."⁷ It drafts a biennial report, and holds country visits and an annual forum gathering stakeholders and EU institutions.

The **European Union Agency for Fundamental Rights** (FRA) also contributes to the annual RoL Report through the EC's consultation, notably by sharing its data on civic space across the EU. FRA also provides support to the EC to organise multi-stakeholder dialogue workshops at the national level that always include key CSOs. From 2022 to 2023, such dialogues were organised in 8 EU Member States.

5. What is the added value of the RoL Cycle as compared to the United Nations' and other international organisations' processes?

The **Rule of Law Cycle does not address the overall state of human rights**—within the EU, human rights are usually referred to as fundamental rights—in a country, but rather the respect of the rule

⁵ Council of the European Union, "[Rule of law](#)", Brussels.

⁶ European Parliament, "[LIBE Democracy, Rule of Law and Fundamental Rights Monitoring Group \(DRFMG\)](#)", Brussels.

⁷ European Economic and Social Committee, "[Ad hoc group on fundamental rights and the rule of law](#)", Brussels.

of law across four dimensions: 1) the independence and effectiveness of the justice system, 2) the measures in place to prevent and address corruption in governance, and 3) and 4) whether civil society and independent, pluralistic media are able to hold governments accountable. This means that, for instance, **civic space must be specifically addressed**. At the same time, violations of fundamental rights that go beyond civic freedoms are not covered in the RoL Reports. The European Commission (EC) addresses such violations—as long as they fall within the area of EU competences—in other reports, such as [the EC's annual report on the implementation of the Charter of Fundamental Rights](#). The European Union Agency for Fundamental Rights (FRA) addresses such violations in all its reports, including its [annual Fundamental Rights Report](#).

However, **civic space and fundamental rights can be clearly interlinked as part of the rule of law**. As an example, the main focus would be on the right to participation, systematic violations of the access to justice—for instance, in terms of equality as regards specific groups in society—or the right to a fair trial, access to funding or violations to the right of assembly.

Contrary to the [Universal Periodic Review](#) (UPR) mechanism of the United Nations (UN)'s Human Rights Council, **all EU Member States—and starting from 2024, some accession countries to the EU—are assessed on an annual basis through the Rule of Law Cycle**. This makes it possible to monitor the situation more consistently and to address problems in a more timely manner.

Also, it is interesting to use findings from the UPR, as well as the [UN treaty bodies'](#) reviews, as contributions to the Rule of Law Cycle, as long as they relate to civic space.

6. An enabling space for civil society

What are the issues that are addressed in the Rule of Law (RoL) Report as regards civic space?

As mentioned before, the **RoL Report includes a specific section on checks and balances to the rule of law**. For this section, EU Member States, civil society organisations (CSOs), representatives of the judiciary, and independent authorities, such as national human rights institutions (NHRIs) or Ombudspersons, have to **contribute on 'civic space issues'**.

These '**civic space issues**' include:

- Measures regarding the framework for CSOs and human rights defenders (e.g. legal framework and its application in practice, including registration and dissolution rules).
- Rules and practices having an impact on the effective operation and safety of CSOs and human rights defenders (HRDs), including:
 - Measures for protection from attacks (verbal, physical or online attacks);
 - Intimidation;
 - Legal threats, such as Strategic Lawsuits Against Public Participation (SLAPPs);
 - Negative narratives or smear campaigns;
 - Measures capable of affecting the public perception of CSOs and HRDs;
 - Measures to monitor threats or attacks and dedicated support services.

- Organisation of financial support for CSOs and HRDs (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, and measures to ensure a fair distribution of funding).

The RoL Report's section on checks and balances to the rule of law also addresses **the process for preparing and enacting laws**, including CSOs' participation in this process. This involves:

- Framework, policy and use of impact assessments and evidence-based policymaking, stakeholders' public consultations, and transparency and quality of the legislative process both in the preparatory and the parliamentary phases.
- Rules and use of fast-track procedures and emergency procedures.
- Rules and application of states of emergency (or analogous regimes), including judicial review and parliamentary oversight.
- Regime for constitutional review of laws.

In addition, the section on checks and balances to the rule of law addresses **measures to foster and promote a culture of the rule of law**, including:

- Debates in national parliaments on the rule of law.
- Public information campaigns on rule of law issues.
- Contributions from civil society.
- Education initiatives.

