

5

Fostering an enabling environment for civil society to operate, flourish and participate in public life

This chapter explores the measures countries can take to foster an enabling environment for civil society. It examines legal and regulatory frameworks governing the establishment and operations of civil society organisations (CSOs), in addition to registration requirements and appeal mechanisms. It focuses on good practice in improving the enabling environment through government strategies to protect civil society and offer support in the aftermath of COVID-19. It discusses key challenges such as Strategic Lawsuits against Public Participation (SLAPPs). It examines support for civic space as part of development co-operation. It also assesses key regional challenges and opportunities within Africa, the European Union and Latin America and the Caribbean, providing proposals for consideration.

Key findings

- A majority of governments in respondent OECD Members (68%, and 52% of all respondents) have developed overarching policy frameworks to improve or promote an enabling environment for civil society. Through these strategies, governments are striving to develop robust and independent civil society organisations (CSOs), build strong CSO-state relationships and enhance inclusion and social cohesion, among other objectives.
- In addition to funding the civil society sector, governments in OECD Members work extensively to protect the enabling environment for civil society in partner countries. Approximately half (48% of respondent OECD Members) have a dedicated policy or strategy to promote CSOs as part of development co-operation.
- In the context of COVID-19, several OECD Members adopted support programmes and initiatives for the CSO sector such as state subsidies, support funds and temporary suspensions of tax obligations.
- The enabling environment for CSOs is comparatively strong in most OECD Members. Civil society is free to organise itself, associate, strike, express itself and criticise governments without fear of sanctions or harassment in three-quarters (76%) of all OECD Members and 47% of non-Members (data from the Varieties of Democracy Institute). However, 18% of all OECD Members document weak repression and in 2 OECD Members either moderate or substantial repression (V-Dem Institute, 2021^[11]).
- In 44% of respondent OECD Members (55% of all respondents), unregistered CSOs are not permitted to operate, contrary to international guidance in this area; and in some respondents, administrative procedures are overly burdensome.
- Legal frameworks in some respondents may make it difficult for CSOs in taking political positions. 31% of OECD Members restrict political engagement for public benefit organisations and 7% restrict it for all types of CSOs.
- Hostile public discourse, smear campaigns, lawsuits and obstacles to participate in decision-making processes are posing growing challenges in some respondents for CSOs that engage on particular issues, such as the environment and the rights of migrants.
- CSOs are also increasingly endangered by Strategic Lawsuits against Public Participation (SLAPPs) that aim to silence people who publicly criticise or investigate powerful individuals, companies or interest groups. While at least two respondent OECD Members have adopted anti-SLAPP legislation at the regional level, there is an opportunity for all countries to protect the CSO sector and activists by assessing whether there are frequent cases of SLAPPs in their jurisdictions and by introducing legislation to counter them.
- Access to government funding remains a critical challenge for CSOs, with additional pressures since 2020 due to COVID-19. While medium- to long-term funding, in addition to unconditional and core funding, can provide predictability and sustainability for the sector, short-term funding continues to be the most common funding modality used by OECD Members. Data collection on government funding to CSOs remains scarce, hindering a strategic approach to supporting the sector and the identification of emerging needs and gaps.

5.1. Introduction

An enabling environment is central to promoting the ability of CSOs to operate in a free and autonomous manner and to strengthen the civic fabric of society and its social capital (Putnam, Leonardi and Nanetti, 1994^[2]). A conducive legal and policy environment safeguards freedom of association and impacts CSOs' ability in reaching their full potential and positively contributing to society (OECD, 2020^[3]).

By fostering the necessary legal and policy conditions, by fully recognising civil society as self-empowered and by providing concrete opportunities for collaboration with civil society, governments can better align policies, laws and services to societal needs. In countries that commit to protecting civic space, sustained efforts are needed to strengthen CSOs' contribution to societal trust, in particular in times of crisis and turbulence.

All survey data presented in this chapter pertain to the countries that responded to the civic space section (32 OECD Members and 19 non-Members) of the 2020 OECD Survey on Open Government (hereafter "the Survey") except where explicitly stated (e.g. Figure 5.22). Given that the 2 geographical areas with the most respondents to the Survey are Europe (23 respondents) and Latin American and Caribbean countries (LAC) (13), some of the data presented include a comparative regional analysis. This chapter also includes an overview by the European Union Agency on Fundamental Rights (FRA) on key challenges for civic space within the European Union (EU) and an assessment of civic space in Africa by the Mo Ibrahim Foundation.

The majority of challenges, good practices and measures addressed throughout Chapter 5 pertain not only to fostering an enabling environment for civil society within surveyed countries but also within their development co-operation, and a number of measures proposed in this chapter could be applied to development co-operation in the spirit of policy coherence and in line with the OECD Development Assistance Committee (DAC) *Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance* (2021^[4]). Section 5.5 of this chapter focuses on select aspects of enabling civil society in development co-operation.

5.2. Legal frameworks governing the CSO enabling environment

For the purposes of this report, the concept of CSO is an umbrella encompassing a variety of non-market and non-state organisations in which people organise themselves to pursue shared interests in the public interest.¹ While the types of CSOs for which there is legislation in place differ from country to country, regardless of the type of organisation, CSOs commonly possess an institutional structure, are separate from the government and are non-profit and self-governing. The term includes trade unions, charities, consumer groups, associations, non-governmental organisations (NGOs), foundations and other groups. The term excludes government representatives, legislators, academia and media.

Legal frameworks regulating CSOs and their operations make up a crucial part of the enabling environment for civil society and have a significant impact on the health of civic space. For CSOs to work effectively, their legal environment needs to be predictable, transparent and free from political interference. An enabling environment for CSOs also requires regulations that recognise CSOs' autonomy and the important role they play in society (Section 2.1.3 on freedom of association more generally in Chapter 2).

Based on the responses to the Survey, all respondents except Sweden have legal frameworks regulating the establishment and operations of a variety of CSOs. While the type of regulations differs from country to country, the most common types concern NGOs, charities, foundations, trade unions and religious or cultural organisations.

5.2.1. Registration of CSOs

Registration procedures, responsible entities and length of time required

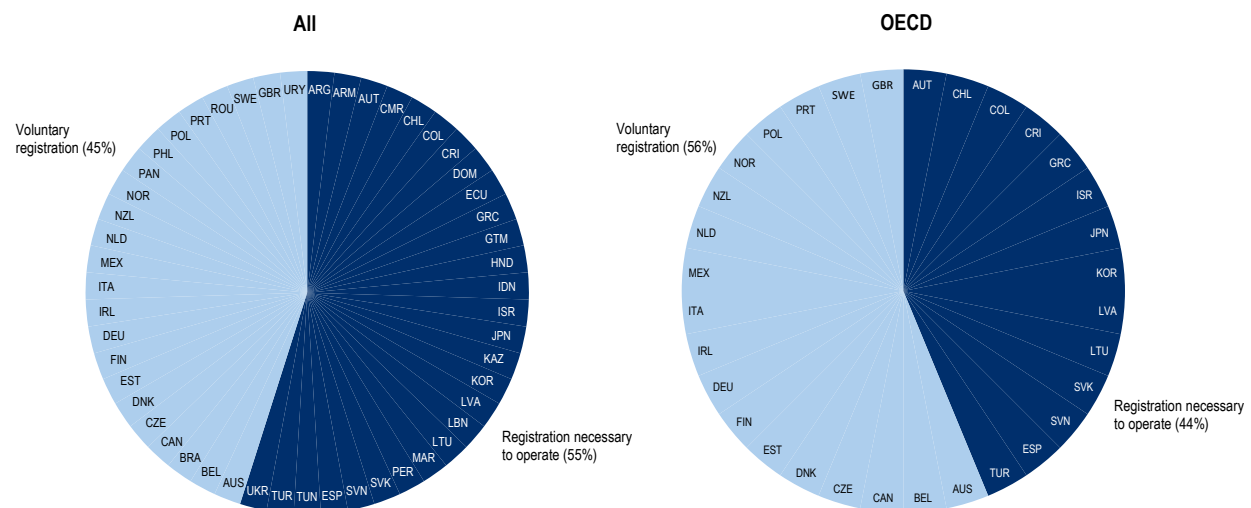
Figure 5.1 shows that 55% of all respondents and 44% of OECD Members require CSOs and associations to register in order to operate. In contrast, other respondents confirmed that registration is only necessary to obtain legal personality or in order to receive public interest or similar status, or other benefits. In some respondents, such as **Chile** or **Costa Rica**, non-registration can lead to administrative fines and in **Tunisia**, a failure to register can result in imprisonment and fines (Boussen, 2021^[5]; Freedom House, 2021^[6]; Shahin, 2018^[7]).

The United Nations (UN) and Council of Europe (CoE), as well as other international organisations, have noted that associations, including NGOs, can either be unregistered bodies or organisations that are registered and/or have legal personality (Kiai, 2012^[8]; CoE, 2007^[9]). The Organization for Security and Cooperation in Europe (ODIHR) Office for Democratic Institutions and Human Rights (OSCE) and Venice Commission Guidelines on Freedom of Association recommend that the formation of unregistered associations should not be banned or obstructed (OSCE/ODIHR/Venice Commission, 2015^[10]). While registration is necessary for CSOs that seek legal personality or certain state benefits, international guidance suggests that unregistered CSOs should be allowed to exist and operate. An open and enabling environment provides CSOs with a range of options at their disposal in terms of the framework and structure that they wish to operate under, including unregistered structures for CSOs that do not seek benefits from the state.

As regards the procedure for registration, the OSCE/ODIHR and Venice Commission Guidelines recommend a “notification procedure”, which automatically grants associations legal personality as soon as authorities are notified by the founders that an association has been created (OSCE/ODIHR/Venice Commission, 2015^[10]).

Figure 5.1. Legal requirement for CSOs to register in order to operate, 2020

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



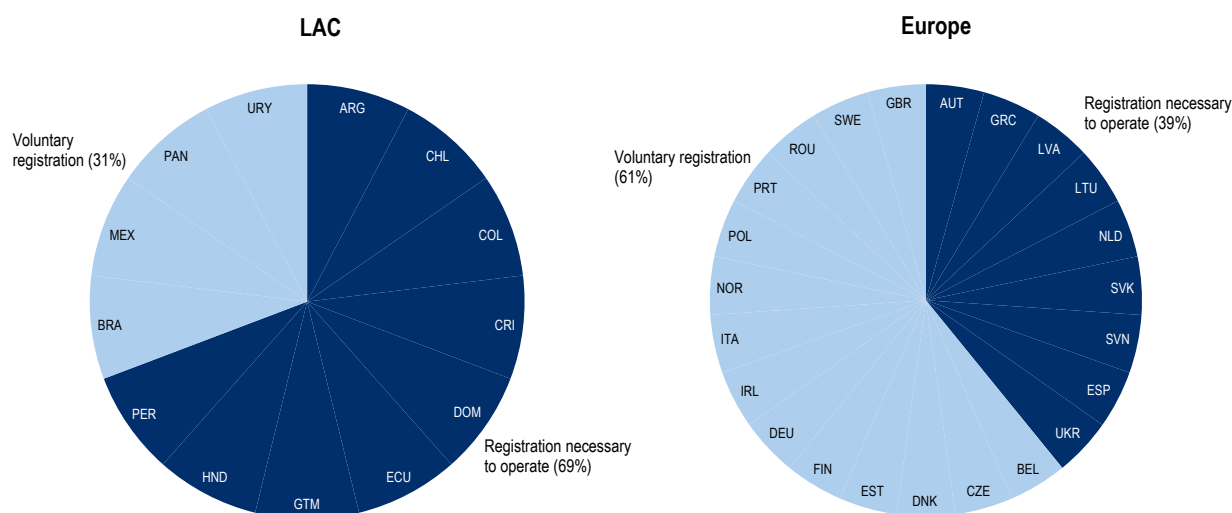
Note: “All” refers to 51 respondents (32 OECD Members and 19 non-Members). Data on Finland, Guatemala and Ireland are based on OECD desk research and were shared with them for validation.

Source: 2020 OECD Survey on Open Government.

The obligation for CSOs to register in order to operate is one of the distinguishing aspects of countries in LAC when compared with countries in Europe. Figure 5.2 shows that while registration of CSOs is obligatory in 39% of European countries and voluntary in 61%, it is obligatory in 69% of countries in LAC and voluntary in 31% (Box 5.1).


Figure 5.2. European and LAC respondents with a legal requirement for CSOs to register in order to operate, 2020

Percentage of European and LAC respondents that provided data in the OECD Survey on Open Government



Note: "Europe" refers to 23 respondents, and "LAC" refers to 13 respondents. Data on Finland, Guatemala and Ireland are based on OECD desk research and were shared with them for validation.

Source: 2020 OECD Survey on Open Government.

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Box 5.1. Good practices in CSO registration

A number of OECD Members have taken recent steps to simplify and streamline procedures for CSO registration:

- In **Lithuania**, since 2020, the procedure for CSOs to register is notification-based and does not require authorisation by the state. Registration is free of charge and relevant information about registered NGOs is publicly available, providing more transparency about the CSO sector for the larger public.
- In **Portugal**, the foundation of CSOs was simplified as part of the Association in an Hour (*Associação na Hora*) programme, allowing CSOs to be created in one hour in a single location (civil registry office, notary or citizen shop). This reform has been particularly welcomed by CSOs during the COVID-19 pandemic when they were on the front line supporting the government in emergency responses.
- In **Romania**, the registration procedure for associations and foundations was simplified in 2020. The number of administrative steps and required documents for registration was substantially decreased, aiming to reduce barriers to entry for new CSOs. For example, CSOs are no longer required to have their constitutive acts or beneficial owner declarations notarised; the initial

funding amount to set up a foundation was also significantly reduced and for associations, it was eliminated (previously EUR 40).

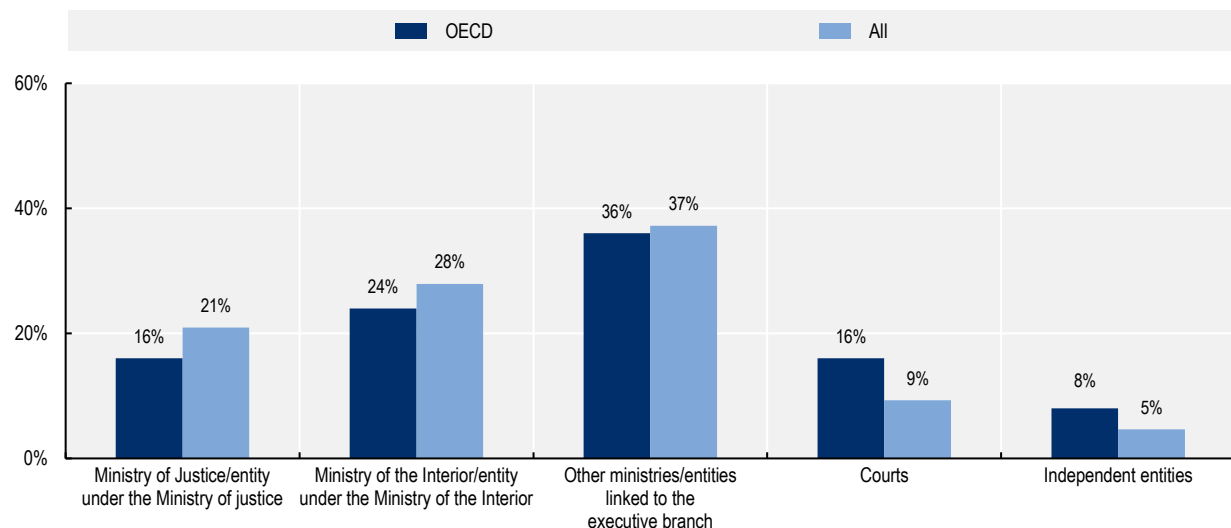
- In the **Slovak Republic**, a unified CSO register created in 2021 merged different existing registers, increasing the transparency of the sector and simplifying public access to information.

Source: (Voicu, 2021^[11]); (FRA, 2021^[12]); (EU Agency for Fundamental Rights, 2021^[13]); (ICNL, 2022^[14]); (Open Government Partnership, 2020^[15]); (Government of Portugal, n.d.^[16]).

Responsibility for registering CSOs is an important function and can send a powerful message about the sector as a whole. Figure 5.3 shows that, in 24% of respondent OECD Members and 28% of all respondents, ministries of the interior are in charge of registration. In other respondents this function is performed by the ministry of justice (or an entity under the ministry of justice) (16% of OECD respondents, 21% of all respondents), the courts (16% of OECD Members, 9% of all respondents) or other independent entities (8% of OECD Members, 5% of all respondents). But generally, it is other government departments – such as ministries of culture or labour and social affairs – or local administrative entities that fulfil this role (36% of OECD Members, 37% of all respondents). Giving the registration responsibility to entities that are at the same time responsible for investigating crimes or protecting national security or public order, such as ministries of the interior, may cause CSOs to be associated with security risks and threats to public order.

Figure 5.3. State entities responsible for the registration of CSOs

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



Note: “All” refers to 43 respondents (25 OECD Members and 18 non-Members). Data on Germany and Italy are based on OECD desk research and were shared with them for validation.

Source: 2020 OECD Survey on Open Government.

