Civic Space Impact Assesments

A Civil Society Checklist for Effective Civic Space Impact Assessments

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1. Background

Civic space impact assessments are key to ensure strong and informed lawmaking addressing concerns and limitations upfront and building a constituency around future implementation.

Human rights impact assessments[1] are an indispensable part of the law-making process ensuring a rights-based lens on all legislative proposals. Within the EU they are anchored in the European Commission's Better Regulation framework which requires every EU legislative initiative to comply with the EU Charter of Fundamental Rights (Charter). A specific focus on civic space impact assessments is under-explored and subsumed, without sufficient exploration, within broad human rights assessments.

Unfortunately, the system is not functioning at an optimal level. The EU Agency for Fundamental Rights published a report in December 2025 on the role of human rights impact assessments in lawmaking. The report found three core areas of concern: i) the Charter is often overlooked during the lawmaking process; ii) there is room for improvement in the process of consulting external experts; and iii) ex-post evaluations of the actual human rights impact of legislation are frequently overlooked particularly at the national level. The report also found that fundamental rights impact assessments are often not carried out for legislative files where they are needed, and even if they do take place, they are often very superficial. The Regulatory Scrutiny Board, which is mandated to provide quality control and support for the Commission's impact assessments and evaluations at early stages of the legislative process, lacks adequate fundamental rights expertise among its members.

With civic space under increasing threat across the Union, there is a need to unpack the specific components, especially as restrictions are often indirect, or outwardly minor but with a significant cumulative effect. Three key areas are important to consider:

- **Oblique restrictions** – threats to civic space often manifest through areas that might initially seem disconnected from the visible work of civil society organisations. Tax laws, access to information laws and counter-terrorism legislation have, for example, all been used in different ways to deliberately or inadvertently restrict civic space.
- **Chilling effect** – the threats to civic space may not be immediately obvious especially as organisations stand steadfast to continue their work. The chilling effect however takes its toll on the sector, weakening structures and compounding years down the line.
- **Architecture and rights** – there is a dual functionality inherent in a vibrant civic space, both as part of the architecture of civic space and the role civic actors themselves play in upholding rights, ensuring participation and holding governments to account as well as rights holders of the core fundamental rights, primarily the rights to freedom of association, assembly and expression.

[1] See definitions used by FRA and OHCHR of human rights impact assessments

Thus, impact assessments need to be able to uncover potential threats to civic space, however hidden they might be, and ensure the role of organisations in upholding the system and contributing to the legislative process itself. **Civic space impact assessments should be systematically applied to all legal and policy proposals to ensure that they support civic space rather than restrict it.**

This briefing paper and checklist aims to address these gaps and provide a clear guide to civic space impact assessments in EU policymaking. The aim will be to identify points across the policy cycle when a stop-check on civic space is important namely: i) ex-ante assessments as the exploration or design stage; ii) during the policy or legislative drafting process; and iii) ex-post evaluations looking at the actual impact of the legislation.

The checklist comes at a timely moment when the EU is revising its Better Regulation framework, following the Commission Communication, "A Simpler, Clearer, and Better Enforced EU Rulebook" in April 2026. The Communication has sparked serious concerns about the risk of undermining evidence-based policymaking, transparency and accountability through weakening the quality and relevance of impact assessments, with potential detrimental impact on civic space and fundamental rights.

2. Key Elements of Civic Space

Civic space as set out under international and regional human rights standards.

Civic space, as defined by the UN Guidance Note on the Protection and Promotion of 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 in their societies. 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."*

It centres around the **right to access information** and the **rights to freedom of expression, association and assembly** as set out under articles 11 and 12 of the Charter. It also encompasses artistic and academic freedom articulated under article 13 of the Charter and the **right to participate** in the democratic life of the Union under Article 10(3) of the Treaty on European Union (TEU). The enjoyment of these rights and of a vibrant civic space (both online and offline) necessitates a healthy media environment, support for a free press and independent journalism.