Other issues that are also relevant for an enabling civic space include:

- Independence, resources, capacity and powers of NHRIs, Ombudsperson or equality bodies.
- Accessibility and transparency of administrative decisions and their judicial review.

Finally, contributors to the European Commission's consultation should provide **information on measures taken by Member States to follow up on the recommendations** that they received in the previous year's RoL Report regarding the system of checks and balances.

7. What are the country-specific recommendations (CSRs) in the RoL Report?

After reviewing all the reports, including those from civil society organisations (CSOs), and engaging in discussions with the EU Member States and stakeholders, the European Commission (EC) issues a **summary report on the rule of law in the EU** (RoL Report) covering the four key areas mentioned in section 1 of this guidance note, as well as **specific chapters for each Member State**. These chapters include **country-specific recommendations** (CSRs). These recommendations relate to administrative or legislative changes that are needed to ensure compliance with the rule of law principles.

Member States should comply with the CSRs. They also have to report the following year on the steps they have taken to follow up on these recommendations.

There are **no specific sanctions** derived from the RoL Report. However, the **recommendations are public**, and there is also a **peer review system among Member States**. Furthermore, in case of significant deviations from the rule of law, the EC can launch **infringement procedures**. In the case of

laws directly affecting civil society, this has been the case for Hungary's 'LexNGO' law, and the subsequent [ruling of the Court of Justice of the EU](#).

Furthermore, the EU adopted the [Rule of Law Conditionality Regulation](#), which allows the EC to adopt measures, including the suspension of payment of funds from the EU budget, against Member States violating the rule of law principles enshrined in Article 2 of the Treaty on European Union (TEU). Moreover, here are the [guidelines](#) that were adopted regarding the implementation of the 'Conditionality Regulation', based on several rulings of the Court of Justice of the EU.

The table below shows examples of CSRs on civic space that were included in the EC's [2022 RoL Report](#) and the [2023 RoL Report](#), as well as relevant observations about civic space that were included in the reports but not necessarily made into recommendations. **Please note that the examples listed below are not an exhaustive list.**

Country	EC's 2022 RoL Report CSRs	EC's 2023 RoL Report CSRs	EC's 2022 RoL Report observations	EC's 2023 RoL Report observations
Poland	Improve the framework in which civil society and the Ombudsperson operate, taking into account European standards on civil society and Ombuds-institutions.	Improve the framework in which civil society operates and continue such efforts regarding the Ombudsperson, taking into account European standards on civil society and Ombuds-institutions.	Legislation carrying out significant reforms continues to be frequently adopted while bypassing procedures that provide for adequate consultations, something which Poland has committed to address through the Recovery and Resilience Plan. Recently proposed initiatives could adversely affect the civic space and there are concerns about measures limiting activities of civil society. The Supreme Audit Office operates under adverse conditions. The newly appointed Ombudsman continues to play a key role as a rule of law safeguard, despite limited resources. Civil society organisations play a crucial role in providing help to refugees arriving in very high numbers from Ukraine to Poland.	The practice of adopting laws through procedures not requiring adequate consultations persists. Stakeholders have raised concerns as regards the introduction of a range of disproportionate sanctions to the Criminal Code. No measures have been taken to improve the framework for the civic space, while civil society remains vibrant.
France	<i>NB: no CSRs about civic space in France in the EC's 2022 RoL Report.</i>	<i>NB: no CSRs about civic space in France in the EC's 2023 RoL Report.</i>	New laws have been adopted to improve the financial environment for civil society organisations. The Law on republican principles entered into	While the financial environment of civil society organisations remains favourable, stakeholders raised concerns on the implementation of legislation

			force and a number of stakeholders raised concerns as regards its potential impact on the civic space.	which conditions access to public funding to respect for the fundamental values of the French Republic.
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8. What are the challenges to the implementation of the CSRs?

It is critical for the Rule of Law (RoL) Report to contain strong and targeted recommendations in order to be meaningful and lead to changes in our societies. However, the country-specific recommendations (CSRs) are often not specific enough to ensure proper follow-up and visibility.

The **justice system and the framework to fight corruption garner more attention than checks and balances**, although independent civil society and media are indispensable to denounce restrictions to and/or attacks on the rule of law.