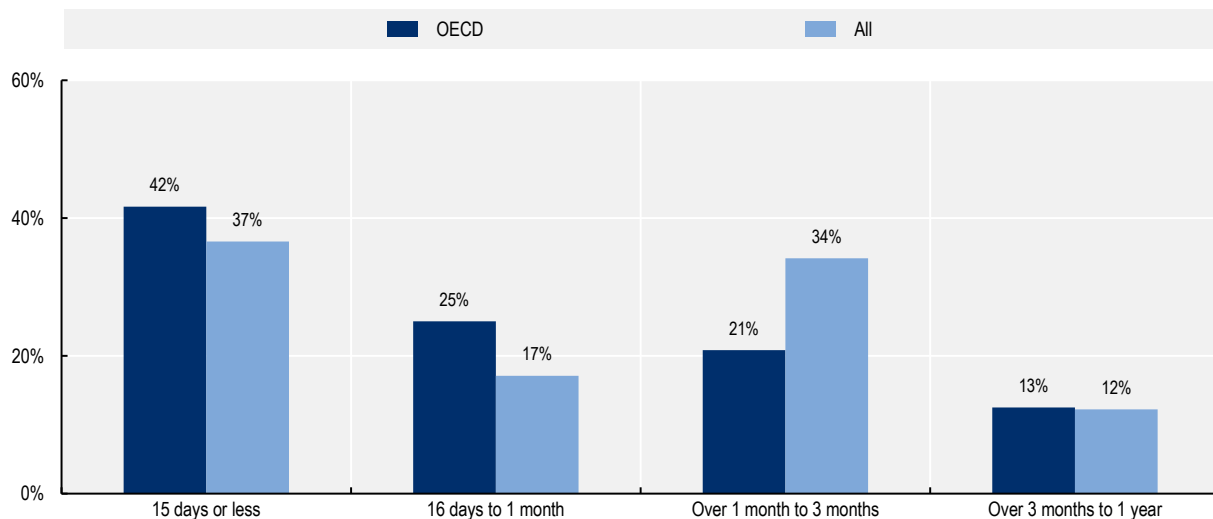
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As regards the time between the submission of a registration request and the decision of relevant authorities to accept or deny the registration, international guidance suggests that laws should set short time limits for public authorities to respond to applications for registration (ECtHR, 2008^[17]). Figure 5.4 shows that 42% of OECD Members surveyed and 37% of all respondents have relatively short timelines of 15 days or less. Long timelines of 3 months to 1 year for obtaining a decision on registration exist in a minority of OECD Members surveyed (13%), such as **Canada**, **Colombia** and **Spain** (12% of all respondents). Figure 5.5 shows that the average length of time between submitting a request for registration and a decision tends to be shorter in Europe than in the LAC region where registration times are significantly longer, with 42% of respondents requiring more than 1 month for a decision and 25%

requiring more than 3 months, in contrast to 20% in Europe requiring more than 1 month and 7% requiring more than 3 months.

Figure 5.4. Average length of time between submission of a request for registration by CSOs and a decision by state authorities, 2020

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



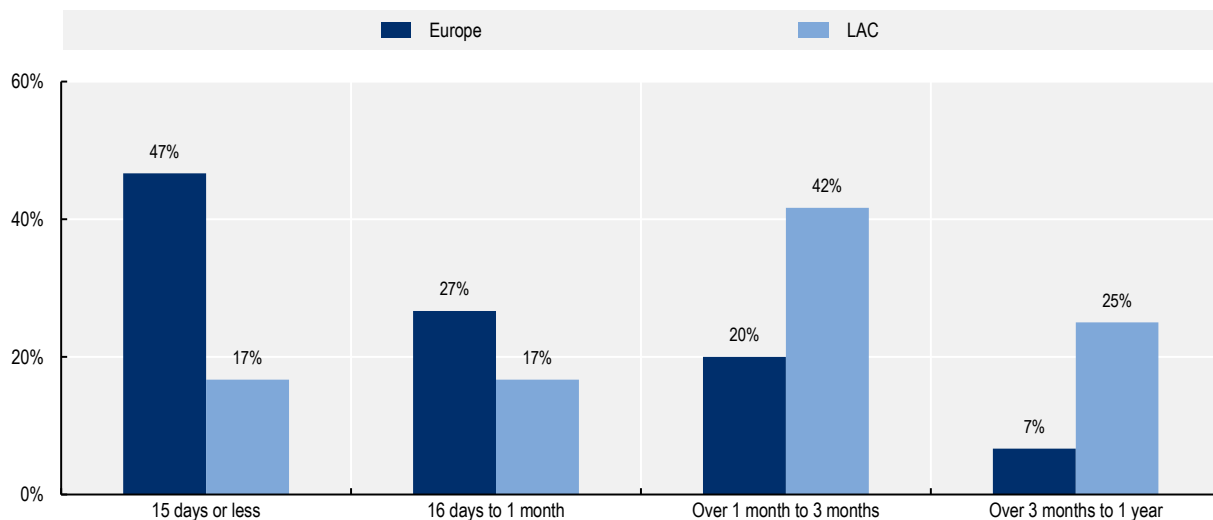
Note: “All” refers to 41 respondents (24 OECD Members and 17 non-Members). Only those who responded “yes” to Question 19 related to the registration of CSOs were asked to respond to this question in the Survey.

Source: 2020 OECD Survey on Open Government.

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Figure 5.5. Average length of time between submission of a request for registration by CSOs and a decision in European and LAC respondents, 2020

Percentage of European and LAC respondents that provided data in the OECD Survey on Open Government



Note: “Europe” refers to 15 respondents, and “LAC” refers to 12 respondents. Only those who responded “yes” to Question 19 related to the registration of CSOs were asked to respond to this question in the Survey.

Source: 2020 OECD Survey on Open Government.

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Criteria for CSO registration

Registration criteria usually include the submission of a range of documents, including a list and information on founding members, governing rules of the organisation, documents confirming the status and legal address of the organisation and proof of payment of the registration fee. Nationality or residency requirements for founders of associations exist in some respondents (Section 2.1 in Chapter 2). In **Brazil** and **Ukraine**, stateless persons who are residents can establish CSOs. In some respondents, including **Costa Rica, Guatemala, Honduras, Mexico** and **Panama**, legal costs related to registration procedures (e.g. the legal authentication of documents in Honduras or the obligation to file an application through a lawyer in Panama) may add to the costs incurred by CSOs.

While in many countries, a minimum number of only 2 to 3 persons is required to create an association, the minimum number is 20 persons in **Greece**, 10 persons in **Costa Rica, Japan** and **Kazakhstan** and 7 in **Germany, Guatemala** and **Honduras**. Generally speaking, international guidance suggests that two or more persons or groups of persons should be a sufficient basis for establishing an association (OSCE/ODIHR/Venice Commission, 2015^[10]). Often, regulations also set a minimum age for CSO founding members, which is generally the national age of majority. Some respondents have specific registration criteria for specific types of CSOs. For example, **Greece** introduced specific criteria in 2020 for the registration and certification of national and foreign CSOs and their staff working in the field of migration, asylum and social inclusion (ECNL, 2021^[18]). In **Cameroon**, a 2020 law regulating cultural and artistic associations requires state authorisation of such associations to be renewed every five years (Doh Galabe, 2020^[19]). In **Cameroon** and the **Dominican Republic**, foreign and religious associations require special authorisation by the authorities and, in the former, violations may involve imprisonment. In **Cameroon**, this affects associations led by a foreigner or that include more than 50% of foreign members.

As regards fees for registration, the OSCE/ODHIR and Venice Commission Guidelines on Freedom of Association recommend that these should not be so high as to discourage or make applications for registration impractical (2015^[10]). In 13 of the 39 respondents that provided information on registration fees in the Survey, registration is free; costs are between EUR 3 and EUR 55 in most countries (21) and they vary in the other 5. Depending on the circumstances, the costs may amount to EUR 180 in **Finland**, over EUR 200 in **Israel** and **Panama**, and EUR 300 in **Portugal**. In the **Netherlands**, the registration of certain CSOs is free but foundations need to be set up before a notary, whose fees can be as high as EUR 800, in addition to a registry fee of EUR 50. Where the costs of registration are disproportionately high, there is a risk that CSOs might be discouraged from applying for registration.

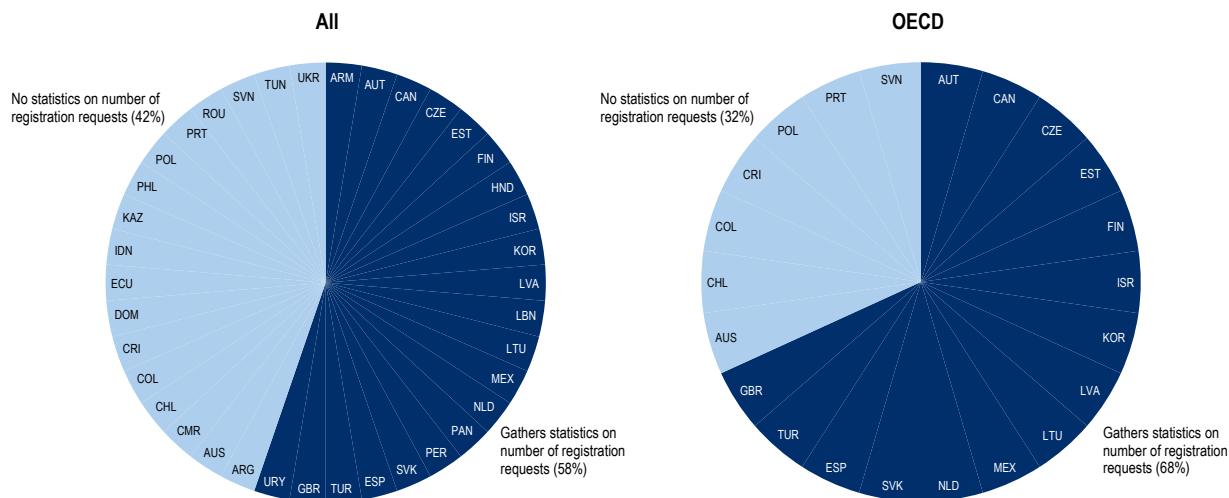
In some respondents, there is an additional requirement for CSOs to have a physical office space, while in others registration criteria only require CSOs to have an address. Against the background of rights being equally applicable off line as well as online (UN, 2012^[20]), allowing CSOs to function without a permanent office premise facilitates their right to exercise freedom of association online.

Statistics on CSO registration

By publishing statistical information on the number of registered CSOs, governments can ensure transparency and accountability. Figure 5.6 shows that 58% of all respondents, comprising 68% of respondent OECD Members, gathered statistics on the number of requests for CSO registration in 2019. The percentage of countries that gathered these statistics was significantly higher in Europe (67%) than in the LAC region (45%), as illustrated in Figure 5.7. **Austria, Estonia** and **Türkiye** confirmed that they do not count registration requests but rather collect data on the number of existing CSOs.

Figure 5.6. Respondents that gathered statistics on requests for CSO registration in 2019

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government

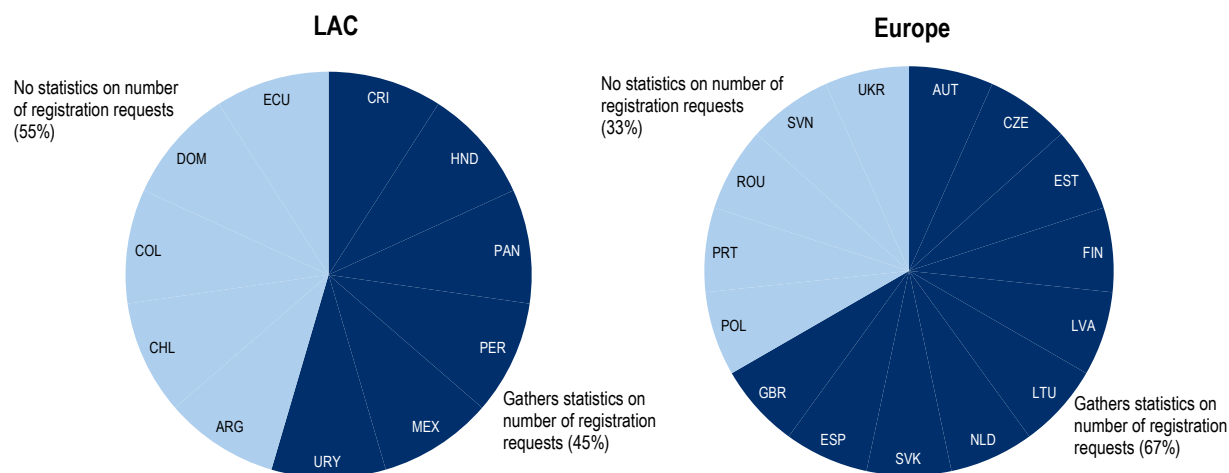


Note: "All" refers to 38 respondents (22 OECD Members and 16 non-Members). Only those who responded "yes" to Question 19 related to the registration of CSOs were asked to respond to this question in the Survey.
Source: 2020 OECD Survey on Open Government.

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Figure 5.7. Respondents in Europe and LAC that gathered statistics on requests for CSO registration in 2019

Percentage of European and LAC countries that provided data in the OECD Survey on Open Government



Note: "Europe" refers to 15 respondents and "LAC" refers to 11 respondents. Only those who responded "yes" to Question 19 related to the registration of CSOs were asked to respond to this question in the Survey.
Source: 2020 OECD Survey on Open Government.

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Denials and revoking of CSO registrations

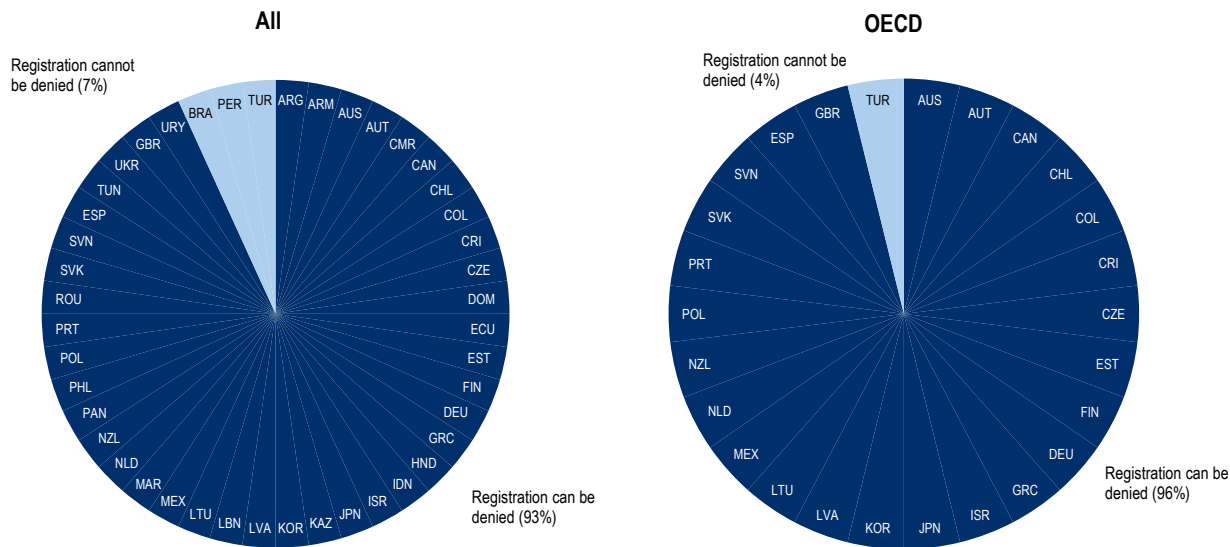
According to international standards, it is essential to have a clear legal basis with an explicit and limited number of justifiable grounds to deny or revoke CSO registration. UN and other standards state that restrictions on the right to freedom of association need to be based in law, follow one of the legitimate aims set out in relevant international human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR) (Art. 22, para. 2), the European Convention on Human Rights (ECHR) (Art. 11, para. 2) and the American Convention on Human Rights (ACHR) (Art. 16, para. 2) and adhere to the principles of necessity and proportionality (OHCHR, 2012^[21]; Kiai, 2012^[8]; OSCE/ODIHR/Venice Commission, 2015^[10]). The European Court of Human Rights has found that dissolving an association on grounds of bankruptcy or prolonged inactivity may follow such a legitimate aim, provided that the dissolution decision is based on an acceptable assessment of the relevant facts.² The OSCE/ODIHR/Venice Commission Guidelines on Freedom of Association also note that the dissolution of an association should only occur following a decision of an impartial and independent court and that associations should never be dissolved due to minor infringements that may be easily rectified and only following adequate warnings that provide them with ample time to correct infringements and minor infractions (OSCE/ODIHR/Venice Commission, 2015^[10]).

Figure 5.8 illustrates that for 93% of all respondents, including 96% of respondent OECD members where CSOs are required to register in order to operate, registration can be denied based on specific grounds set out in law. Figure 5.9 shows that for 81% of all respondents and 88% of OECD Members registration can be revoked.

The rates of CSO denials provided by respondents vary substantially from 21% in Ukraine, a country where registration is mandatory, to 40% in the United Kingdom and 54% in Mexico, countries where registration is voluntary. Publishing the reasons for denial or revoking of CSO registration provides an opportunity for governments to strengthen the CSO enabling environment by increasing transparency. It can also help in identifying the areas where more clarity on registration procedures is needed and in identifying opportunities for simplifying registration procedures.