In 2018 the EU Agency for Fundamental Rights (FRA) published the first institutional assessment of civic space in a report entitled "Challenges facing civil society organisations working on human rights in the EU". This report and subsequent updates set out five key areas of concern for civic space noting that the challenges are often cumulative putting pressure on civil society and human rights defenders:

- **Regulatory environment**: (changes in) legislation that affect civil society organisations' work;
- **Finance and funding:** availability and accessibility of resources;

- **Right to participation**: difficulties in accessing decision-makers and providing input into law- and policy-making
- **Ensuring a safe space**: attacks on, and harassment of, human rights defenders, including negative discourse aimed at delegitimising and stigmatising civil society organisations
- **Capacity and resilience of organisations**

Building on the 2018 report every year FRA has carried out a perception survey to assess civic space.

In 2024, 75% of responding civil society organisations faced barriers in conducting human rights activities with 70% citing a deterioration over the last years. Of over 450 EU-based organisations surveyed, 67% reported online threats and attacks, 60% were the subject of negative media reports or campaigns, 39% reported targeted funding cuts, 36% noted increased administrative controls and 21% were subject to criminalisation.

Importantly the core of the right to freedom of association was affirmed by the Court of Justice of the European Union (CJEU) in its judgment on the transparency of associations (Case C-78/18) finding that *"the right to freedom of association, enshrined in Article 12(1) of the Charter, the Court points out that it constitutes one of the essential bases of a democratic and pluralist society, inasmuch as it allows citizens to act collectively in fields of mutual interest and in doing so to contribute to the proper functioning of public life."*

3. Legal Base

The key legal obligations under EU law and how these have been affirmed through case law.

The Commission has re-affirmed the importance of fundamental rights impact assessments through several laws and policies:

- The Better Regulation Toolbox requires an impact assessment when a policy proposal is likely to lead to significant economic, environmental or social impacts or entails significant spending. Under this framework, impact assessments need also to take into account the fundamental rights impacts of proposals, ensuring every EU legislative initiative complies with the Charter. Tool no 29 of the Better Regulation Toolbox includes specific guidance on how to assess impacts on fundamental rights as contained in the Charter.
- The 2010 Strategy on the Application of the Charter called for fundamental rights impact assessments to be strengthened and introduced a fundamental rights checklist designed to support staff working on legislative proposals.
- In 2011 the Commission adopted Operational guidance on taking account of fundamental rights in European Commission impact assessments, revised in 2025. The European Commission uses this checklist to identify which fundamental rights could be affected by a proposal and systematically assesses

the impact of each envisaged policy option on these rights. It provides detailed guidance and explanations and a short fundamental rights checklist (see Annex) but doesn't provide a detailed checklist against each right.

- The 2016 Inter-Institutional Agreement between the European Parliament, the Council of the EU, and the European Commission to establish a shared framework for Impact Assessment practices and guidelines.
- The 2020 revision of the Charter Strategy reaffirmed the importance of Charter compliance in the decision-making process. Council Conclusions on the application of the Charter encouraged Member States to ensure consistency with the Charter in their own national rules on impact assessments and in its resolution on the Commission's Rule of Law Report the European Parliament encouraged national governments to publish impact assessments and consultation findings for all major legislative proposals.
- The Commission Recommendation (EU) 2023/2836 on promoting the engagement and effective participation of citizens and CSOs provides a clear benchmark for participation.
- In the 2025 EU Strategy for Civil Society, the Commission committed to "continue assessing the impacts of its initiatives for civil society in impact assessments and evaluations within the Better Regulation framework."

However, apart from the broad reference to rights under the Charter contained in the policies listed above, there is no additional guidance nor a specific methodology on civic space lenses needed to assess the fundamental rights impacts.