The language used and the lack of contextualisation in the CSRs leads to **insufficient differentiation between the civic space restrictions in different EU Member States**.

Sometimes, **certain issues are repeatedly mentioned in the RoL Report but no recommendations are made to address them** (e.g. French law on Republican values and related limitations in civil society organisations (CSOs)' access to funding).

In addition, a lot of effort is put by CSOs into highlighting deficiencies in the rule of law, but **much less effort is put in following up on the RoL Report's recommendations**.

As a result, the RoL Report **does not attract sufficient media and parliamentary attention in the EU Member States to trigger change**.

We find that **the assessment of the RoL Report's recommendations' implementation by the EC is rudimentary**. For instance, a recommendation is considered as implemented because a law has been adopted or amended, but the quality of the law and its actual implementation, including the adequate involvement of CSOs, is less relevant for the EC's analysis. Therefore, **benchmarks used by the EC should be reinforced**. Currently, the EC uses the indicators listed below to assess the level of implementation. The EC does not provide an explanation of how these indicators are applied in its [methodology for the RoL Report's preparation](#).

Benchmarks used by the EC to measure CSRs' implementation

- No progress
- No further progress
- Some progress
- Some further progress
- Significant progress
- Fully implemented

9. How can your organisation follow up on a civic space CSR or an issue raised in the EU report?

9.1. Make a first assessment of the country-specific recommendation

Here is a **suggested checklist** that you can use **to conduct a first assessment of the state of play** on the civic space issue that is raised **and what steps need to be taken for the country-specific recommendation (CSR)'s full implementation:**

- Read your country's chapter and extract all information linked to the civic space-related CSRs.
- Is the information included relevant? Is it still up to date?
- Is it a measure or legislation (or proposal) that needs to be changed/repealed or a systemic issue that needs to be addressed with adequate measures?
- Is the issue new or has it already been addressed by other international organisations or bodies (e.g. Organisation for Economic Co-operation and Development (OECD), the Council of Europe (CoE)'s Venice Commission or Conference of INGOs, or within the United Nations (UN)' Universal Periodic Review)? Collect all relevant recommendations.
- Has the issue already been covered by the media?
- Or within your country's national parliament?
- Are there other civil society organisations (CSOs) or other organisations (e.g. in the judicial sector, trade unions, businesses, foundations) that could be supportive? Are there other allies outside of civil society that could be supportive?
- Are there any court rulings (national, EU or from other Member States) that could be relevant?
- Have other EU Member States faced similar issues, and how has civil society addressed these issues there? What are the lessons learned?

9.2. Make an action plan for the recommendation's implementation

a) Towards the media

- Alert your national media about the European Commission (EC)'s Rule of Law (RoL) Report and the country-specific recommendation(s) (CSRs) that you want to see addressed.
- Include in your communication concrete examples of how the lack of an adequate measure or the existence of a problematic measure has an impact on people.
- Suggest already a specific solution if the CSR is not specific enough. The solution should reflect actionable steps: a timeline for such actions, concrete plans/steps and follow-up. For example: *To meet X goal, the government must do A, B, and C, and this is how it should do it: ...*

b) Towards national decision-makers

- Prepare a fact sheet on the CSR explaining why it is important to implement it through concrete examples.
- Insert links with other documents: case law, UN or OECD/CoE recommendations on the same issue.

- Define clearly how the CSR needs to be changed, expanding on what is contained in the recommendation.
- Call for a closer involvement of civil society in the preparation of concrete measures.
- Map your allies within and outside civil society.
- Check if there is already a civil society organisation (CSO) or alliance working on this issue.
- Contact and meet your [National Human Rights Institution](#).
- Meet other CSOs and stakeholders to develop potential alliances and a joint action plan.
- Meet relevant Ministries and Members of the Parliament and encourage MPs to organise a hearing on the RoL Report's CSRs (including) on civic space.
- Follow parliamentary discussions and prepare amendments.
- Organise events/debates/dialogues in your country on the issue. You can also invite speakers from the [EC's Rule of Law Unit](#) and/or the EU Agency for Fundamental Rights (FRA).