Figure 5.8. Respondents where registration of CSOs can be denied, 2020

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



Note: "All" refers to 44 respondents (26 OECD Members and 18 non-Members). Only those who responded "yes" to Question 19 related to the registration of CSOs were asked to respond to this question in the Survey. Data on Germany are based on OECD desk research and were shared with it for validation.

Source: 2020 OECD Survey on Open Government.


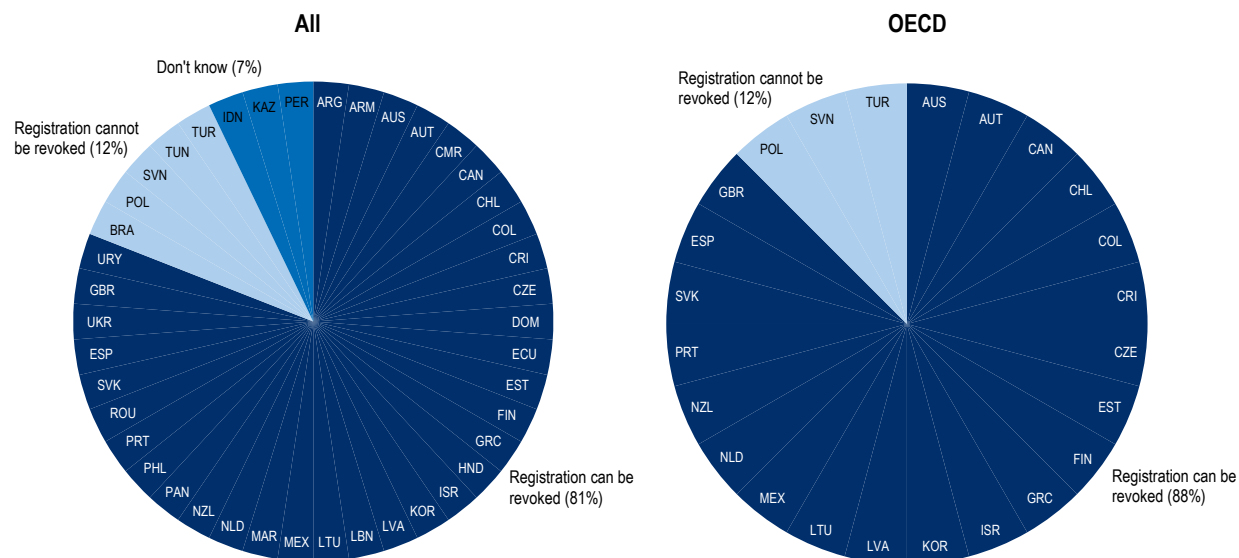
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Figure 5.9. Respondents where registration of CSOs can be revoked, 2020

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



Note: "All" refers to 42 respondents (24 OECD Members and 18 non-Members). Only those who responded "yes" to Question 19 related to the registration of CSOs were asked to respond to this question in the Survey. Data on Lithuania are based on OECD desk research and were shared with it for validation.

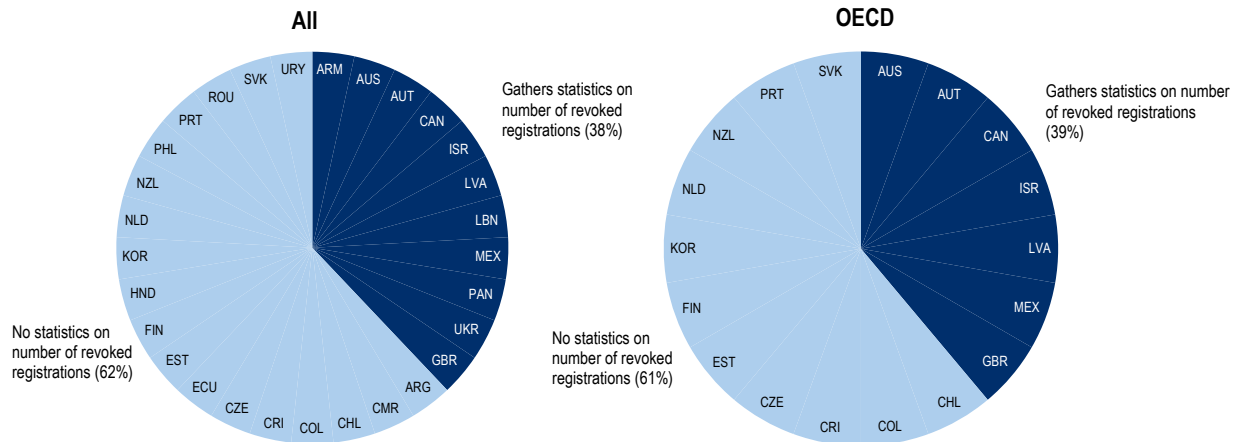
Source: 2020 OECD Survey on Open Government.

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By publishing data on denied and revoked CSO registrations, governments can also increase accountability for related decision-making processes. Ideally, this should be part of a register of CSOs that is publicly available and regularly updated in order to monitor trends. Figure 5.10 illustrates that 39% of respondent OECD Members and 38% of all respondents gather statistics on the number of CSO registrations that have been revoked.

Figure 5.10. Respondents that gathered statistics on the number of revoked CSO registrations in 2019

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



Note: "All" refers to 29 respondents (18 OECD Members and 11 non-Members). Only those who responded "yes" to Question 19 related to registration of CSOs were asked to respond to this question in the Survey.

Source: 2020 OECD Survey on Open Government.

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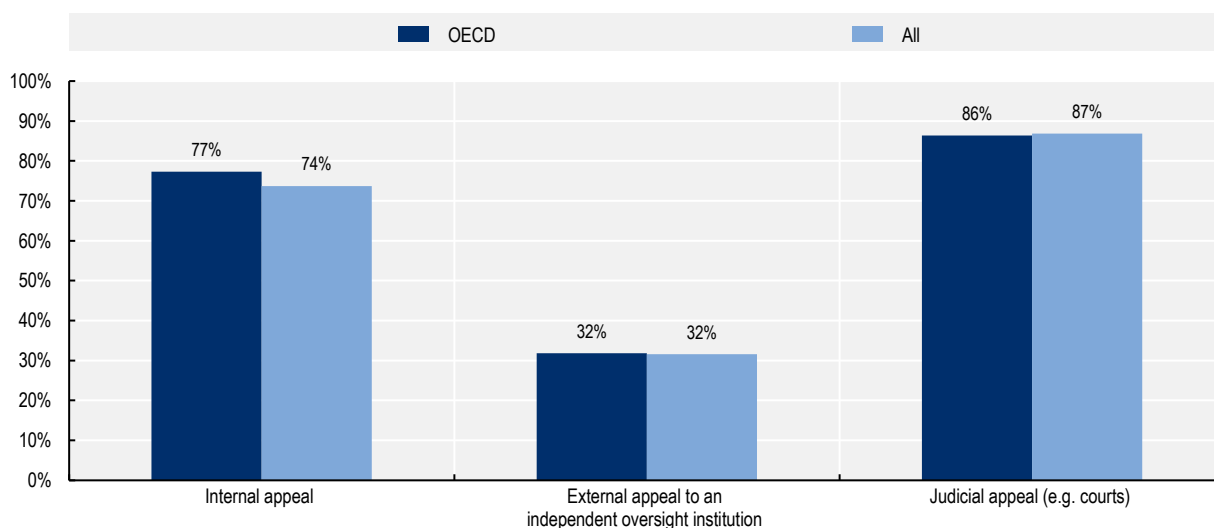
While all survey respondents confirmed that authorities must provide a justification to the applicant in such cases, the criteria underpinning these decisions vary across respondents. Often, the grounds include general provisions related to non-compliance with existing laws. In a number of countries, specific reasons for denial of registration or deregistration are stipulated in relevant legislation, such as a declaration of bankruptcy, inactivity for a specified time period, a failure to file reports, or a failure to appoint members of the organisations' governing bodies. In **Austria**, for example, an association can be deregistered if it does not appoint any organ representatives within one year of its formation. In **Costa Rica**, registration may be revoked if the number of eligible associates is less than the number necessary to establish the governing body. In **Honduras**, associations can be dissolved when the number of members decreases below the minimum number of seven. In **Canada, Israel** and **Panama**, registration can be revoked if reporting requirements are not fulfilled. In **Cameroon** and **Ecuador**, organisations can be dissolved when their activities deviate from the objectives for which they were founded. In other countries, the political activities of associations may lead to deregistration or denial of registration (Section 5.2.2).

Appeal mechanisms

Based on international standards, countries are advised to have comprehensible and accessible appeal mechanism in place for CSOs wishing to challenge a decision to deny or revoke their registration before an independent and impartial court (OHCHR, 2012^[21]; Kiai, 2012^[8]; OSCE/ODIHR/Venice Commission, 2015^[10]). A total of 88% of all respondents and 80% of OECD respondents have appeal mechanisms in place for decisions on revoking CSO registrations. Figure 5.11 illustrates the types of appeal mechanisms (internal, external and judicial) that a CSO can resort to in case of denial of registration. Eighty-seven percent of all respondents and 86% of respondent OECD Members have a judicial appeals process in place (e.g. through the court system) and 74% of all respondents and 77% of all respondents provide an opportunity for external appeal to an independent oversight institution, while 32% of all respondents provide an opportunity for external appeal to an independent oversight institution.

Figure 5.11. Appeal mechanisms available in cases of denial of registration of CSOs, 2020

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



Note: "All" refers to 38 respondents (22 OECD Members and 16 non-Members). Only those who responded "yes" to Question 19 related to registration were asked to respond to this question. In Brazil, Peru and Türkiye, registrations cannot be denied; therefore, these countries are not included in this data point.

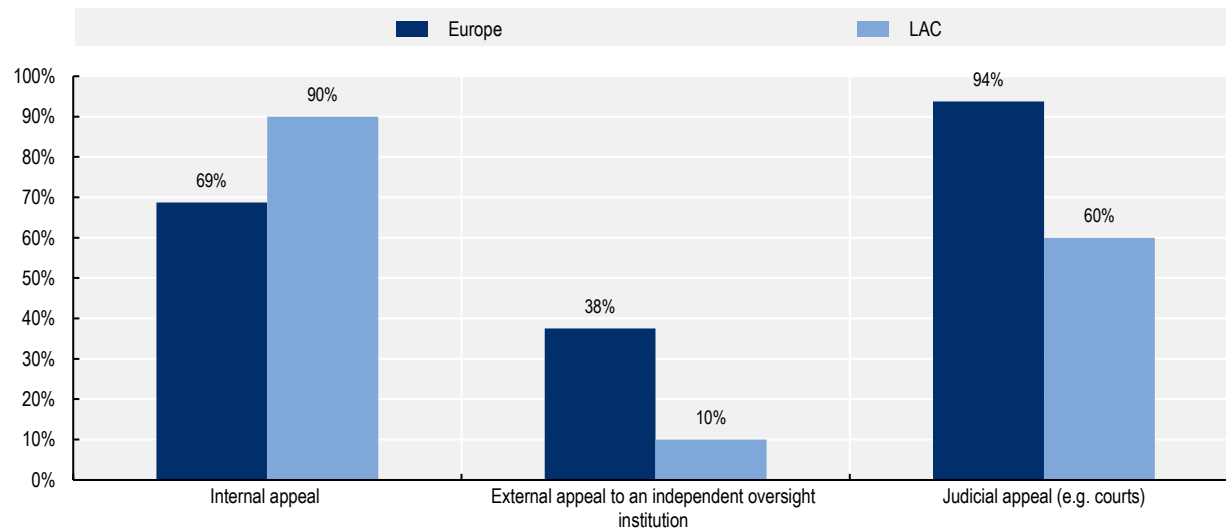
Source: 2020 OECD Survey on Open Government.

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Figure 5.12 shows that judicial appeal mechanisms for denial of registration are more common in European countries (94%) than in LAC countries (60%), while internal appeal mechanisms are more common in LAC countries (90%) than in European countries (69%).

Figure 5.12. Appeal mechanisms available in European and LAC respondents in cases of denial of registration of CSOs, 2020

Percentage of European and LAC respondents that provided data in the OECD Survey on Open Government



Note: “Europe” refers to 16 respondents and “LAC” refers to 10 respondents. Only those who responded “yes” to Question 19 related to registration were asked to respond to this question. In Brazil and Peru, registrations cannot be denied; therefore, these respondents are not included in this data point.

Source: 2020 OECD Survey on Open Government.

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Key measures to consider on CSO registration

Ensuring that:

- CSOs can operate either with or without registration, according to laws or regulations aligned with international standards.
- Where applicable, registration processes are simple, clear and transparent.
- Associations are not de-registered on the basis of minor infringements that may be easily rectified and associations are provided with adequate warning and ample opportunity to correct infringements, particularly if they are administrative.
- Bodies responsible for overseeing CSO registers are not at the same time entities responsible for investigating crimes or protecting national security or public order, to avoid tarnishing the CSO sector as a whole by associating it with security risks and threats to public order.
- There are clear time limits to process registration requests and, in those respondents where registration requests can remain unanswered for longer than three months, the time periods within which the responsible authorities are legally obliged to respond are shortened or the principle of positive administrative silence is adopted.
- An exhaustive and narrow list of justifications to infringe freedom of association is publicly available and any revoking of registration is based on the order of an independent and impartial court.
- Responsible state agencies provide and make publicly accessible detailed reasons for a decision to deny or revoke registration and apply sanctions only in cases where associations have committed serious infractions.

5.2.2. Activities of CSOs

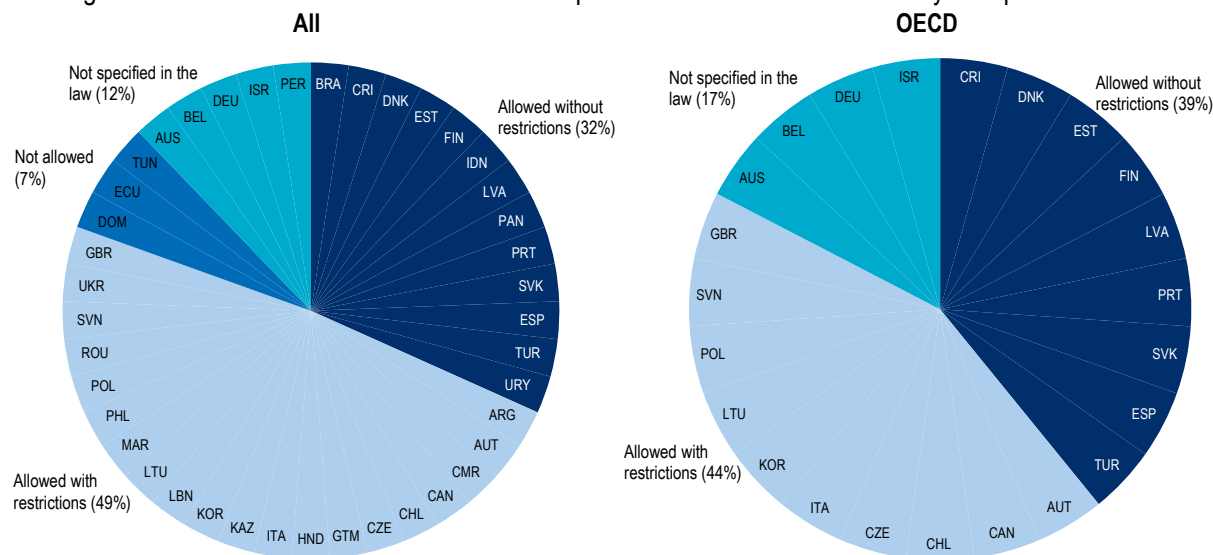
Gainful activities

Figure 5.13 shows that while in 32% of all respondents and 39% of respondent OECD Members CSOs are allowed to engage in gainful activity without any restrictions, in at least 49% of all respondents and 44% of


OECD Members, there are certain restrictions, typically requiring the proceeds of any economic activities to be used to realise the goals and purpose for which the CSO was founded. The **Dominican Republic**, **Ecuador** and **Tunisia** do not allow CSOs to engage in economic activity at all. In some respondents, such as **Armenia**, **Austria**, the **Czech Republic**, **Israel**, **Italy** and **Lithuania**, restrictions exist for CSOs to acquire and dispose of property. UN and Council of Europe bodies have emphasised that associations, and in particular NGOs, should be allowed to engage in for-profit activities to support their non-profit activities and to pay for or compensate their staff (although they may not distribute profits to their members or founders) (OSCE/ODIHR/Venice Commission, 2015^[10]).

Figure 5.13. Rules on CSO engagement in gainful activity, 2020

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



Note: "All" refers to 41 respondents (23 OECD Members and 18 non-Members).
Source: 2020 OECD Survey on Open Government.
















































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Political activities

Legal restrictions on CSO engagement in political activities can either relate to activities in the context of support to political parties and elections, or to public policy activities in general. Some legal frameworks include disclosure requirements for CSOs that engage in political matters or support political parties during elections. Limitations can also apply specifically to CSOs that have the public benefit or charitable status, with the rationale being that these types of CSOs often receive benefits such as tax exemptions and are expected to refrain from party politics in some countries.