Moreover, despite this consistent reinforcement of fundamental rights, new proposals under the revision of the Better Regulation framework - as anticipated by European Commission's communication "A Simpler, Clearer and Better Enforced EU Rulebook" - risk to seriously undermine the overall impact assessment framework and fundamental rights assessments, both in the process and in the outcomes. These concerns were reinforced by the European Ombudsman's recent findings on maladministration in urgency procedures. Several elements are of particular concern:

- **Broad definition and use of urgency:** the increasing resort to urgent legislative procedures has been a cause for concern including where new legislation is immediately re-opened and re-negotiated. The Commission's proposals include a very broad definition of urgency and create two "urgency procedures" – one with a very limited impact assessment and consultation and the other with both processes entirely absent.
- **Limited consultation:** there is an increasing reliance on "targeted consultation" formats only seeking the views of selected groups and using a short-cut "reality check" format that again only seeks inputs from a narrow group of stakeholders.
- **Delayed implementation:** there is an increasing tendency to delay implementation for example through "grandfathering clauses" which exempt existing systems, entities, or activities from new regulations, thus often delaying clauses that protect rights, or to introduce "sunset clauses" that allow crucial legislation to be repealed if no agreement is reached on time.

Thus, the legal base is being weakened and at the same time there remains a very limited understanding of the specificities related to civic space.

Impacts of EU legislation on civil society in the absence of a dedicated civic space impact assessment

EU Anti-Money Laundering and Countering the Financing of Terrorism (AML/CTF) package-2024

The package was adopted to harmonise and strengthen anti-money laundering and countering the financing of terrorism rules across all member states. It will be effective from July 2027.
An ex-ante impact assessment was carried out by the European Commission. However, the lack of a specific civic space assessment will likely lead to unintended consequences for civil society actors.
The AML/CTF package has an impact on access to funding by civil society including at grassroot level, as designating all crowdfunding platforms - including donation-based crowdfunding platforms - as "obliged entities" will lead to high administrative and compliance reporting costs and may have a chilling effect on donations. The definition is so vague that it could also be interpreted to include other organisations that use their websites for collection of donations.
Rules on Beneficial ownership have been improved as compared to the previous legislation, but not fully clarified and not adapted to the reality of non profits.
The issue of over-compliance of banks and financial institutions leading to shutting down or freezing accounts belonging to non-profits, philanthropic foundations, and humanitarian groups, particularly those operating in volatile or high-risk third countries (so-called "De-Risking"), remains unresolved.

Proposal for a Directive on transparency of interest representation carried out on behalf of third countries - 2023

The call for evidence indicated that no impact assessment was planned, contrary to the EU's own requirements that an impact assessment be carried out ahead of any legislative proposal.
Following significant concerns including from civil society, the Commission did carry out a limited impact assessment in 2023.
Protracted discussions have taken place in the Council and Parliament, some of which would have transformed the Directive and required a new impact assessment. To date the Directive has been approved in the Parliament, and still under discussion in the Council.
This example highlights the need for a comprehensive fundamental rights impact assessment right at the start of the legislative process, to ensure issues are raised and addressed as early in the process as possible.

New architecture of the EU's Multiannual Financial Framework (MFF) - 2025

A complete overhaul of the architecture of the MFF for 2028–2034 was proposed by the President of the European Commission. However, stakeholders were not adequately involved in the process, while the the Regulatory Scrutiny Board issued only opinions without qualification for the MFF impact assessment.

The implications for civil society were particularly evident in the dismantling of key programmes, including LIFE, EU4Health and the ESF+, despite indications from their respective mid-term reviews. The implications for fundamental rights and civic space were not adequately addressed.

4. Lifecycle of Civic Space Impact Assessments

The different stages during which impact assessments take place.

Impact assessments should not be a one off but take place across the lifecycle of a legislative proposal from the initial design and inception to the actual implementation. Similar criteria and checklists can be used at the different stages tailored to the proposal and the level of detail needed. Three key stages are important:

- ***Ex ante* impact assessments** that provide an assessment of possible impacts ahead of a legislative proposal, policy or project
- **During the legislative process** once a proposal has been put forward and throughout the negotiation phase. This can include two layers:
    - **Regulatory impact assessments** that provide a broad assessment across different areas including economic and social factors
    - **Legal scrutiny** of specific legislative proposals against fundamental rights standards – a more formal process focused on legal compliance
- ***Ex post* evaluations** that are retrospective evaluations of how legislation has actually affected fundamental rights after it has been implemented

5. Checklist

The below sets out a clear step-by-step checklist that can be used by policy makers – and as a reference for civil society, academics, individuals etc. It is designed for the EU level but could be applied at the national level.