c) Towards EU decision-makers

- Inform the EU civil society network to which your organisation belongs about any developments.
- Keep contacts with the European Parliament (EP)'s Liaison Office and the EC's Representation Office in your country and ask to be involved in the [EC's country visits on the rule of law](#) and in any potential rule of law dialogue workshop.
- Suggest organising a national media briefing on the CSRs in the RoL Report.
- Reach out to the [FRA's Fundamental Rights Platform](#) for an invitation to participate in national dialogues organised in cooperation with the EC.
- Address the EU's Commissioner for Justice or other EU Commissioners on the issue when they visit your country.
- Contact the [EC's Rule of Law Unit](#) (within DG JUST) to find out which policy officer is in charge of writing the chapter about your country and to establish a contact point. This way, CSOs can keep the relevant Policy Officer informed throughout the RoL consultation process and after the deadline, as well as alert them in real time about (urgent) developments. Alternatively, you can do this through relevant EU CSOs active in the Rule of Law Cycle.
- Ask your government to inform you about the rule of law peer reviews that are organised by the Council of the EU and to prepare together the dialogue concerning your own country. Call on your government to include CSOs among the national representatives contacted by the Council of the EU so that CSOs can also present their perspective.
- Contact the [EP's LIBE Committee's](#) Democracy, Rule of Law and Fundamental Rights Monitoring Group ([DRFMG](#)) when your specific country is on the group's agenda and share policy or research briefs and targeted questions to Member States on civic space issues and recommendations.

10. How to assess the implementation of country-specific recommendations?

It is important to **prepare an assessment report** to be sent to the European Commission (EC) and in view of the preparation of the next Rule of Law (RoL) Report and country-specific chapters. It is important to **aim for a high-quality implementation**.

Partial reforms in and of themselves cannot be considered progress if they do not substantially improve the functioning of the rule of law. **Progress should be assessed not only based on the number of adopted legislation (inputs), but by adopted legislation's visible and measurable impact (outputs) that results in a real change in practices and a functioning rule of law.**

How can civil society organisations (CSOs) assess country-specific recommendations (CSRs)' implementation? For instance, instead of viewing the adoption of a law as an achievement even if the law is not (fully) implemented, what are other implementation targets/goals/benchmarks that CSOs can identify?

Please consider issuing a report after a measure has been adopted to assess its effectiveness on the ground. **Below are the issues that should be considered when drafting your assessment report:**

- Has the government taken any action to implement the CSR(s)?
- Was civil society involved or consulted, and if so, how? (What was the level of consultation? Ad hoc or structured? Broad or restricted? Full involvement or merely consultation on an existing document?)
- Was the input by civil society taken into account?
- If the CSR has been implemented, was it implemented satisfactorily?
- Does the implementation fit with the civic space indicators for freedom of association, freedom of expression and freedom of assembly? (See Annex on *Enabling civic space indicators*)
- Can you describe any gaps in the implementing measure or law?
- Has the impact (if any) on women and on other marginalised groups been taken into consideration?
- Is there a deadline for the CSRs' implementation? Is the deadline reasonable?
- Is the adopted law or measure implemented in practice?
- Has it brought a positive change?
- Are there any changes that need to be made?
- Has civil society been consulted on a follow-up assessment of the law/measure's implementation?

10.1. Proposal for a scoring table for CSRs' implementation

	1	2	3	4	5
Involvement of CSOs	None	Unsatisfactory	Satisfactory	Good	Very good
Deadlines	None	Unsatisfactory	Satisfactory	Good	Very good
Quality of the proposed measure (civic space indicators check)	None	Unsatisfactory	Satisfactory	Good	Very good
Quality of the adopted measure	None	Unsatisfactory	Satisfactory	Good	Very good
Effectiveness of the measure's implementation	None	Unsatisfactory	Satisfactory	Good	Very good