Table 5.1 shows that political activity is restricted in some way in 41% of respondent OECD Members and in 38% of all respondents. In 7% of respondent OECD Members and 11% of all respondents, political activity is restricted to all types of CSOs. In 31% of respondent OECD and 26% of all respondents, political activity or campaigning by CSOs may lead to the loss of tax-exempt status of public benefit or charitable organisations. In three OECD respondents, there are disclosure requirements for CSOs related to expenditures or donations during elections (**Australia and Ireland**) or for CSOs that receive foreign funding when they engage in campaigning (**Israel**). In **Ireland**, the Electoral Act imposes reporting obligations on organisations that receive over EUR 2 500 from any source and donations from foreign sources for "political purposes".³ In **Indonesia**, foreign foundations and foundations founded by foreign entities are prohibited from engaging in political activities and, in the **Philippines**, foreign CSOs may not expend funds on political parties, candidates or activities.

Table 5.1. Domestic rules on political campaigning and political activity of CSOs, 2020

Country	No restrictions	Restrictions or requirements on all types of CSOs	Restrictions or requirements on public benefit organisations/charities	Restrictions and requirements on CSOs that receive foreign funding	Disclosure requirements	Country	No restrictions	Restrictions or requirements on all types of CSOs	Restrictions or requirements on public benefit organisations/charities	Restrictions and requirements on CSOs that receive foreign funding	Disclosure requirements
 Argentina	✓					 Lebanon	✓				
 Armenia	✓					 Lithuania	✓				
 Australia					✓	 Mexico		✓	✓		
 Austria	✓					 Morocco	✓				
 Belgium	✓					 Netherlands	✓				
 Brazil			✓			 New Zealand			✓		
 Cameroon	✓					 Norway			✓		
 Canada			✓			 Panama	✓				
 Chile	✓					 Peru	✓				
 Colombia	✓					 Philippines			✓	✓	
 Costa Rica		✓				 Poland	✓				
 Czech Republic	✓					 Portugal	✓				
 Denmark			✓			 Romania	✓				
 Dominican Republic	✓					 Slovak Republic			✓		
 Ecuador		✓				 Slovenia	✓				
 Estonia	✓					 Spain	✓				
 Finland	✓					 Sweden	✓				
 Germany			✓			 Tunisia		✓			
 Guatemala	✓					 Türkiye	✓				
 Indonesia		✓		✓		 Ukraine			✓		
 Ireland			✓			 United Kingdom			✓		
 Israel					✓	 Uruguay	✓				
 Italy	✓					Count All	29	5	12	2	2
 Kazakhstan	✓					Percentages All	62%	11%	26%	4%	4%
 Latvia	✓					Count OECD	17	2	9	0	2
						Percentages OECD	59%	7%	31%	0%	7%

Note: This table does not cover lobbying activities. Data on Australia, Austria, Belgium, Brazil, Chile, Cameroon, Colombia, Costa Rica, Denmark, Ecuador, Finland, Germany, Guatemala, Ireland, Lithuania, Mexico, the Netherlands, New Zealand, Norway, Peru, the Philippines, Romania, Slovak Republic, Sweden, Tunisia, and Ukraine are based on OECD desk research for at least one of the categories and were shared with them for validation.

Source: 2020 OECD Survey on Open Government.

In 2022, the European Parliament noted in a resolution that, in some EU Member states, restrictions have been placed on CSOs' ability to engage in political activities (European Parliament, 2022_[22]). UN and Council of Europe bodies have both emphasised that associations should be free to participate in states' decision-making processes and in matters of political and public debate, including in election-related activities.⁴ The OSCE/ODIHR/Venice Commission Guidelines also stress that associations should not be treated differently for reasons such as imparting information or ideas that contest the established order or advocating for a change of the constitution or legislation, defending human rights or for engaging in advocacy on issues of public debate, regardless of whether the position taken is in accordance with government policy (OSCE/ODIHR/Venice Commission, 2015_[10]).

Moreover, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has expressed concern that the term “political” has been interpreted in many countries in such a broad manner as to cover all sorts of advocacy activities, including activities aimed at influencing public policy or public opinion, and recommends that all associations should be allowed to engage in activities related to the electoral process (UN, 2013_[23]). At the same time, the Special Rapporteur stresses the importance of any organisation supporting a particular candidate or a party in an election to be transparent in declaring its motivation, as its support may impact election results (UN, 2013_[23]). The Council of Europe has also stressed the right of CSOs to support particular candidates or parties in an election or referendum, provided that they are transparent about it and that such support is covered by legislation on the funding of elections and political parties (CoE, 2007_[9]). Regarding special lobbying legislation, the Council of Europe has recommended that it should not infringe on the democratic rights of individuals to, individually or collectively, express their opinions and petition public bodies or legitimately campaign for political and legislative change (CoE, 2017_[24]) (Box 5.2).

A general restriction on political activity for any type of CSO exists in **Costa Rica, Ecuador, Mexico and Tunisia**. In **Costa Rica**, political associations and any manifestations of a political nature by associations are prohibited. In **Ecuador**, social organisations can be dissolved if they engage in political activities. In **Mexico**, CSOs are not allowed to carry out activities that could have an impact on election results. In **Tunisia**, while associations are prohibited from financially supporting political parties or candidates and to assess the role of state institutions, the relevant law also states that this should not prevent CSOs from expressing political views on issues of public affairs.

Key measures to consider on activities of CSOs

- Ensuring that CSOs are free to engage in for-profit activities to support their non-profit activities.
- Avoiding catch-all definitions of “political activities” or “political purposes” in laws, as these risks being applied to a range of public policy activities or purposes that are broader than those pertaining to direct engagement with elections or referenda.

Box 5.2. Creating an enabling environment for CSO participation in policy making

CSOs are critical actors influencing public policies and bringing much-needed insights from a range of interests to the policy-making process. Ensuring equal opportunities for all stakeholders to inform and shape public policies is key to achieving better policies, as it helps policy makers to be better informed and ensure that more interests are represented in policy outcomes. Yet, depending on how lobbying activities are conducted, a monopoly of influence by powerful actors can risk magnifying their interests at the expense of those with fewer resources or less access to decision makers. Transparency measures applied equally to all actors engaging in the policy-making process can facilitate the appropriate enabling environment and incentives for CSO participation in policy making.

Lobbying, understood by the OECD as the act of lawfully attempting to influence the design, implementation, execution and evaluation of public policies and regulations administered by executive, legislative or judicial public officials at the local, regional or national level, can enable CSOs to have access to the development of public policies, share their expertise and contribute to decision making. Lobbying regulation can strengthen public confidence in political systems as well as their legitimacy and integrity, and provide a transparent account of how public institutions and public officials made their decisions, including who lobbied on relevant issues. Where CSOs have a significant role in lobbying, transparency measures can require full disclosure of their ownership and financing, and research activities are aimed at influencing public opinion or decisions (Lyon et al., 2018^[25]).

By increasing transparency, countries can also mitigate risks related to astroturfing – the practice of presenting an orchestrated campaign under the guise of unsolicited comments from the public – or other forms of abuse for particular aims. Indeed, actors seeking to influence the policy-making process in their own interest may create and fund CSOs to give an impression of widespread grassroots support for a certain policy. This undermines the legitimacy of genuine CSO networks while providing unfair advantages to powerful interests.

Regulations on lobbying in OECD Members

In 2020, 20 OECD Members had public registries with information on lobbyists and/or lobbying activities, with varying levels of transparency and different branches of government addressed. Registries are more common in the legislative and executive branches than in the judiciary branch, and not all actors are covered: 40% of OECD Members have adopted transparency requirements for NGOs/CSOs, 36% for charities and foundations, 40% for think tanks and research centres, 29% for religious organisations and 43% for trade associations (OECD, 2021^[26]). Moreover, most OECD Members limit transparency initiatives to those conducting lobbying activities and those targeted, with less focus on reporting obligations on *ex post* disclosures of how decisions were made (legislative footprint).

The OECD's 2021 report on lobbying (2021^[26]) found that for an effective, fair and balanced participation of interests, three key challenges facing stakeholders need to be addressed: increasing awareness of opportunities to participate; introducing them earlier in the policy-making process; and ensuring they have the necessary information to fully participate. Moreover, governments can take measures to proactively seek the views of under-represented stakeholders and also explore ways to support the participation of groups that are profoundly impacted by a given regulation or policy, but historically have not had sufficient access to resources to organise and lobby for their interests.

While greater transparency could be ensured by scaling up disclosure requirements, lobbying regulation must not prevent policy makers from considering technical advice from CSOs. While 15% of CSOs working on human rights in the EU have reported that transparency requirements have increased the administrative burden on them (FRA, 2021^[12]), some government reviews found that registration

requirements have also had benefits, such as increased public awareness of these organisations' activities to influence public policy and overall transparency and inclusion in the policy-making process (Government of Ireland, 2020^[27]; Hepburn, 2017^[28]).

Source: (OECD, 2021^[26])

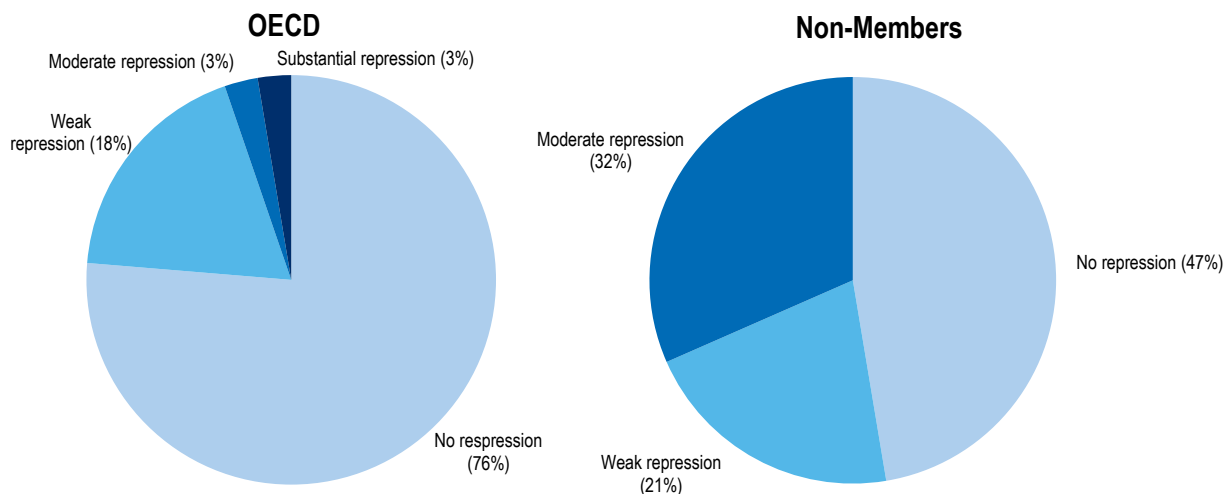
5.2.3. Implementation challenges and opportunities to ensure an enabling environment for civil society, as identified by CSOs and other stakeholders

At the global level, monitoring organisations and the UN Special Rapporteur on the rights to freedom of peaceful assembly and association have observed a number of setbacks and challenges with respect to the creation, maintenance and protection of an enabling environment for CSOs in recent years (Voule, 2020^[29]). The International Center for Not-for-Profit Law (ICNL), for example, has found that since 2016, government initiatives related to CSOs in 91 countries have restricted the enabling environment for civil society, notably by impeding the formation of CSOs and their ability to seek and secure resources (ICNL, 2021^[30]). While, in 2019, the V-Dem Institute had already noted a drop in freedom of association at the global level compared to earlier years (2020^[31]), in 2022, it stressed that CSO repression had reached the very top of the indicators most affected by the global trend towards autocratisation (2022^[32]). In some contexts, the COVID-19 crisis and governments' recourse to emergency powers to address it have exacerbated already existing challenges (Section 2.1.5 in Chapter 2).

The V-Dem Institute CSO Repression indicator, which is based on expert opinion,⁵ shows that, in 2021 (Figure 5.14), CSOs were free to organise, associate, strike, express themselves and criticise the government without fear of government sanctions or harassment in 76% of the 38 OECD Members and in 47% of the non-Members that responded to the 2020 OECD Survey on Open Government (V-Dem Institute, 2021^[1]). Eighteen percent of OECD Members and 21% of non-Members document "weak repression", which can include material sanctions such as fines to deter CSOs from acting or expressing themselves, or excessively burdensome administrative procedures. In one OECD Member and 32% of non-Members, the government engaged in "moderate" repression, such as material sanctions and "minor legal harassment", including detentions and short-term incarceration, according to V-Dem data. In one OECD Member, V-Dem found "substantial" repression of CSOs (such as arrests, charges and imprisonment of leaders of CSOs who acted lawfully).

Figure 5.14. V-Dem Institute CSO Repression Indicator in 2021

Percentage of all OECD Members and the non-Members that provided data in the OECD Survey on Open Government



Note: “OECD” refers to all 38 Members, “non-Members” refers to the 19 non-Members who responded to the 2020 OECD survey on Open Government. V-Dem asks “Does the government attempt to repress civil society organisations (CSOs)?”. Answers ranged from 1 to 4, with the least democratic response being “0” and the most democratic being “4”. 0: Severely: The government violently and actively pursues all real and even some imagined members of CSOs. 1: Substantially: The government arrests, tries and imprisons leaders of and participants in oppositional CSOs who have acted lawfully. Other sanctions include disruption of public gatherings and violent sanctions of activists. 2: Moderately: The government engages in material sanctions and minor legal harassment (detentions, short-term incarceration) to dissuade CSOs from acting or expressing themselves. 3: Weakly: The government uses material sanctions (fines, firings, denial of social services) to deter oppositional CSOs from acting or expressing themselves. They may also use burdensome registration or incorporation procedures to slow the formation of new CSOs and side-track them from engagement. The government may also organise Government Organised Movements or NGOs (GONGOs) to crowd out independent organisations. 4: No: CSOs are free to organise, associate, strike, express themselves and criticise the government without fear of government sanctions or harassment. For the purposes of data visualisation, the authors have designated categories to countries that scored within 0.5 of each of the 5 options (e.g. a score of 2.5 and above was equated to 3, while below 2.5 was equated to 2).

Source: V-Dem (2021^[11]), *The V-Dem Dataset*, <https://www.v-dem.net/vdemds.html>.

Data gathered through the OECD Survey on Open Government and OECD desk research point to two other key challenges that risk restricting the enabling environment for CSOs both at the global level and within some OECD Members. These are the use of Strategic Lawsuits against Public Participation (SLAPPs) to target CSOs and activists and restricted space for CSOs that engage on particular issues in some countries.

Strategic Lawsuits against Public Participation (SLAPPs)

In certain countries, the daily work of CSOs and the rights of their members and leadership – primarily the rights to freedom of expression and association – are increasingly endangered by lawsuits that aim to silence the voices of CSO representatives who publicly criticise or investigate powerful individuals, companies or interest groups. Such lawsuits, known as SLAPPs, are typically initiated by private sector entities and influential state actors, and serve to harass CSOs, threaten to destroy their reputation and drain their financial resources (BHRRC, 2021^[33]).

The use of SLAPPs against civil society actors, journalists and activists is a growing concern, particularly in some regions. Based on a report issued in 2021 by the Business & Human Rights Resource Centre, the highest number of SLAPPs initiated since 2015 took place in Latin America (39%), followed by Asia and the Pacific (25%), Europe and Central Asia (18%), Africa (8.5%), North America (9%) and the Middle East and Northern Africa (MENA) region (0.5%) (BHRRC, 2021^[33]). Partner organisations to the Council of

Europe Platform to Promote the Protection of Journalism and Safety of Journalists noted an increase in the number of alerts concerning SLAPPs in 2020, both in terms of numbers and jurisdictions (CoE, 2021^[34]). The EU Agency for Fundamental Rights (FRA) reported that 12% of the threats or attacks against CSOs that responded to a FRA survey in 2020 constituted harassment in the form of legal action/SLAPPs (2021^[12]).

These lawsuits sometimes take the form of civil or criminal defamation or libel suits but may extend to other types of civil or criminal proceedings. They are often accompanied by other, often public forms of harassment, or follow repeated and varied attacks against a particular individual or organisation. Consequently, even the threat of a lawsuit may intimidate CSO activists or journalists to such an extent that they abandon their investigations and/or statements against the respective individual or company.

SLAPPs have most commonly been brought against individuals, CSOs and media groups in the context of environmental and consumer protection, crime prevention or corruption allegations, as well as against lesbian, gay, bisexual, transgender and intersex (LGBTI) activists (Mijatović, 2020^[35]). The criminalisation of defamation in some countries, certain procedural rules or the high level of compensation granted in such proceedings are factors that facilitate the initiation of SLAPPs (Osservatorio Balcani e Caucaso, 2020^[36]). Similarly, the UN Special Rapporteur on the rights to freedom of assembly and of association has noted that the manner in which SLAPPs are used depends on a variety of factors, including how expensive legal costs are (including any caps on damages and the availability of legal aid), the elasticity of laws targeting speech (especially defamation) and the absence of any safeguards (e.g. anti-SLAPP statutes or discretionary cost awards against abuse of process) (UN, 2017^[37]).

Even though the types of lawsuits may thus vary, SLAPPs have certain common features. First of all, they are vexatious in nature, as the aim of the person or company initiating the lawsuit is often not to win but rather to engage in a lengthy and time-consuming legal battle. The second main feature of SLAPPs is often the power imbalance between the plaintiff and the defendant. The attempts to silence CSO representatives or journalists are successful precisely because of the financial strength of the complainants (Mijatović, 2020^[35]). Additionally, in most cases, such lawsuits include demands for high damage payments, in addition to legal fees that grow as the lawsuit progresses.