Entry point – Is civic space potentially impacted?

The first step is to conduct an initial scan to see if civic space is potentially impacted and a civic space impact assessment triggered. These are four key questions that act as a starting point, at the design stage (*ex-ante*) to understand if civic space is potentially impacted:

- **Civic Freedoms** – are civic freedoms potentially impacted notably the rights to freedom of association, assembly, expression and information as well as academic and artistic freedom?
- **Participation** – does the proposal affect the ability to participate meaningfully in civic life? This might include participation in consultations, decision-making processes and elections. Note should be paid to whether information is widely available and whether certain groups face challenges in accessing information and effectively participating.
- **Activities and Operational Limitations** – are the activities and services of civil society organisations at risk, such as advocacy, research, legal advice and information? Does the proposal potentially limit the operational activities of civil society organisations, related to tax, banking, data protection or employment? General policy objectives such as security, counterterrorism or money laundering might be targeted but inadvertently impact civic space and civil society organisations.
- **Chilling Effect** – is there the possibility that the proposal has a chilling effect on the work of civil society organisations?

If any of the above are potentially impacted, then a civic space impact assessment should be carried out.

Legal and Policy Check

This provides a short-list of key documents that should form part of any Civic Space Impact Assessment as well as several EU laws that might be applicable depending on the proposal under review.

International and Regional Laws

- **Charter of Fundamental Rights** as the primary reference point for the key rights that underpin civic space.
- **Treaty of the European Union** in particular articles on participation, elections and democratic life of the Union.
- **European Media Freedom Act** (EMFA), **Whistleblower Directive** and the **EU Anti-SLAPP Directive** building on the right to access information and to freedom of expression these new laws provide additional safeguards on the media environment, the safety of journalists and the practice of using strategic lawsuits against public participation.
- **Specific EU laws** will also be applicable depending on the nature of the specific proposal – either because the proposal specifically addresses elements of civic space such as the proposed European Cross Border Association Directive or laws such as the Artificial Intelligence Act that impact access to information and the online civic space.
- **Regional and international human rights treaties** such as the European Convention on Human Rights, Universal Declaration of Human Rights, International Covenant on Civil and Political Rights which mirror rights under the Charter. Interpretative documents on specific rights also provide useful insights – for example the General Comment on Freedom of Assembly and the

forthcoming General Comment on Freedom of Association, both adopted by the UN OHCHR.
- **The Aarhus Convention** provides standards for assessing public participation, transparency and access to justice in decision-making.
- Other Covenants such as the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities (to which the EU is a party) might also be relevant.

Regional / EU Policies

- **EU Strategy for Civil Society** articulates for the first time the role of civil society organisations (CSOs) and sets out three pillars: 1) strengthening an effective engagement with CSOs as partners in governance; 2) supporting and protecting CSOs; and 3) ensuring adequate, sustainable, predictable and sufficient financing. The strategy also includes 10 guiding principles for dialogue with civil society.[2]
- **Strategy on the Application of the Charter** which specifically references the importance of the Charter in decision making processes.
- **EU Rule of Law Reports**
- **Council of Europe** policies including the Guidelines on Civic Participation in Political Decision Making and the Venice Commission Rule of Law Checklist which contains new elements on civic space.
- **Other specific policy documents** based on the proposal being discussed**.**

Consultation and Stakeholder Engagement

Involvement of civil society in the consultation process for impact assessments:

- Run the six tests for stakeholder identification outlined in the Better Regulation Toolbox to ensure that actors with relevant expertise and/or interest in the subject are consulted.
- Actively reach affected or at-risk civic actors (small/local associations, informal groups, human rights defenders, affected sectoral groups).
- Ensure that all policies directly affecting civil society and impacting civic space lead to targeted consultation and dialogue – while also ensuring that civil society plays a key role in providing stakeholder inputs on a range of topics.
- Ensure sufficient timeframes, easily accessible information, user-friendly formats.
- Consider translation and accessibility needs so consultation is not limited to English-speaking or digitally well-connected organisations.
- Actively engage with inputs received and publish a report explaining how civil society input shaped (or did not shape) the final proposal.