10.2. A case study: CSRs for Greece and their implementation

EC's 2023 RoL Report CSRs for Greece	EC's 2023 RoL Report assessment of the state of affairs in Greece	Example of a CSO's assessment of the state of affairs and consequences	Examples of CSRs that CSOs could propose
<p>Some progress on ensuring that registration requirements for civil society organisations are proportionate in view of maintaining an open framework for them to operate.</p> <p>Take further steps to evaluate the current registration system for civil society organisations, including by initiating a structured dialogue with CSOs, and assess whether there is a need to amend it.</p>	<p>There are currently nine different registries, and their parallel existence remains an issue. The planned operation of a public database and the new central registry for civil society organisations (CSOs) under the responsibility of the Ministry of Interior is a positive development aiming to strengthen transparency and protect public funds. In June 2023, the Government commissioned a study for the simplification and digitalisation of the administrative procedures relating to the functioning of the public database and the new central registry for CSOs and their interoperability with other existing public registries. CSOs dealing with international protection, migration and social integration are concerned by the fact that they have to register in the Registry of Greek and Foreign Non-Governmental Organisations as well as to register their members in the Registry of NGO Members. According to the Government, all CSOs that are actively working in the structures of the Ministry of Migration and Asylum, or in the structures funded by EU programmes are registered in the Registry and can therefore access refugees' reception facilities and receive state funding. In relation to delays in the process, the time-limit to process applications has improved dropping from 120 to 60 days on average. The Council of</p>	<p>A new Public Database as well as a Registry have been created by the Ministry of Interior; however, they do not replace the pre-existing registries. Registration requirements according to the Ministry are high to ensure transparency and accountability.</p> <p>The existence of parallel registries remains an issue, not only because the Registry of the Ministry of Interior does not replace other registries but also because information has been shared informally by another Ministry that is also planning to establish its own registry, further increasing the number of registries.</p> <p>Requirements for registration in the NGO Registry of the Ministry of Migration and Asylum also remains an issue. The Registry has raised, among others, transparency and privacy concerns and has been criticised by various stakeholders, both nationally and internationally. Despite the fact that the Ministry has informally communicated that the Ministerial Decision or even the Law regarding this specific registry will be amended to make registration</p>	<p>Replace all registries with one central registry and simplify requirements. Ministries that may require additional information from CSOs can then require them separately. Ensure that the registry and information required are in line with European and international standards on the freedom of association.</p> <p>Initiate dialogue with CSOs to ensure that requirements are proportionate and do not hinder their work and activities.</p>

	State has not yet delivered its ruling on the pending judicial review of applications challenging some aspects of the legality of the legislation. Concerns have been raised in relation to the implementation of the regulatory framework, including in relation to the registration process. While the Commissioning of the study on the simplification of the procedures is a positive first step, more concrete steps are needed to evaluate the current system, including by initiating a structured dialogue with CSOs, and reflect on the need to amend it.	requirements easier, this has not been done yet. Information about how many CSOs were registered this year, how many were rejected as well as the time to process applications, is not publicly available.	
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11. How to develop country-specific recommendations?

Civil society organisations (CSOs) should propose very specific recommendations.

You have to **evaluate developments or the lack of developments** in policies, practices and legislation that enable individuals and groups – or ‘civic space actors’ – to participate meaningfully in society, including as regards access to institutions and justice.

In the **Annex on Enabling civic space indicators**, you will find a number of **indicators that can help you assess** such institutional policies, practices and legislation by **using the framework of the freedoms of expression, assembly and association**. Remember that **civil society is diverse** and while a policy or practice may apparently work for a part or a majority of the population, it can adversely affect others. Beware also of **intersectionalities** (for instance, women with disabilities and of African descent) which may mean that a policy or practice does not cater to the specific needs of certain people.

Please find below **a short civic space checklist**:

Civic space checklist		
<i>Freedom of Association</i>	<i>Freedom of Assembly</i>	<i>Freedom of Expression</i>
Easy and transparent registration/establishment of civil society organisations (CSOs) for any purpose	Recognition in law both for individuals and organisations	Access to information
Low administrative burden	Prior notification procedures for peaceful demonstration are	Right to participate

	not burdensome and do not require approval	
Protection from third-party interference/harassment/intimidation	Protection of protesters is ensured	Institutionalised mechanisms for dialogue; guidelines or minimum standards on how civil society has to be involved in policy- and decision-making
Access to funding is available and non-discriminatory	No undue use of force or surveillance of protesters	Activist/whistleblower protection, including against defamation; anti-SLAPP measures
Tax incentives for donations, tax regime for CSOs	Access of media is guaranteed	Privacy online and offline
Support and capacity-building measures	No arbitrary use of emergency procedures to ban specific protests	Restrictions, including on hate speech, is clearly defined in law
Non-excessive auditing of CSOs by government bodies		Laws limiting freedom of expression are in line with international standards

What are concrete points that CSOs could suggest to implement a country-specific recommendation (CSR)?