As a response to the rise of SLAPPs, a few countries have adopted anti-SLAPP legislation. In some instances, such laws have already been used to dismiss SLAPPs accusing individuals of defamation for example (Supreme Court of Canada, 2020^[38]). These laws reflect recommendations made by the UN Special Rapporteur on the rights to freedom of assembly and of association, who has urged states to enact anti-SLAPP legislation, allowing an early dismissal (with an award of costs) of such suits and the use of measures to penalise abuse (UN, 2017^[37]).

At the EU level, the European Commission (EC) proposed a (binding) directive and a (non-binding) recommendation in April 2022 to encourage EU Member states to take action against the rise of SLAPPs. While the proposed directive is limited to SLAPPs in civil matters with cross-border implications, the recommendation encourages EU Member states to align their rules with the proposed EU law for domestic cases in all proceedings, not only civil matters, and sets out guidance to effectively tackle SLAPPs by removing prison sentences for defamation, training legal professionals and judiciary staff, introducing support mechanisms for victims, collecting data and monitoring SLAPPs (EC, 2022^[39]; 2022^[40]). The action taken by the EC had been preceded by calls from various entities to provide more effective protection from legal harassment, including civil society initiatives promoting EU anti-SLAPP legislation (Ravo, Borg-Barthet and Kramer, 2020^[41]), an EC Expert Group against SLAPP,⁶ as well as the European Parliament and the FRA (European Parliament, 2021^[42]; FRA, 2021^[12]).

The problem of SLAPPs may be greater in some countries than in others and the vast majority of OECD and other respondents have legislation prohibiting and providing damages for cases where claimants abuse the right to lodge a civil claim with courts, or legislation protecting human rights defenders or journalists. However, only two OECD respondents, namely **Australia** and **Canada**, indicated specialised

anti-SLAPP legislation in place, albeit at the subnational level. Three provinces in Canada (British Columbia, Ontario and Quebec) and one state in Australia (Australian Capital Territory) have introduced such measures. Desk research also indicates that similar legislation has been adopted in **Indonesia** and the **Philippines** for the environmental sector (Business & Human Rights Resource Centre, 2021^[43]).

This lack of specific anti-SLAPP legislation may point to limited awareness of this issue in numerous states, coupled with the belief that existing legislation is sufficient to protect such abuses from the justice system. Given that the purpose of SLAPPs is to drain the resources and capacities of their targets during court proceedings, however, legislation providing damages to individuals or entities after the end of proceedings may not be sufficient to solve the problem. By assessing their legal systems and court cases, especially defamation cases, countries could establish whether there are frequent cases of SLAPPs in their jurisdictions, and review whether their anti-defamation legislation, rules of civil and/or criminal procedure or the level of damages to be obtained through lawsuits facilitates the use of SLAPPs. In such cases, requisite reforms, in discussions with civil society, could ensure that freedom of expression for individuals and freedom of association for CSOs are sufficiently protected in both law and practice.

Challenges for CSOs working on specific global issues

As global challenges such as the climate crisis and migration flows have increased in recent years, so has the level of engagement of CSOs in these fields. This has given rise to concerns in some countries regarding the enabling environment for organisations working on those critical global challenges that are, by nature, cross-border (ICNL, 2022^[44]; Safety of Journalists Platform, 2021^[45]; 2021^[46]; Freedom House, 2021^[47]; FRA, 2021^[12]).

UN special rapporteurs have noted that the rise of the global climate movement has been accompanied by businesses linked to resource extraction, infrastructure projects or agribusiness as well as government and government-allied actors increasingly targeting environmental CSOs for their work (Voule, 2021^[48]; 2018^[49]; UN, 2015^[50]). Attacks on environmental activists can take the form of physical attacks, intimidation campaigns and judicial harassment, and even killings (Section 2.3 in Chapter 2). According to Global Witness, over 70% of human rights defenders killed every year are involved in the protection of the environment or the closely related work of asserting Indigenous peoples' rights and the rights of other communities that are marginalised and discriminated against (Global Witness, 2020^[51]). In addition to experiencing physical attacks, climate activists have also been victims of hostile discourse and smear campaigns, which portray their activities as unlawful and label them at times as national security threats (ICNL, 2021^[52]), including in OECD Members, according to a variety of UN and CSO sources (Section 5.6.4) (Voule, 2021^[48]; ECNL, 2020^[53]; Hayes and Joshi, 2020^[54]; ICNL, 2020^[55]).

International migration flows and internally displaced populations have become a global challenge, accelerated by armed conflicts, economic crises and environmental crises. In this context, CSOs have a fundamental role in upholding migrant rights but are often faced with increasing hostility in several regions including Europe and the Americas, as documented by the UN and non-governmental sources (UN, 2020^[56]; Carrera, 2018^[57]; Amnesty International, 2019^[58]; Frontline Defenders, 2019^[59]). According to 2021 Global Migration Indicators, 35-40 million people migrate every 5 years and 82.4 million individuals were forcibly displaced worldwide due to persecution, conflict, generalised violence, human rights violations or other reasons by the end of 2020 (Black, 2021^[60]). In 2022, the European Parliament called on EU Member states not to criminalise or negatively impact the activities of CSOs working in the field of migration, reflecting concerns in this area (European Parliament, 2022^[22]). On 8 March 2002, the European Parliament “condemned physical and verbal attacks against CSO representatives while stressing that those who work on migration in particular should not be criminalised” (2022^[61]). Furthermore, multiple civil society sources have reported that CSO members have been accused of facilitation of entry and residence for activities such as providing food, water, medical supplies and shelter along migratory routes (Amnesty International, 2019^[58]; Frontline Defenders, 2019^[59]; ReSOMA, 2019^[62]; CIVICUS, 2021^[63]; FRA, 2015^[64];

Ferstman, 2019^[65]; ReSOMA, 2019^[62]). In its 2017 report on *Challenges Facing Civil Society Organisations Working on Human Rights in the EU*, FRA highlighted various cases of prosecution and harassment of CSO members working on migrant rights (FRA, 2017^[66]).

UN instruments to counter the smuggling of human beings (such as the UN Protocol against the Smuggling of Migrants by Land, Sea and Air) stipulate that the facilitation of entry of migrants and stay for non-profit purposes, including for humanitarian assistance, should be exempted from criminalisation (UN, 2000^[67]). However, relevant EU legislation (referred to as the “Facilitators’ Package”)⁷ makes it optional for EU Member states to exempt individuals or CSOs providing humanitarian assistance to migrants from criminal penalties and does not require a financial or material gain in the case of facilitation of entry for the act to constitute a criminal offence. This has led to significant variations in how EU Member states have incorporated the EU directives into national laws, with the facilitation of entry being criminalised without the intent to gain profit in a majority of EU Member states (Carrera, 2018^[57]).

In addition, some countries’ administrative procedures for registering associations pose particular challenges for CSOs working on migrant rights given the difficulty of obtaining legal documents required for undocumented persons, due to their sometimes precarious or irregular legal status and living conditions. Registration procedures for CSOs that work to protect the rights of migrants may also present barriers (ECNL, 2021^[18]), as well as rules that require CSOs to report irregular migrants to authorities when migrants seek access to basic social services, and that limit CSOs’ access to certain locations, such as reception or detention centres (Ferstman, 2019^[65]; EC, 2021^[68]).

Key measures to consider on challenges to the CSO enabling environment

- Ensuring that necessary protections are in place against SLAPPs targeting CSOs, both in law and in practice.
- Assessing the challenges faced by CSOs, in particular those working with marginalised or under-represented groups or on contentious issues and defining concrete steps to improve and protect their operating environment including by ensuring that members can exercise their civic freedoms on an equal basis with others.
- Countering hostile discourse, where it exists, toward CSOs and activists, by engaging in positive public communications about their contribution to society and by ensuring the safety of CSO activists and their ability to work in an enabling environment.

5.3. Good practices in improving or promoting an enabling environment for CSOs

A number of countries are taking a variety of measures to strengthen the enabling environment for CSOs. Good practices include the development of overarching policy frameworks to strengthen the operating environment for civil society, support programmes for CSOs during the COVID-19 pandemic and support for civic space for targeted groups such as youth.

5.3.1. Government strategies to improve or promote an enabling environment for CSOs

Governments can support and strengthen civil society in many ways, including by allocating funding and financial resources. Many governments make substantial efforts in this regard; however, these initiatives are often undertaken through a scattered approach without clearly delineated objectives outlined in an overarching framework. To combat this trend, some governments have developed overarching policy frameworks to articulate their vision for improving the operating environment for CSOs.

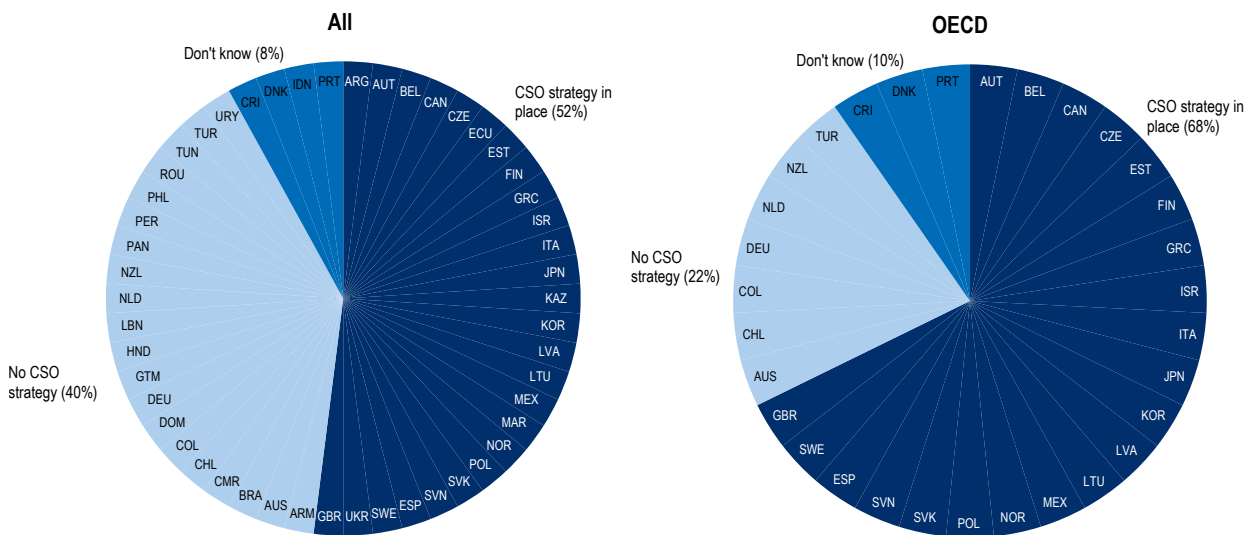
Government strategies to promote an enabling environment for CSOs can have multiple beneficial outcomes. First, they entail the development of a vision and values regarding where and how CSOs fit in the grand scheme of a country’s functioning and governance (Phillips, 2011^[69]). Second, they offer governments an opportunity to assess the current conditions that CSOs operate within and, third, they enable governments to set expectations and benchmarks for areas of improvement. In addition, such

strategies allow governments to concretely outline mechanisms for bolstering the role of CSOs, both as partners of government and as independent actors in their own right, while taking their varying needs into account. Strategies can also highlight the difficulties that CSOs may be facing, particularly in the aftermath of global crises, such as the COVID-19 pandemic, and identify potential future risks. Last, they can be crucial in finding ways to expand the impact that CSOs have and source innovative ways to enrich the CSO-state relationship. The elaboration of such strategies can be accompanied by a consultation phase with CSOs, allowing governments to gather diverse expertise and perspectives from different stakeholders on how they could improve their performance. While this section focuses on overarching strategies to promote an enabling environment for CSOs, sectoral strategies can also help to mainstream the promotion and protection of civic space throughout different sectors and policies.

Figure 5.15 shows that 52% of all respondents and 68% of respondent OECD Members have a policy or strategy in place to improve or promote an enabling environment for CSOs; and Figure 5.16 illustrates that while 77% of countries in Europe have a policy or strategy to improve or promote an enabling environment for CSOs, only 23% of countries have such a strategy in place in LAC countries.

Figure 5.15. Respondents with a policy or strategy to improve or promote an enabling environment for CSOs, 2020

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



Note: “All” refers to 50 respondents (31 OECD Members and 19 non-Members). Data on Guatemala and Türkiye are based on OECD desk research and were shared with them for validation.
 Source: 2020 OECD Survey on Open Government.


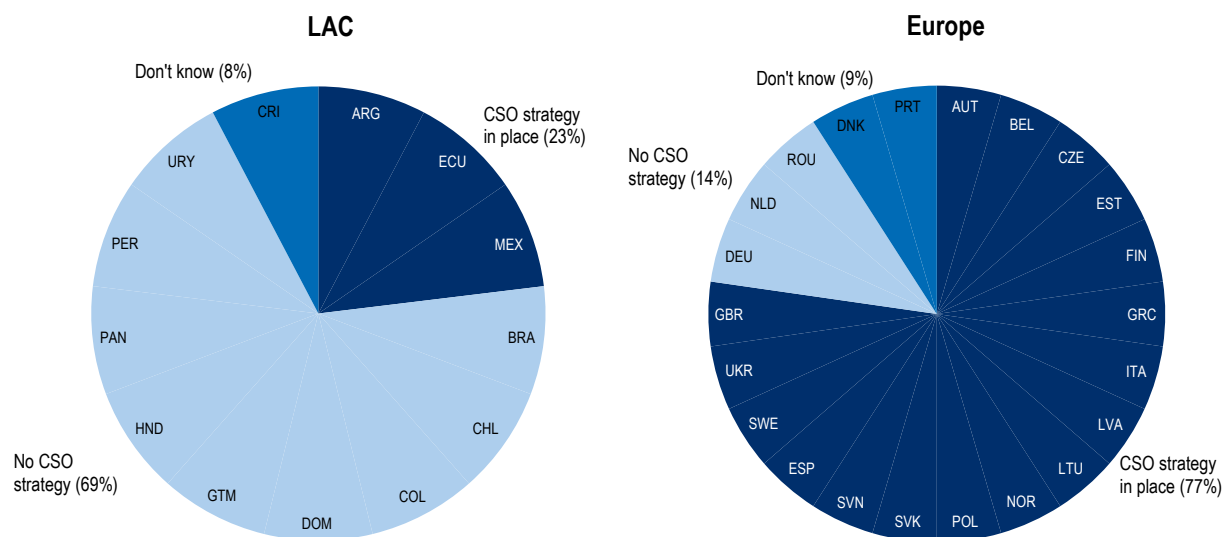
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Figure 5.16. European and LAC respondents with a policy or strategy to improve or promote an enabling environment for CSOs, 2020

Percentage of European and LAC respondents that provided data in the OECD Survey on Open Government



Note: "Europe" refers to 22 respondents and "LAC" refers to 13 respondents.

Source: 2020 OECD Survey on Open Government.

StatLink  <https://stat.link/nd73qp>

Common features of selected government strategies to improve or promote an enabling environment for CSOs

Several common elements can be found in most government strategies to improve or promote an enabling environment for CSOs (Table 5.2). The first is that most propose a definition of civil society, as in the **Czech Republic, Finland, Slovenia, Sweden** and the **United Kingdom**. For example, **Slovenia's** national *Strategy for Developing Non-governmental Organisations and Volunteering until 2023* (Government of Slovenia, 2018^[70]) illustrates a traditional understanding and description of CSOs as "a non-commercial and non-profit organisation independent of public authorities, political parties or economic operators [...]. In Slovenia, this definition covers associations, institutes and foundations". This is a widely accepted definition that targets a range of different forms of CSO. **Sweden's** *A Policy for Civil Society* (Government of Sweden, 2009^[71]) outlines a definition that is broader in scope and encompasses civil society more generally, noting that their strategy focuses on an arena which is "separate from the state, the market and the individual household, where people, groups and organisations act together for common interests. Civil society includes non-profit associations, foundations and registered religious communities, but also networks, appeals and other actors". Some countries, such as **Norway** in its most recent State Policy on Volunteering 2018-2019 (Government of Norway, 2018^[72]), do not adopt any single description.

Many of the 15 CSO strategies that were reviewed also include an assessment of the current operating environment or state of play for CSOs. Ten of the 15 OECD strategies and 2 non-Member strategies include, to varying extents, information such as figures on the numbers of registered CSOs, financial flows and types of organisations in the country, alongside the historical background of civil society and, in some cases, relevant legal and policy developments. The **Czech Republic**, for example, in its *State Policy with Respect to Non-Governmental Organizations for the Years 2015-2020* (Government of Czech Republic, 2015^[73]) provides comprehensive statistics on the size and nature of the CSO sector as well as historic and current public policy and the progression of the state-CSO relationship. **Finland's** *Action Plan of the*

Advisory Board on Civil Society Policy 2017-2021 (Government of Finland, 2017^[74]) similarly offers an in-depth overview of civil society from the 18th century to the present day and also differentiates between the third sector of formal, registered organisations and the growing fourth sector of independent and more sporadic networks and informal groups of civil society actors and advocates. Another policy that gives a thorough assessment of the current operating environment for CSOs is Norway's State Policy on Volunteering (Government of Norway, 2018^[72]), with a specific focus on volunteering and inclusiveness in civil society. **Kazakhstan's Decree of the President for the Development of Civil Society in the Republic of Kazakhstan until 2025** (Government of Kazakhstan, 2020^[75]) also provides an analysis of the current domestic situation regarding CSOs and the international context.