[2] See also Civil Society Europe's Guidelines on implementing the 10 guiding principles.

Example of different types of proposals and the role of civil society

Type of proposal	Example	Role
Directly about civil society and their operations *(civil society are the primary target)*	European Cross Border Association Directive	Primary stakeholder in consultation
Affects civil society *(civil society are not the primary target of the proposal but they may be directly affected)*	Anti Money Laundering Directive	Key stakeholder in consultation
Affects civil society partners or areas of expertise *(civil society are not the primary target and may as a sector not be directly affected but the communities they support are affected / their research and monitoring focus on the area of the proposal)*	Deforestation Directive	Stakeholder in consultation

Civic Freedoms - Fundamental Rights Assessment

Detail of the key rights related to civic space

Freedom of association

- Does the proposal support or otherwise have an impact on the ability to form, register or operate without undue administrative burden?
- Are registration, reporting, or transparency requirements proportionate, non-discriminatory, and free of vague or stigmatising criteria?
- Does the proposal support or otherwise impact access to funding for civil society organisations from domestic or foreign funding sources?
- Does the proposal or its implementation impact access to banking or financial services for associations?
- Does the proposal ensure that any restrictions to the right are prescribed by law, necessary and proportionate?
- Are sanctions for non-compliance proportionate (avoiding dissolution or funding cut-off as a first resort)?
- Does the proposal disproportionately burden smaller, informal, grassroots, or under-resourced groups compared with larger, better-resourced organisations?

Freedom of assembly

- Does the proposal support or otherwise have an impact on the freedom of peaceful assembly, including spontaneous, online and counter assemblies and preserve a presumption in favour of peaceful assembly?
- Does the proposal ensure that any demonstrations are managed through a notification and not a prior-authorisation requirement? Does it ensure that any restrictions on factors such as time, location and nature of the demonstrations are clear, proportionate and non-discriminatory?
- Are restrictions justified by specific, evidenced public-order or safety concerns rather than general inconvenience, and do they avoid blanket or preventive bans?
- Are safeguards in place against discriminatory or selective enforcement (e.g. targeting specific causes such as environmental, migration, or LGBTIQ-related protests)?
- Does the proposal ensure that any restrictions to the right are prescribed by law, necessary and proportionate?

Freedom of expression and access to information

- Does the proposal support or otherwise have an impact on access to information and freedom of expression both online and offline?
- Are access to information laws and the transparency and accountability of public authorities impacted including:
    - the principle of maximum disclosure and the obligation to publish documents of significant public interest; and
    - the processes that facilitate access to documents;
- How does the proposal impact the information environment and information integrity? Where the measure concerns disinformation, online safety, or platform regulation, are safeguards built in against over-regulation of legitimate advocacy or minority-viewpoint content?
- Does the proposal impact the independence of the media, diversity of media outlets and concentration of media ownership?
- Does the proposal safeguard the free expression and ensure that any limitations are prescribed by law, necessary and proportionate?
- Are journalists, human rights defenders, and civil society communicators protected from surveillance, source-disclosure obligations, or SLAPPs arising from the measure?

Academic and artistic freedom

- Does the proposal support or otherwise have an impact on artistic and academic freedom both online and offline?
- Does it protect the rights of artists and academics to freely express themselves, create research and interpret artistic and academic work without censorship and undue interference?
- Does the proposal impact the independence and integrity of cultural and academic institutions?
- Does the proposal interfere with the rights of recipients of artistic expression to access diverse, pluralistic content?