The table below includes **examples of CSRs for Poland and France developed by Civil Society Europe (CSE) and other CSOs** in the framework of [a joint civil society contribution on civic space to the 2023 RoL Report](#). It also includes examples of additional recommendations that CSOs could propose.

Country	EC's 2023 RoL Report CSRs	Civil Society Europe's CSRs for 2023 RoL Report	EC's 2023 RoL Report observations	Examples of additional, specific CSRs that CSOs could propose
Poland	Improve the framework in which civil society operates and continue such efforts regarding the Ombudsperson, taking into account European standards on civil society and Ombuds institutions.	Immediately drop all charges against women human rights defenders who are currently being prosecuted on various charges, including for their role in pro-abortion protests. Include representative civil	The practice of adopting laws through procedures not requiring adequate consultations persists. Stakeholders have raised concerns as regards the introduction of a range of disproportionate sanctions to the	A minimum standard of adequate consultation should be enforced for all legislation as soon as possible. Laws adopted without adequate consultation should be amended based on input provided by stakeholders, including civil society organisations.

		society organisations in monitoring of national and EU funds directly or indirectly impacting civil society.	Criminal Code. No measures have been taken to improve the framework for the civic space, while civil society remains vibrant.	
France	<i>NB: no CSRs about civic space in France in the EC's 2023 RoL Report.</i>	The application of the law “on the respect of the republican principles” and the so-called “Contrat d’engagement républicain” have been successfully challenged in courts. The law should now be amended, and the contract withdrawn in line with the full respect of civic freedoms.	<p>While the financial environment of civil society organisations remains favourable, stakeholders raised concerns on the implementation of legislation which conditions access to public funding to respect for the fundamental values of the French Republic.</p> <p><i>NB: see page 24 of 2023 RoL Report’s country chapter on France for background information on aforementioned issues and beyond.</i></p>	<p>The law “on the respect of the republican principles” should be amended, and the “Contrat d’engagement républicain” should be withdrawn, both of which should be done by the end of 2024.</p> <p>The French government should provide reparations to civil society organisations whose funding was suspended and/or whose certain activities were not authorised due to the aforementioned law. The reparations should be provided in the same year that the funding was suspended and/or certain activities were not authorised.</p> <p>In cases where the French government decided to dissolve civil society organisations because the latter were supposedly “promoting violent actions”, and administrative courts suspended this decision, reparations should also be provided to the CSOs in question.</p> <p>The Minister of Interior should stop using dissolution proceedings or reviews of subsidies’ allocations as a means to exert pressure.</p>

CSOs should continue raising civic space issues, including ones that are not included in the RoL Reports.

Moreover, CSOs should see whether reports by the United Nations (including within the [Universal Periodic Review](#)), the Council of Europe (including the Venice Commission), the Organisation for Economic Co-operation and Development, the EU Agency for Fundamental Rights and other stakeholders can be used as **sources to back up CSOs' recommendations**.

Sometimes, certain issues disappear from the RoL Reports. CSOs need to determine whether this is because the issues in question were resolved or not, and if the issues are found to be resolved, CSOs should raise this to the EC.

12. Who can you contact at the EU level on rule of law issues?

12.1. List of (umbrella) civil society organisations active in the Rule of Law Cycle

[Civil Society Europe](#) (CSE)

[Civil Liberties Union for Europe](#) (Liberties)

[European Civic Forum](#) (ECF)

[European Center for Not-for-Profit Law](#) (ECNL)

[Philanthropy Europe Association](#) (Philea)

[International Federation for Human Rights](#) (FIDH)

[European Network Against Racism](#) (ENAR)

[International Lesbian, Gay, Bisexual, Trans and Intersex Association – Europe](#) (ILGA-Europe)

[Democracy Reporting International](#) (DRI)

[European Youth Forum](#) (YFJ)

[Transparency International EU](#) (TI EU)

[Amnesty International – EU Institutions Office](#) (EIO)

12.2. European Commission (EC)

The EC's Directorate-General for Justice and Consumers (JUST), [Rule of Law Unit](#) (JUST.C.1).