Another important element that frames most strategies is that they include a high-level vision for state engagement with the CSO sector. The most common components are to: i) improve the functioning of democracy; ii) enhance service provision; iii) contribute to the personal development and well-being of citizens and encourage participation in local decision making; and iv) improve social cohesion and inclusion. The **United Kingdom's** vision, outlined in its *Civil Society Strategy: Building a Future that Works for Everyone* (UK Government, 2018^[76]), for example, focuses on "better-connected communities, more neighbourliness, and businesses which strengthen society" with the aim of building a "sense of shared identity". **Argentina's** vision in its new *Framework Cooperation Agreement in Favour of all Associations and Entities of Civil Society* is to "establish links of collaboration, articulation, assistance and cooperation" with CSOs (Government of Argentina, 2021^[77]). **Ukraine's** overall aim is to "create favourable conditions for civil society development, various forms of participatory democracy, and effective public interaction with public authorities and local governments" (Government of Ukraine, 2016^[78]).

Coherent, feasible and ambitious objectives are the foundation of such strategies as they demonstrate governments' understanding of the strengths and needs of CSOs and allow them to showcase their mutual priorities. Many strategies share common aims in this regard (Table 5.2). One of **Denmark's** central aims in its *Strategy for a Stronger Civil Society* (Government of Denmark, 2017^[79]) is that more people become part of voluntary communities and associations. In addition, **Latvia's National Identity, Civil Society and Integration Policy Implementation Plan 2019-2020** intends to promote tolerance and representation of socially excluded groups, create a high-quality democratic information ecosystem and take innovative approaches to implementing integration policies (Government of Latvia, 2018^[80]).

Table 5.2. Common objectives of selected CSO strategies, 2020

Stated objective	Respondents that include this element in their strategy	Count
Strengthen the state-CSO relationship	Argentina, Czech Republic, Denmark, Kazakhstan, Slovak Republic, Slovenia, Sweden, Ukraine, United Kingdom	9
Support volunteering and donations	Czech Republic, Denmark, Kazakhstan, Norway, Poland, Slovenia, United Kingdom	7
Develop strong and independent CSOs	Argentina, Czech Republic, Estonia, Finland, Norway, Poland, Slovenia	7
National development	Argentina, Estonia, Latvia, Sweden, Ukraine	5
Inclusion and social cohesion	Argentina, Kazakhstan, Latvia, Norway, Sweden	5
Create a transparent and effective state policy on civil society	Czech Republic, Kazakhstan, Norway, Ukraine	4
Contribute to the UN Sustainable Development Goals	Argentina, Italy, Kazakhstan	3
Improve the welfare of citizens	Denmark, Sweden	2
Promote public discussion	Slovak Republic, Sweden	2
Identify global changes and their impact on civic space	Finland	1
Good governance	Slovak Republic	1
Increase research and data on civil society	Sweden	1
Improve CSO consultation/policy dialogue	Sweden	1

Note: The table is based on a random selection and subsequent review of the CSO strategies provided by the following 15 respondents: Argentina, the Czech Republic, Denmark, Estonia, Finland, Italy, Kazakhstan, Latvia, Norway, Poland, the Slovak Republic, Slovenia, Sweden, Ukraine and the United Kingdom. The respondents are categorised according to the criteria of having one or more of the most common features found in the majority of strategies submitted by respondents.

Source: 2020 OECD Survey on Open Government and in-depth research based on primary sources provided by the respondents.

Well-developed strategies also often include concrete steps on how to implement the vision and objectives therein and include mechanisms for oversight as well as monitoring and evaluation. For example, the **Slovak Republic's** *Strategy on the Development of Civil Society* (Government of the Slovak Republic, 2012^[81]) is accompanied by a number of action plans (Government of the Slovak Republic, 2021^[82]). In addition, 4 OECD Member strategies that were assessed, namely in **Estonia, Latvia, Poland** and **Slovenia**, include a results framework with indicators and targets, while 2 strategies specifically mention who will be responsible for developing such a framework (**Sweden, United Kingdom**). **Ukraine's** 2016-2020 *Action Plan for the Implementation of the National Strategy for Civil Society Development in Ukraine* (Government of Ukraine, 2016^[78]) also assigns specific tasks to ministries. For example, responsibility is given to the Ministry of Youth and Sports to examine ways to introduce institutional support for CSOs and the Ministry of Justice to promote public participation in the formation and implementation of policies and services.

Some respondents do not have specific strategies to promote an enabling environment for CSOs but have other policy documents with similar aims, including programmes led by national authorities with financial support from supranational organisations and bilateral partners that support CSOs. For example, Armenia implements strategies for civil society as part of its bilateral co-operation frameworks with the EU (EEAS, 2019^[83]) and the U.S. Agency for International Development (USAID, 2020^[84]). Similarly, Lebanon's main civil society framework is a development co-operation programme funded by the EU (Government of Lebanon, 2021^[85]), as is the PROCIVIS Active Citizenship Strengthening Programme in Cameroon (Government of Cameroon, 2021^[86]). While not having a specific strategy, Cameroon also has several legal and policy frameworks to improve the enabling environment for CSOs and citizen participation (Government of Cameroon, 2019^[87]), including a code of transparency and good governance in the management of public finances (Government of Cameroon, 2018^[88]) and thresholds for contracts reserved for CSOs (Government of Cameroon, 2019^[89]). Similarly, while Indonesia does not have a strategy, its Law on Social Organisations (Government of Indonesia, 2013^[90]) has a number of provisions for empowering CSOs through policy facilitation and strengthening institutional capacity and human resources in government for this purpose. In addition, while New Zealand does not have a strategy for CSO engagement, it does have specific guidelines on the participation of Māori in policy making (Government of New Zealand, 2018^[91]).

Some OECD Members, such as Belgium, Lithuania and Slovenia,⁸ have passed additional legislation in recent years that provides greater clarity on different types of CSOs and their respective rights and duties, e.g. in the area of funding, commercial activities or taxation. In Lithuania, the new law on NGO development, which took effect in March 2020, explicitly aims to create a favourable environment for NGOs and ensure appropriate conditions for their activities. It establishes the first dedicated state-NGO financing mechanism, which may award funds to strengthen NGO institutional capacity, as well as their activities. In Slovenia, the NGO Act adopted in 2018 stipulates that the responsible ministry for the operation of NGOs shall ensure a supportive environment for the development of the sector through: policies and regulations; co-ordination between state actors; measures for state-NGO co-operation; collection and processing of data on state funding; and financing of projects and programmes of horizontal networks as entities of a supportive environment for NGOs.

The above-mentioned strategies often focus on developing strong and independent CSOs that work in partnership with the government but can also outline concrete ways to enable CSOs as independent actors in their own right, including to influence policy making directly via campaigning and lobbying in the public interest. Canada provides an example of a positive outcome of involving both citizens and CSOs in policy

making (Box 5.3). Finland’s strategy calls for legislation to create the conditions for CSOs to have more influence on decision making, without disproportionate weight given to some stakeholders’ inputs over others (Government of Finland, 2017^[74]). In addition, the United Kingdom’s strategy references lobbying activities, noting that while government grant standards “prevent taxpayers’ money being spent on political campaigning or lobbying”, being a recipient should not entirely exclude CSOs from having their voices heard on policies and services that relate to their work (UK Government, 2018^[76]).

Box 5.3. Good practice from Canada: Better outcomes by enhancing co-ordination and consultation with civil society actors on security law

Public engagement that led to the 2017 National Security Act

In 2015, the Canadian Anti-Terrorism Act made extensive changes to counter-terrorism, national security and privacy law. Following these changes, many Canadians expressed concerns about potential infringements on their personal rights under Canada’s Charter of Rights and Freedoms, given the enhanced powers granted to some national security and intelligence agencies and the lack of a centralised review body to oversee their work. In 2016, the public reaction to the Anti-Terrorism Act led the Government of Canada to conduct extensive public consultations (with close to 59 000 responses) with national security stakeholders, academics, experts, the public and parliamentarians on a range of national security issues, including accountability and information sharing, as well as a review of national security institutions. The consultations revealed that Canadians wanted increased accountability and oversight of institutions with national security responsibilities, as well as increased transparency on national security matters. The following year, the Government of Canada put forward key measures including legislative changes, new oversight and review bodies, and the National Security Transparency Commitment, which has six principles that all national security actors have to implement.

Change of terminology

Canada also changed the use of certain terminology related to terrorism, notably in public threat reports and communications, after listening to concerns from various groups and communities. Partially based on public feedback, the government changed how it refers to violent extremism in general, characterising it based on ideologically, politically or religiously motivated violent extremism as opposed to a specific group or religion (e.g. avoiding terms such as “Sikh extremism”, “Sunni extremism”).

Source: (Canada National Security Act, 2019^[92]); (Government of Canada, 2017^[93]); (Public Safety Canada, 2022^[94]).

The sustainability of any democratic society relies, among other things, on the commitment and engagement of its young people. Recognising the importance of supporting the development of active youth citizenship and of providing young people with access to public authorities, a number of countries have updated their legal frameworks to ensure an environment that allows for a strong and independent civil society representing youth (Box 5.5).

Box 5.4. Youth laws

Laws in the youth¹ policy field can help promote and protect an enabling environment for youth organisations. Fifteen OECD Members have a national youth law in place; Bulgaria, Brazil, Peru, Romania and Ukraine have also adopted one. A youth law or youth act is the most general and comprehensive legislative framework in the area of youth policy. It defines the target group and identifies the roles and responsibilities of key stakeholders.

National youth laws commonly outline the main fields of action for state institutions as well as for NGOs working with and for young people and they often include considerations of how state institutions and NGOs shall co-operate in the youth field, including financial and budgetary considerations. For instance, youth laws in Estonia, Finland and Iceland guarantee stable sources of funding to national youth organisations that fit a set of criteria. In some OECD Members, such as Finland, Luxembourg and Slovenia youth laws also feature provisions on the status and functions of the National Youth Council, including membership conditions and responsibilities.

1. Mindful of the de-standardisation of life trajectories and the constant evolution and re-interpretation of particular stages of life, "youth" is defined as a period towards adulthood which is characterised by various transitions in one person's life (e.g. from education to higher education and employment; from the parental home to renting an own apartment, etc.). Where possible, for statistical consistency, the UN classification of "youth" as individuals aged 15-24 is adopted.

Source: OECD (2020_[95]), *Governance for Youth, Trust and Intergenerational Justice: Fit for All Generations?*, OECD Public Governance Reviews, OECD Publishing, Paris, <https://doi.org/10.1787/c3e5cb8a-en>.

Encouraging sustained engagement with youth and CSOs focused on youth affairs is important to ensure that public officials hear the perspective of this increasingly active social demographic (Box 5.5).

Box 5.5. Supporting civic space for young people

An enabling environment for youth organisations plays a central role in their ability to engage and co-operate effectively with public institutions. However, 45% of entities in charge of youth affairs in 33 OECD Members point to insufficient financial and human resources among youth organisations as a key obstacle in co-operating with them (OECD, 2020_[95]). Available data show that 81% of these government entities provide funding to youth organisations directly, through local authorities or through national youth councils (OECD, 2020_[95]); 48% of entities in charge of youth affairs in OECD Members also provide educational and technical assistance to build up the administrative capacities of youth organisations and 58% of surveyed ministries of education in OECD Members do so in support of school and student councils (OECD, 2020_[95]).

According to the OECD report *Governance for Youth, Trust and Intergenerational Justice: Fit for All Generations?* (2020_[95]), only 26% of youth organisations reported that they were satisfied with the governments' performance in relation to youth participation in public life. Similarly, according to a recent OECD analysis, a large majority of youth organisations in OECD Members express concerns about the lack of opportunities for young people to shape response and recovery measures to the COVID-19 crisis (2022_[96]). Yet meaningful participation can deliver better policy outcomes: where youth organisations have been involved in the policy cycle to a greater extent, they report higher satisfaction with government's performance across public service areas (OECD, 2020_[95]). However, even among government entities in charge of youth affairs, youth stakeholders' participation in the policy cycle remains limited: while 93% of entities in charge of youth affairs informed and consulted young people in 2019-20, only 50% engaged them throughout the policy cycle, providing them with the opportunity

and necessary resources to collaborate during all phases of the policy and service cycles from design to delivery, monitoring and evaluation (OECD, 2020^[95]). Similarly, findings from an OECD assessment of national response and recovery plans from the COVID-19 crisis show that less than a third of all OECD Members (10) explicitly mention having consulted young people or youth organisations in the elaboration of their recovery plans (OECD, 2022^[96]).

Governments can also engage young people through public consultations, by adopting innovative deliberative processes targeting young people, by affiliating advisory youth councils to government or specific ministries (as occurs in 53% of OECD Members) or through youth councils at the national (in 78% of OECD Members) and subnational (in 88% of OECD Members) levels (OECD, 2020^[95]). For instance, Estonia included its National Youth Council as a key partner in the consultation that led up to the creation of its response and recovery plan (Government of Estonia, 2021^[97]). To ensure effective engagement, however, all youth representative bodies and organisations should be equipped with appropriate resources, clear mandates and inclusive membership and should be able to maintain their independence from the executive.

Dedicated bodies to protect the rights of young people are also critical. While competencies and powers vary widely across countries, 19 OECD Members have created a specific ombudsperson for young people or children at the regional or national/federal level to protect civic space for children and young people, promote their rights and hold governments accountable. Moreover, 11 more OECD Members have created an office dedicated to children or youth within the national ombudsperson office or included youth affairs as part of its mandate (OECD, 2018^[98]). Taking this one step further, at least nine OECD Members and Malta have also established public institutions to monitor the implementation of government commitments to the rights of future generations (OECD, 2020^[95]). While no binding international instrument exists to grant future generations enforceable rights, at least nine OECD Members have enshrined the rights of future generations in their constitution, through clauses related to general, ecological or financial matters.

Source: (OECD, 2020^[95]); (OECD, 2022^[96]); (Government of Estonia, 2021^[97]); (OECD, 2018^[98])

Ensuring adequate funding for the implementation of strategies to improve or promote an enabling environment for CSOs

Adequate funding for the implementation of such strategies is an essential component of an enabling environment for civil society. Strategies sometimes include references to a dedicated implementation budget, although this remains uncommon. For example, **Poland** dedicates a total budget of approximately EUR 128 million (PLN 585 million) to its Program for the Development of Civic Organisations for 2018-2030 alongside a detailed financial plan (Government of Poland, 2018^[99]). **Estonia's** Strong Civil Society Programme 2021-2024 (Government of Estonia, 2020^[100]) also dedicates a budget for each year of implementation with a total figure of over EUR 12 million. The levels of specificity vary. For example, **Denmark** does not provide a total budget in its strategy but specific funds have been earmarked for 12 initiatives based on 3 core objectives in the document, amounting to approximately EUR 15 million (DKK 112.6 million) (Government of Denmark, 2017^[79]). Likewise, **Latvia's** strategy provides a detailed budget based on activities (Government of Latvia, 2018^[80]). **Slovenia** does not offer a comprehensive budget overview but does provide information on funding allocated to certain activities and projects (Government of Slovenia, 2018^[70]). While it is useful for budgetary information to be clearly communicated in one relevant policy document, it is important to ensure that funding is consistent, adequate and transparent, whether it is dedicated to the strategy or is part of the national budget, including in the criteria used for its allocation.

Evaluating the impact of state support for the CSO sector

Good public decision making is based on a foundation of sound evidence gained through monitoring and evaluating public policies in a consistent manner. In relation to CSOs, this can include evaluations of the existing legal, policy and institutional frameworks and considering whether they are still fit for purpose or could be updated, alongside assessments of the efficacy and impact of financial support and funding for CSOs. Evaluations can promote learning and enhance the efficiency and effectiveness of future policies while informing their planning and implementation (OECD, 2021^[101]). Furthermore, a systematic way of evaluating and assessing the funding of civic activities can contribute to ensuring it is allocated in the most optimal ways.

Evaluations of support to CSOs are uncommon both within OECD and non-Members, although several respondents provide examples of good practice in this area. For example, **Estonia** recently released an assessment of its Civil Society Development Plan 2015–2020 (hereafter the “KODAR”) (Government of Estonia, 2015^[102]). The KODAR impact assessment study was commissioned by the Strategy Office of the State Chancellery in 2018-19 with the specific goal of evaluating the results and outcomes of the plan (Government of Estonia, 2019^[103]). The plan aimed to analyse the trends in civil society and understand the effectiveness of the measures taken to promote CSOs at the national level. Others, for example, the **Czech Republic** and **Finland**, do not commission external evaluations for whole-of-government financial support to CSOs but do through some ministries, such as the Ministry of Foreign Affairs, in relation to development co-operation (Government of Czech Republic, 2021^[104]; Government of Finland, 2021^[105]). **Ukraine**’s Agency for Legislative Initiatives also undertook a monitoring study on the implementation of the National Strategy for Civil Society Development in Ukraine (2016-2020) (CSO Meter, 2019^[106]). This EU-funded initiative aimed to assess the achievements of the strategy and the results of implementation by the relevant public bodies and authorities. The monitoring group also conducted interviews with key stakeholders, experts and public officials involved in implementing the strategy to measure its merit and outcomes (CSO Meter, 2019^[106]).