Participation

- Does the proposal have an impact or otherwise create opportunities for the meaningful participation of individuals and organisations in civic life and decision-making processes?
- Does it safeguard the independence and role of oversight institutions and civil society organisations and their role in participatory decision-making processes?
- Is the proposal consistent with the principles of effective participation including
    - Transparency and openness – ensuring information is clear and accessible
    - Inclusiveness and non-discrimination
    - Mutual respect and accountability – ensuring there is serious consideration of inputs and adequate timeframes to provide them, clear feedback and reasoned decisions
    - Planning - ensuring that consultations take place when input can still contribute the decision making process
    - Proportionality – for the scope of engagement and decisions made
- Does the proposal preserve or strengthen the meaningful participation of civil society organisations in relevant policy areas, in line with the EU Strategy for Civil Society's aim to strengthen effective and meaningful engagement with civil society as a partner in governance?

Cross-cutting

Several key principles are applicable across all fundamental rights

- **Form of the proposed legislation** - is the form of the proposed legislation the most appropriate to avoid intended or unintended restrictions on fundamental rights?
- **Legality** - is the legal basis for any restriction clear, accessible, and foreseeable?
- **Necessity** - is there a pressing objective, supported by evidence, that cannot be achieved by less restrictive means?
- **Proportionality** - is the restriction proportionate to the aims, time-limited where appropriate, and subject to independent oversight?
- **Non-discrimination** - has the measure been assessed for differential impact on specific civil society constituencies (e.g: environmental, migration, gender, LGBTIQ, minority-rights, anti-corruption, humanitarian actors)?
- **Judicial redress** – if a request is refused or access denied is there access to an effective remedy and independent court review?
- **Whistleblower protection** – is there protection for whistleblowers?

Civic space enabling - Environment factors

*Drawing on FRA reporting it is useful to look at cross cutting elements that impact civic space. Many of the topics are covered above, but the below provides a **cross-check** that key elements that impact civic space are covered.*

- **Regulatory environment** — assessed cumulative effect of the proposal alongside existing national and EU rules that already constrain CSOs (do not assess in isolation).

- **Funding environment** — checked whether the measure affects CSOs' ability to access, retain, or diversify funding, including EU funding, private philanthropy, and cross-border donations; considered simplification of administrative/reporting burdens.
- **Safe space** — assessed risk of the measure enabling or failing to prevent intimidation, smear campaigns, judicial harassment (including SLAPPs), or violence against civic actors, including online.
- **Participation** — assessed whether the measure preserves or strengthens meaningful CSO participation in the policy area it regulates, consistent with the EU Strategy for Civil Society's "partner in governance" pillar.

6. Reference Documents

- UN OHCHR Fact Sheet on Freedom of Expression and Access to Information
- United Nations Special Rapporteur Factsheet on Freedom of Association
- United Nations Special Rapporteur Factsheet on Freedom of Assembly
- 2020 Charter Strategy
- 2022 Charter Report
- European Parliament 2022 report on the shrinking space for civil society in Europe
- Council Conclusions on the application of the EU Charter of Fundamental Rights
- OECD Guidelines on meaningful citizen participation

7. Annex

Revised Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments

Fundamental Rights Checklist

1. What fundamental rights are affected?
2. Are the rights in question absolute rights (which may not be subject to limitations, examples being human dignity and the ban on torture)?
3. What is the impact of the various policy options under consideration on fundamental rights? Is the impact beneficial (promotion of fundamental rights) or negative (limitation of fundamental rights)?
4. Do the options have both a beneficial and a negative impact, depending on the fundamental rights concerned (for example, a negative impact on freedom of expression and beneficial one on intellectual property)?
5. Is any potential limitation /negative impact on fundamental rights provided for by law in a clear and predictable manner?
6. Would any such limitation or negative impact:
    a. genuinely meet an objective of general interest recognised by the Union or protect the rights and freedoms of others?
    b. be necessary to achieve the desired aim?

c. be proportionate to the desired aim?
d. preserve the essence of the fundamental rights concerned?

About Civil Society Europe

Civil Society Europe is the coordination of 29 civil society organisations at EU level. Through its membership, CSE reaches out to millions of people active in or supported by not-for-profits and civil society organisations across the EU. Civil Society Europe was created by several civil society organisations as a follow-up to the European Year of Citizens and was established as an international not-for-profit under Belgian law in 2016. Since then, Civil Society Europe has become the point of reference for EU institutions on transversal issues concerning civil dialogue and civic space.

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