12.3. European Union Agency for Fundamental Rights (FRA)

The FRA's [Fundamental Rights Platform](#) (email address: FRP(at)fra(dot)europa(dot)eu).

12.4. Council of the European Union

The General Secretariat of the Council of the EU (via [its website](#) or the [EU 'Whoiswho' directory](#)).

12.5. European Parliament (EP)

The [EP's Committee on Civil Liberties, Justice and Home Affairs \(LIBE\)](#), and LIBE's working group called [LIBE Democracy, Rule of Law and Fundamental Rights Monitoring Group \(DREMFG\)](#).

12.6. European Economic and Social Committee (EESC)

The EESC's [ad hoc group on Fundamental Rights and the Rule of Law](#).

13. Other resources

European Union

European Commission, "[Recommendation on promoting the engagement and effective participation of citizens and civil society organisations in public policy-making processes](#)", Strasbourg, 12 December 2023.

Council of the EU, "[Fundamental rights: Council approves conclusions on the role of the civic space \[in protecting and promoting fundamental rights in the EU\]](#)", Brussels, 10 March 2023.

European Commission, "[EU Charter of Fundamental Rights: annual report looks at role of civil society and underlines need to increase support](#)", Brussels, 6 December 2022.

[Charter of Fundamental Rights of the European Union \(Title II: Freedoms\)](#), Official Journal of the European Union C 326/391, 2012.

EU Agency for Fundamental Rights's [annual reports on civic space](#).

Council of Europe (CoE)

Venice Commission of the CoE's "[Rule of law checklist](#)", Venice, March 2016.

Venice Commission of the CoE "[Joint guidelines on freedom of association](#)", Venice, December 2014.

CoE, [Conference of INGOs' adopted texts](#).

CoE, "[Code of good practice for civil participation in the decision-making process](#)", October 2009.

Parliamentary Assembly of the CoE, "[Resolution 2225 – Protecting human rights defenders in Council of Europe States](#)", June 2018.

CoE, "[Council of Europe on hate speech](#)".

Organisation for Economic Co-operation and Development (OECD)

OECD, "[Global Report on Civic Space](#)".

United Nations (UN)

UN, [International Covenant on Civil and Political Rights](#), December 1966.

UN, "[Comments on legislation and policy – Special Rapporteur on freedom of peaceful assembly and of association](#)".

UN, [“General Comment No. 37 on Article 21 \(Right of peaceful assembly\) \[of the International Covenant on Civil and Political Rights\]”, September 2020.](#)

UN, [“Special Rapporteur on freedom of opinion and expression”.](#)

Civil society

CIVICUS, [“CIVICUS Monitor on tracking civic space”.](#)

Civic Space Watch, [“Monitoring civic space in Europe”.](#)

Annex: Enabling civic space indicators

This is a list of indicators that demonstrate an enabling (or not) civic space and that can be also used to assess the implementation of a recommendation. According to the [CIVICUS Monitor](#), civic space is open and enabling “when a state holds by its duty to protect its citizens and respects and facilitates their fundamental rights to associate, assemble peacefully and freely express views and opinions.”

1. Freedom of Association

Indicators tied to the establishment, existence and inclusion of civil society organisations (CSOs):

- Existence of a legal framework that allows the establishment of not-for-profit associations for any purpose and through different forms (including online);
- Both individuals and legal persons can exercise their right to associate, without discrimination;
- Registration is not mandatory, burdensome or expensive and includes the right to appeal;
- Network forming or coalition building within and outside the CSO’s country of residence is allowed;
- Equal treatment of employees from the CSO sector;
- Regular publication of statistics about the number of employees in the non-profit sector;
- Enabling volunteering policies and laws;
- The educational system promotes civic engagement and non-formal education;
- The State recognizes, through policies and strategies, the importance of the development of and cooperation with CSOs;
- Existence of established and working mechanisms for cooperation with CSOs at all levels with sufficient resources;
- CSOs are regularly consulted and involved in aforementioned processes.

Indicators tied to the prevention of external interference in CSOs’ existence and work:

- Existence of guarantees that prevent state interference in CSOs’ existence and work: for instance, 1) existence of associations that are critical of the government, 2) no requirements on CSOs to work only with government agencies or bodies, 3) no unjustified or disproportionate inspections or audits, 4) no intimidation or harassment;
- Protection from interference by third parties;
- Proportionate and legally sound sanctions when the law is breached.