5.3.2. Good practice in supporting CSOs in the context of COVID-19

The crucial role of CSOs in understanding the needs of their local communities, collaborating with governments to provide services, and reaching and supporting the most vulnerable groups in society became particularly evident in the COVID-19 response. However, many CSOs working across diverse policy areas were already facing decreasing levels of financial resources and fewer funding opportunities before the pandemic, a challenge that was exacerbated during the crisis. In 2021, the European Economic and Social Committee (EESC) sounded the alarm in Europe by noting that “the current and future ability of CSOs to respond to needs is threatened by often scarce and fluctuating resources” (EESC, 2021^[107]). As part of the COVID-19 response and recovery, the OECD has recommended providing financial support to the social economy or CSOs that help at-risk populations and mobilise networks of volunteers (OECD, 2020^[108]).

Several respondents have set up innovative support programmes and initiatives for CSOs during the pandemic. Special state subsidies were introduced in several countries, including **Austria**, **Canada**, **Germany**, **Ireland**, **Italy**, **Lithuania** and **Sweden**. In **Austria**, a 2020 law established a support fund, with CSOs reporting that they were engaged and consulted throughout the process (Government of Austria, 2020^[109]). In **Canada**, special COVID-19 calls supported the efforts of ten CSOs supporting citizens to think critically about the health information they found online, to identify mis- and disinformation, and limit the impact of racist and/or misleading social media posts relating to the COVID-19 pandemic (Government of Canada, 2021^[110]). In **Germany**, while there was no overall national pandemic-related CSO support, initiatives were undertaken in certain regions. In addition, government subsidies remained consistent (Maecenata Foundation, 2021^[111]). **Ireland** launched a COVID-19 Stability Fund to assist community and voluntary organisations in delivering critical frontline services for disadvantaged groups (O’Hare, 2021^[112]).

In **Italy**, CSOs were able to benefit from dedicated funds, the temporary suspension of tax payments and a newly introduced regulatory framework fostered co-operation between CSOs and public administrations in providing social and health services (Capesciotti, 2021^[113]). In **Lithuania**, subsidies enabled service providers to cover costs for necessary supplies and NGOs that were forced to stop activities were permitted to pay employees allowances (Olendraitė, 2021^[114]). In **Sweden**, CSOs working with women, children, the homeless, undocumented and LGBTI persons, as well as activities preventing loneliness and isolation among elderly persons during the pandemic, received additional government funding (Abiri, 2021^[115]). Many countries also ramped up their support for CSOs working in development co-operation during the pandemic, such as **Denmark** and the **United Kingdom** (U4, 2020^[116]) (Section 5.5). Further, a number of countries swiftly adjusted how they work with CSOs, by, for instance, enabling CSO partners to pivot their programming to COVID-19 crisis response, streamlining various administrative processes such as reporting frequency or reducing co-funding requirements (OECD, 2021^[117]).

5.4. Access to funding as a lifeline for CSOs

A favourable financial environment for CSOs is yet another key pillar of an enabling environment for civil society and civic participation. International guidance has made access to funding resources a key component of the right to freedom of association. International and regional human rights bodies agree that CSOs should be free to solicit and receive funding, including state funding and other forms of public support, such as exemption from income tax or other taxes and that any form of public support should be governed by clear and objective criteria (UN, 2013^[23]; Kiai, 2012^[8]; IACHR, 2011^[118]; CoE, 2007^[9]). Additionally, CSOs should be free to receive different forms of assistance from non-public sources, as well as from foreign and multilateral agencies.

5.4.1. Main funding opportunities

There are many ways countries can create a supportive environment for CSOs that facilitates, rather than hampers, their ability to access funding in a predictable, sustainable, transparent and fair manner.

Government funding

Government funding for CSOs is typically provided via the national budget or in a few respondents via other dedicated funding streams such as lotteries or specific taxes. In several OECD Members, for example, lottery funds are used to fund the non-profit sector, including in **Belgium**, **Germany** and **Ireland**. In **Estonia**, gambling taxes are used to finance non-profit associations and foundations to implement projects related to social progress for example.⁹ In **Finland**, more than EUR 1 billion is provided per year to civil society from the Veikkaus gaming system.¹⁰

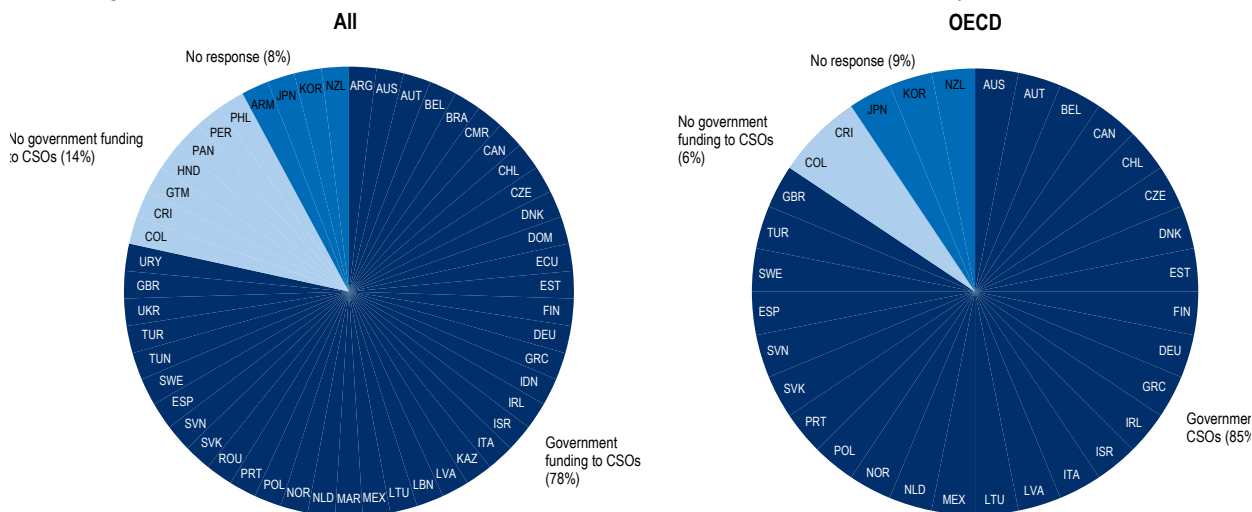
Existing legal provisions can risk restricting the enabling environment for CSOs by impacting their ability to receive financial support and, therefore, to function. In **Cameroon**, for example, associations must have operated for three years before being able to receive national or foreign funds (Government of Cameroon, 1999^[119]). In **Mexico**, the Mexico City Criminal Code was amended in June 2021, now stating that directors or managers of CSOs that receive public financial support are “public servants” and may be sanctioned for “crimes against good public administration”. In **Lithuania**, the Constitutional Court ruled that existing laws that set aside a particular percentage of the state budget for programmes or funds violate the constitutional rights of the government to form a state budget independently; CSOs have raised concerns that this ruling risks depriving CSOs of long-term funding (Olendraitė, 2021^[114]; Constitutional Court Lithuania, 2020^[120]).

Figure 5.17 illustrates that 78% of all respondents and 84% of OECD respondents provided some type of central/federal state funding to CSOs in 2019. Figure 5.18 shows that whereas 100% of central/federal

governments in respondent European countries provided funding to CSOs or associations in 2019, this figure was 54% in LAC countries.

Figure 5.17. Respondents that provided government funding to CSOs in 2019

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



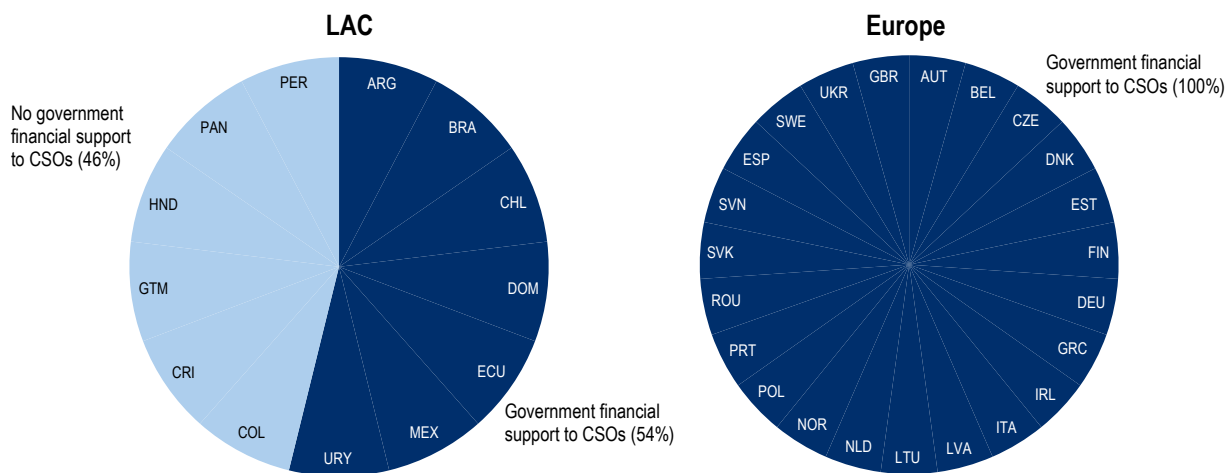
Note: "All" refers to 51 respondents (32 OECD Members and 19 non-Members). Data on Ireland are based on OECD desk research and were sent to it for validation.

Source: 2020 OECD Survey on Open Government.

StatLink <https://stat.link/8nai5v>

Figure 5.18. European and LAC respondents that provided government funding to CSOs in 2019

Percentage of European and LAC respondents that provided data in the OECD Survey on Open Government



Note: "Europe" refers to 23 respondents and "LAC" refers to 13 respondents. Data on Ireland are based on OECD desk research and were sent to it for validation.

Source: 2020 OECD Survey on Open Government.

StatLink <https://stat.link/758z2h>

Core funding and unconditional core funding

Government funding is typically disbursed for thematic projects and programmes. In some respondents, there are examples of so-called “core funding”, which is a funding modality that is directed at supporting CSOs’ organisational expenses that cannot be allocated to specific projects, including administrative costs, infrastructure costs, institutional capacity building, board meetings, audit expenses and other recurring costs. Core funding is important for organisations’ successful operations and for increasing the capacity of the CSO sector (OSCE/ODIHR/Venice Commission, 2015^[10]). For instance, in **Finland**, the Ministry of Education and Culture provides subsidies to CSOs (Government of Finland, n.d.^[121]) that cover costs related to their operations and the construction of educational and cultural sites. **Sweden** provides investment grants and business development grants to CSOs and companies that establish public meeting rooms with the precondition that “in their activities, they respect the ideas of democracy, including the principles of gender equality and prohibition of discrimination” (Government of Sweden, 2016^[122]). In **Spain**, organisations engaged in promoting equality, social inclusion and the fight against poverty can be awarded grants that can cover a wide range of running costs and capacity-building activities (Government of Spain, 2019^[123]). In **Tunisia**, legal provisions allow for the awarding of core funding to CSOs working in the public interest, even though very small amounts have been disbursed since the law entered into force in 2013 (Government of Tunisia, 2013^[124]). The Fund for Strengthening Public Interest Organisation in **Chile** supports CSOs with grants to strengthen their organisational capacities, autonomy and networking. These grants can fund training, workshops, communication initiatives and networking across organisations, as well as ceremonial practices and the maintenance of ancestral sites (Government of Chile, n.d.^[125]). The Ministry of Education in **Estonia** also provides funding to strategic partner organisations for a three-year period. This funding includes an operating grant aimed at building the organisation’s capacity to participate in policy-making processes (Government of Estonia, 2022^[126]).

Unconditional core funding is another funding modality, defined for the purposes of this report as funding that “may be used for any purpose the recipient sees fit”. CSOs can use unconditional funding to fulfil their stated goals beyond the outputs related to implementing specific projects. For instance, long-term and predictable unconditional funding can cover the costs of the CSO’s programmes and support a wide range of crucial organisational activities (e.g. related to information technology, staff training, fundraising), thus building the professional capacities of CSOs over time. The only two respondents where such funding could be confirmed through concrete examples were **Denmark** and **Sweden**. The Swedish Agency for Youth and Civil Society provides non-specified organisational funding for organisations that support young people’s non-profit involvement, strengthen initiatives related to culture, language, identity and participation in society and strengthen the position of LGBTI people in society. All organisations receiving the grant must be democratically structured, follow the ideas of democracy and be membership-based (MUCF, 2021^[127]). In Denmark, the National Board of Health and Welfare provides operating grants to a wide range of CSOs for a period of up to 4 years at a time (National Board of Health and Welfare, 2022^[128]).

The provision of core funding is also pertinent to CSOs working in development co-operation. Core support is the funding model most conducive to enabling CSOs to respond to the priorities, needs and approaches of their partners in developing countries. It helps to ensure local ownership and accountability to developing country-level CSOs’ beneficiaries and constituents, while strengthening civil society and civic space in those countries. Though core funding makes up only 15% of the OECD Development Assistance Committee (DAC)¹¹ providers’ flows for CSOs, this share has seen an incremental increase since 2010 and is expected to rise further in line with measures called for in the DAC Recommendation on Enabling Civil Society (OECD, 2020^[129]; 2022^[130]).

Data gathering on government funding for CSOs

Collecting consolidated data on the modalities and length of government funding for CSOs has proven challenging in the framework of the OECD Survey on Open Government. Comprehensive data on

government funding, including on different funding modalities (e.g. core, short-, medium-, or long-term), are in part lacking because public resources for CSOs come from a wide range of sources, involving various ministries, budget sources and both local and regional governments. The absence of an overview in many countries, including those giving generously towards the CSO sector, makes it difficult to strengthen systems and monitor funding trends. By enhancing data collection on government funding provided to the CSO sector, including funding coming from different ministries and state institutions, disaggregated by CSO recipient, funding modalities, type of support and area of focus, governments can develop a more strategic approach to supporting civil society. The OECD DAC and some non-DAC members do report annually on official development assistance flow for CSOs in development co-operation and humanitarian assistance, as seen in Section 5.5. This DAC practice of members and some non-members providing consolidated reporting on flows from various agencies and ministries may provide lessons for comprehensive and regular data gathering on domestic flows for CSOs in OECD Members.

Mechanisms to disburse government funding

Most respondents do not have a centralised authority in charge of distributing government funding for CSOs. Thus, eligible costs, selection criteria and procedures are often specific to each public entity or ministry offering the funding, for example, in **Estonia, Finland, Romania, Spain** and **Sweden**. In **Sweden**, grants to civil society are distributed by about 40 different authorities (SIDA, n.d.^[131]). The potential advantages of decentralising government grants to CSOs can include better targeting of priority issues and beneficiaries as selection procedures, and eligible costs are specific to each ministry or public institution offering funding.

In contrast, some respondents, including **Chile, Lithuania, Poland, Slovenia** and **Türkiye**, have adopted a centralised approach to supporting CSOs and provide funding for the benefit of the CSO sector as a whole. For instance, new legislation introduced in **Lithuania** in December 2019 established the country's first dedicated NGO-financing mechanism, thereby replacing the traditional approach of ministries channelling government funds to NGOs through thematic programmes. Similarly, **Slovenia** has set up a centralised public fund for the development of CSOs managed by the Ministry of Public Administration. By linking government funding for CSOs to a strategic reporting mechanism or an overarching strategy for civic activities, governments can improve transparency and increase coherence in their approach to civil society and avoid duplication across ministries. Furthermore, by reporting against objectives beyond the number of beneficiaries and quantities, such as more complex impact assessments, governments can conduct evaluations of their overall funding model and achievements and avoid piecemeal funding based on individual CSO performance.

Ensuring predictability, autonomy and access to information on government funding

The predictability of government funding is also essential to allow the CSO sector to function effectively, develop its capacities and play its crucial role in society. However, financial or other crises, such as the COVID-19 pandemic, can have a negative impact on available resources. Six respondents (four of which are OECD Members) reported restricting or cancelling CSO funding in the three years preceding the Survey, for example.

Providing accessible information on funding opportunities and procedures is essential to promote transparency and fairness and can be undertaken via information campaigns and portals. Some respondents actively facilitate access to information on funding, such as the **Dominican Republic**¹² and **Kazakhstan**,¹³ which have created one-stop-shops where organisations can inform themselves and upload the documents required when applying for state funding. In 2018, **Morocco** launched a portal bringing together information on government funding opportunities offered by various institutions, ministries and public establishments. Moreover, by ensuring that the requirements for the submission of applications for government support are transparent and proportional to the value of the funding and by taking into

account the size of CSOs seeking funding – smaller CSOs can struggle with heavy bureaucratic requirements – governments can help to strengthen the enabling environment.

Given the importance of public support for many civil society actors, the European Center for Not-for-Profit Law (ECNL) has developed a list of standards and good practices for government funding channelled to CSOs (Skoric, 2020^[132]) to guide the regulation, distribution and monitoring of state funds for this purpose (Box 5.6).

Box 5.6. Good practices for public funding of CSOs: Contribution from ECNL

ECNL finds that many governments have used the following eight principles to set specific standards for their public funding and many others have incorporated them into related policies and strategies to guide public officials. The principles are:

- **Independence:** Access to public funding is an opportunity, not a right. As such, it is essential to guarantee the independence and autonomy of associations from the government.
- **Transparency:** Clear application procedures and evaluation criteria must be in place to ensure openness and clarity throughout the process of granting public funds. For example, this may include requirements to publish calls for applications, communication of objective selection criteria and feedback to unsuccessful applicants.
- **Equal treatment:** Objective and pre-established criteria must govern the process of accessing the merit of applications for calls for tender.
- **Free and fair competition:** Adequate information about funding opportunities should be widely published and accessible to the largest number of associations.
- **Accountability:** The principle of accountability applies both to the recipient associations, which must be accountable for the use of the funds allocated for the implementation of their activities, and to the government, which must be accountable to citizens and taxpayers for the funding granted.
- **Impartiality:** Conflicts of interest should be minimised, for example, through a commitment to impartiality on the part of all stakeholders or through the establishment of clear procedures to prevent biased judgements.
- **Proportionality:** The monitoring and oversight processes for associations should be proportional to the amount of public funding allocated to CSOs.
- **Exclusion of overlapping:** In order to limit the risks of the same project being financed several times, a co-ordinating body could be set up between the different institutions granting public funds.