Indicators tied to CSOs’ finances:

- CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities with no obligations to register or channel foreign grants through state-controlled banks or institutions;

- Regulations requiring specific financial reporting or specific measures regarding counter-terrorism requirements must be proportionate to CSOs' size and/or scope of their work and not create discrimination compared to businesses;
- Rules allowing CSOs to have an economic activity, provided that the income produced is used for CSOs' purposes and is related to CSOs' missions;
- Clear rules and guidance preventing the distribution of net revenues to private parties who may be in a position to control a CSO for personal gain, such as the CSO's founders, members, officers, directors, agents or employees;
- The law provides tax-free treatment without an administrative existence of regulations on law enforcement bodies' use of force and surveillance tools, and implementation of accountability mechanisms;

Limitations to the Freedom of Association:

According to Article 11 of the [European Convention on Human Rights \(ECHR\)](#), limitations of the freedom of association are allowed if: 1) they are prescribed by law; 2) pursue a legitimate aim; and 3) are necessary in a democratic society.

ECHR considers the following aims as legitimate: 1) in the interests of national security or public safety; 2) for the prevention of disorder or crime; 3) for the protection of health or morals; and 4) for the protection of the rights and freedoms of others.

2. Freedom of Peaceful Assembly

- Existence of a legal framework recognising the freedom of assembly of CSOs' representatives both individually and through their organisations, without discrimination (including stateless persons, refugees, foreign nationals, asylum seekers, migrants and others);
- This right is not subject to prior authorisation, and prior notification procedures are not burdensome;
- Restrictions must be duly justified, with a right to appeal;
- Spontaneous, simultaneous and counter assemblies are allowed and recognised by law;
- Protection (including of participants and organisers) during assemblies is ensured;
- No unjustified use of force by law enforcement bodies; existence of regulations on law enforcement bodies' use of force and surveillance tools, and implementation of accountability mechanisms;
- Media's access to any assembly is recognised and protected
- The right to collective civil disobedience is recognised

Limitations of the right to Freedom of Peaceful Assembly:

The aforementioned limitations of the right to freedom of association also apply to the freedom of assembly, according to the [ECHR's Article 11](#).

3. Freedom of Expression

- Freedom of expression includes creative and artistic expression;
- The law enshrines and guarantees the right for persons, both as individuals and through their CSOs, to freedom of expression;
- Restrictions, such as hate speech, are clearly defined in laws and are in line with international law and standards;
- No penal sanctions for critical speech;

- No limitations of the right to receive and impart information;
- No instances for blocking or hacking communication tools;
- Complaints for intimidation or harassment are dealt with and investigated;
- Legal framework guaranteeing access to and accessibility of information and communication channels and content at limited prices;
- Initiatives for free access to the internet, without discrimination;
- Prohibition by law of unjustified monitoring of communication channels, including the internet and information and communications technology (ICT), or authorities' collection of users' information;
- Legal framework provides protection against and ensures accountability for violations of the right to freedom of expression.

Indicators tied to CSOs' participation in decision-making:

- There are standards, including clear criteria and equal opportunities, for CSOs' active and meaningful involvement in decision-making processes, and also in the implementation, monitoring and evaluation of policies;
- Trained and resourced public servants are involved in dialogue and consultations;
- CSOs' participation occurs at all levels and in all sectors, and CSOs have the necessary access to information;
- Legal framework provides protection against strategic lawsuits against public participation (SLAPPs);
- Balance between representation of CSOs and other interest groups, including financial and commercial interest groups, is ensured;
- A clear distinction is made between participation in decision-making, political activities and lobbying.

Limitations of the right to Freedom of Expression:

According to [Article 10 of the European Convention on Human Rights](#) (ECHR), limitations of the right to freedom of expression are allowed if: 1) they are prescribed by law; 2) pursue a legitimate aim; and 3) are necessary in a democratic society.

ECHR considers the following aims as legitimate: 1) in the interests of national security, territorial integrity or public safety; 2) for the prevention of disorder or crime; 3) for the protection of health or morals; 4) for the protection of the reputation or rights of others; 5) for preventing the disclosure of information received in confidence; and 6) for maintaining the authority and impartiality of the judiciary.



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