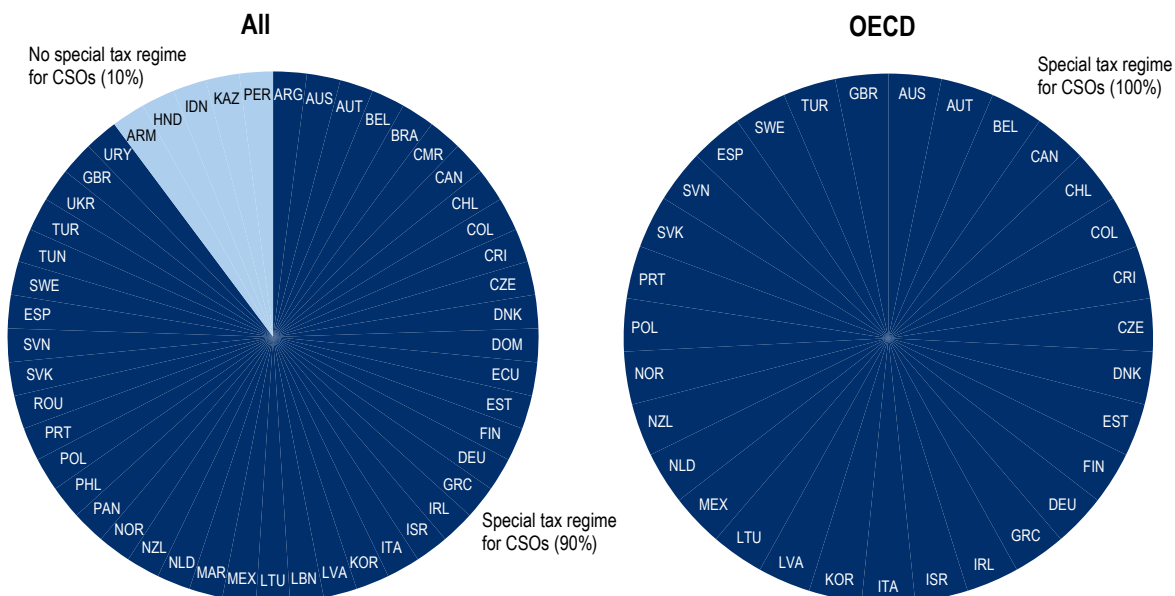
Source: Skoric, V. (2020^[132]), *Standards and Good Practices for Public Funding of Civil Society Organisations*, https://ecnl.org/sites/default/files/2020-09/TUSEV%20Public%20Funding%20Report_Final.pdf.

Specific tax regimes for CSOs

Another way for governments to support CSOs is by offering them tax exemptions. In addition to being a good practice, specific tax regimes provide an opportunity to encourage and reward activities that contribute to the public interest. Figure 5.19 shows that 90% of all respondents, including all OECD respondents, have provisions for tax exemptions in place. While the exemptions differ significantly regarding the types of organisations that qualify, the taxes concerned and the extent of the tax reduction, states typically give CSOs a full or partial exemption from corporate income taxes, value-added tax (VAT) preferences and/or tax reductions on donations to CSOs by private individuals or legal persons. Figure 5.20 illustrates that all respondents in Europe have such provisions in place while 83% of countries in the LAC respondents do.

Figure 5.19. Respondents with specific tax regimes to support CSO financial sustainability, 2020

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



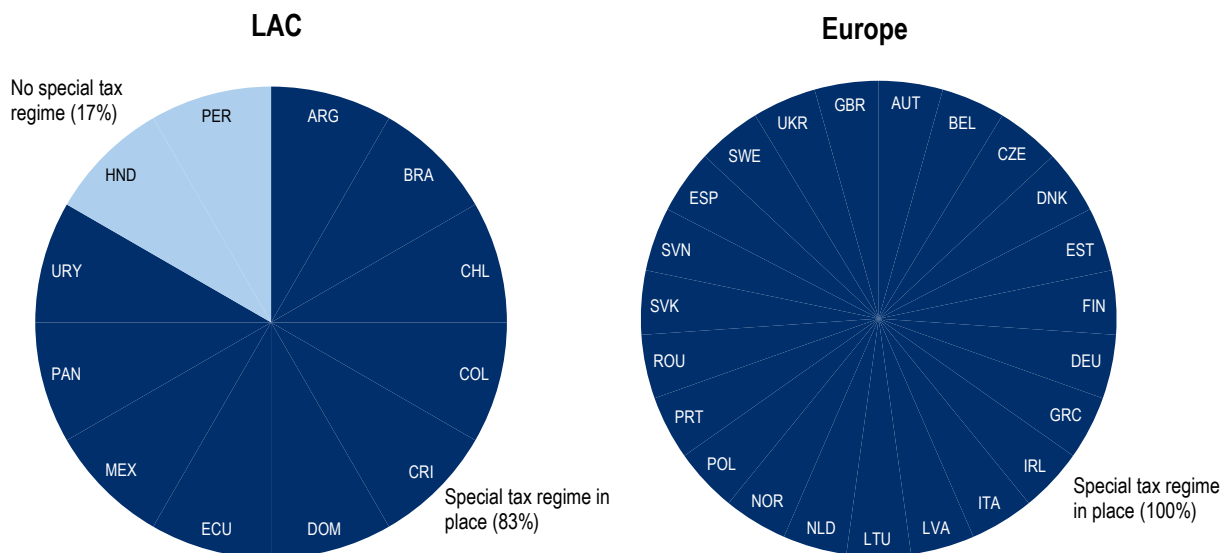
Note: "All" refers to 49 respondents (31 OECD Members and 18 non-Members). Data on Ireland are based on OECD desk research and were shared with it for validation.

Source: 2020 OECD Survey on Open Government.

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Figure 5.20. Respondents in Europe and LAC with specific tax regimes to support CSO financial sustainability, 2020

Percentage of European and LAC respondents that provided data in the OECD Survey on Open Government



Note: "Europe" refers to 23 respondents, and "LAC" refers to 12 respondents. Data on Ireland are based on OECD desk research and were shared with it for validation.

Source: 2020 OECD Survey on Open Government.

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Many respondents make a distinction between CSOs in general and public benefit organisations or charities in particular, offering a general tax exemption to all CSOs registered or operating in the country and further tax exemptions and/or other benefits to CSOs that qualify for public benefit or charitable status. Moreover, the definition of public benefit varies substantially between countries, as does the level of detail in the criteria, but it usually relates to the common good. Some of the more frequent types of activities that are considered to be for the public benefit include those related to poverty relief, public welfare, humanitarian work, education, scientific research, arts and culture, healthcare, environmental protection/wildlife conservation, religion, youth and the elderly and sports, hobbies and leisure. **Germany** has a comparatively detailed definition listing 25 thematic areas, while other countries provide less detailed criteria for public benefit status, such as **Denmark** and **Poland**. In **Türkiye**, the definition is very open, providing only that public benefit associations must pursue activities that provide socially beneficial outcomes and that they operate for at least one year.

The choice of regulatory authority for public benefit status is often a trade-off between administrative convenience, level of specialisation and procedural safeguards to ensure that the process of granting public benefit status is not politicised (ICNL, 2005^[133]). It is often the national tax agency that is responsible for granting this status, as is the case in **Argentina**, **Canada**, the **Czech Republic**, **Denmark**, **Finland**, **Germany**, **Norway** and **Sweden**. In **Poland**, the State Court Register assigns public benefit status and, in **Brazil**, **Indonesia**, **Kazakhstan**, **Romania** and **Slovenia**, it is a government ministry. In **Australia** and **Japan**, it is an independent specialised body. Other authorities range from the Securities and Exchange Commission in the **Philippines** to the president in **Türkiye**. In **Argentina**, **Guatemala**, **Ireland** and **Mexico**, CSOs have to register with a tax agency and another authority to establish their public benefit status. The regulatory authorities are usually also responsible for verifying that public benefit organisations (PBOs) meet additional requirements concerning financial accounting, administrative structures and disclosure requirements, as well as restrictions related to political activities, where applicable (Section 5.2.2).

Recent legal developments in tax relief in OECD Members have, in most cases, improved the enabling environment for CSOs. In 2019, **Latvia** increased the tax relief for donations to public benefit organisations from 75% to 85% of the amount donated, valid for 3 years, with the aim of creating a more favourable framework for CSO fundraising for example. **Latvia** also introduced further options for tax benefits for individuals that allow taxpayers to directly donate a portion of their tax returns to public interest organisations. In a few countries, such as **Belgium** and **Slovenia**, legal frameworks include a single definition of associations/not-for-profit co-operatives that enables all CSOs to benefit from tax exemptions. **Germany** has expanded the types of activities justifying charitable status for CSOs by adding climate and protection against discrimination based on a person's gender identity and orientation as a legitimate purpose for CSOs to be granted charitable status (Allianz Rechtssicherheit für Politische Willensbildung, 2020^[134]). **Germany** also reduced taxes on services performed by public benefit organisations.

Funding from foreign and international donors

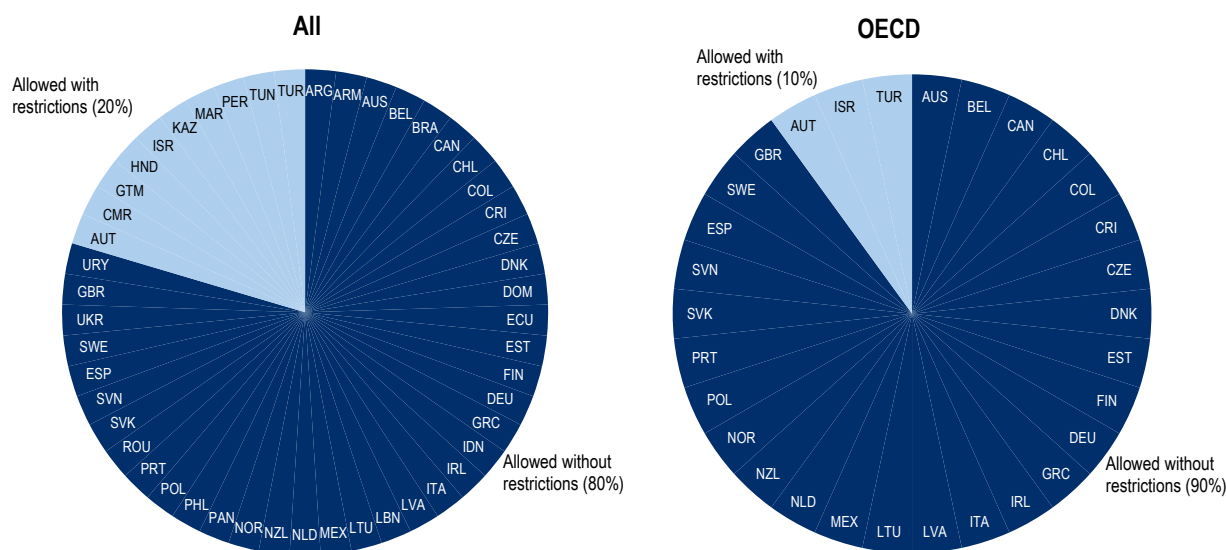
In countries where government funding is limited or unavailable and where there is a lack of private donations, foreign or international funding can be a valuable lifeline for CSOs. Governments can thus contribute to an enabling environment for CSOs by incentivising foreign and international donors to support the sector. They can also protect and defend the provision of foreign and international funding for CSOs in developing countries while sharing good practices for risk-based and proportionate regulation of such funding.

Figure 5.21 illustrates that laws governing freedom of association or other laws directly covering associations restrict foreign funding for CSOs in 20% of all respondents and 10% of OECD respondents.¹⁴ The limitations provided for in relevant association laws apply in different forms and include preconditions or the need for state authorisation to receiving foreign funding, in addition to administrative requirements,

and intensified monitoring and oversight. Reporting requirements can include disclosing the frequency and content of financial statements or information about donors and persons affiliated with the CSO and can be accompanied by sanctions for non-compliance. In **Guatemala, Morocco, Tunisia** and **Türkiye**, for example, CSOs are required to declare the origin, amount and purpose of foreign funds to the government within one month of receiving the funds, including donations from CSO headquarters (ICNL, 2021^[135]). In **Israel**, CSOs are required to submit financial reports four times a year on support received from foreign government sources. CSOs that receive more than half of their funding from foreign governments must disclose this fact publicly and in communications with elected officials (Freedom House, 2021^[136]). In **Cameroon**, funding from international organisations is subject to the authorisation of the minister in charge of territorial administration for donations. In **Kazakhstan**, a 2016 law introduced requirements for CSOs to report on the receipt and expenditure of foreign funds or assets and to label all publications produced with support from foreign funds as such, as well as administrative penalties for non-compliance (ICNL, 2021^[137]). In **Austria**, Muslim religious organisations are prohibited from receiving foreign funding.

Figure 5.21. Rules in laws governing associations on receiving funding from abroad

Percentage of OECD Members and non-Members that provided data in the OECD Survey on Open Government



Note: "All" refers to 49 respondents (30 OECD Members and 19 non-Members). Data on Argentina, Australia, Austria, Belgium, Canada, Chile, Ecuador, Germany, Greece, Guatemala, Ireland, Kazakhstan, the Netherlands, New Zealand, Norway, Panama, Peru, Romania, Sweden, Türkiye, Ukraine and the United Kingdom are based on OECD desk research and were shared with them for validation.

Source: 2020 OECD Survey on Open Government.

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Generally, the right to freedom of association implies that associations should have access to sufficient resources, including foreign aid (OSCE/ODIHR/Venice Commission, 2015^[10]; IACHR, 2011^[118]). The UN Special Rapporteur on the rights to freedom of peaceful assembly and association has voiced concerns, including regarding obligations for associations to route funding through state channels and the need to obtain authorisation from state authorities to receive or use foreign funds (UN, 2013^[23]). By avoiding arbitrary restrictions in national legislation, countries can create a more enabling environment for CSOs, which can in turn help build trust with positive outcomes for governments and CSOs alike.

In their *Joint Guidelines on Freedom of Association*, the OSCE/ODIHR and the Venice Commission additionally considered the following practices among the most concerning: outright prohibitions on access

to foreign funding; undue delays in receiving approval for implementation of foreign-funded projects; restricting foreign-funded associations from engaging in human rights, advocacy and other activities; stigmatising or delegitimising the work of foreign-funded associations by requiring them to be labelled in a pejorative manner; initiating audit or inspection campaigns to harass associations; and imposing criminal penalties for the failure to comply with funding constraints (OSCE/ODIHR/Venice Commission, 2015_[10]). The UN Special Rapporteur has also emphasised that minor violations of the law, such as a failure to comply with reporting obligations, should not lead to closures of CSOs or prosecutions (Kiai, 2013_[138]).

In 2022, the European Court of Human Rights criticised actions such as singling out CSOs receiving foreign funding and subjecting them to excessive and burdensome auditing and reporting requirements in addition to unforeseeable and severe sanctions for non-compliance, stressing that such measures were not necessary or proportionate to the declared aims, and threatened to undermine CSO capacity to engage in core activities (ECtHR, 2022_[139]).

While protecting CSOs from undue reporting obligations is critical, transparency and integrity measures are necessary to mitigate the risk of misuse of public funds. Regulations to address these issues should be risk-based and proportionate so as not to disrupt legitimate CSO activities or civil participation and advocacy. The *OECD Recommendation of the Council on Public Integrity* (2017_[140]) and accompanying *Public Integrity Handbook* (2020_[141]) highlight measures CSOs can implement to ensure transparency and integrity in interactions with the government.

Funding from private sources

In order to maintain CSO independence and autonomy, as well as ensure the space for creative and independent activities, it is strategic for governments to assist CSOs to avoid over-reliance on public grants by tapping into other resources, such as funding by private donors, to boost their financial sustainability. A total of 66% of all respondents reported that private funding is allowed without restrictions, it is allowed with restrictions in 23% and 11% could not specify. OECD respondents reported that private funding is allowed without restrictions in 80% of respondents, with restrictions in 5% and 15% could not specify.

Regulations on how CSOs can conduct public collections were recently updated in a number of countries. In **Belgium**, the **Czech Republic** and **Finland**, among others, measures were introduced that make fundraising easier and more innovative. In **Finland**, the Fundraising Act passed in 2019 makes it easier for associations – particularly smaller ones – to engage in small-scale fundraising (OECD, 2021_[142]).

The European Center for Not-for-Profit Law (ECNL) has outlined ways in which governments can encourage varied forms of financial support for CSOs to reduce over-reliance on any one stream of resources, including by facilitating fundraising and by incentivising philanthropic giving (Box 5.7).

Box 5.7. Contribution from the European Center for Not-for-Profit Law (ECNL)

Enabling the power of giving

Philanthropy amplifies the power of people to create a better world. It supports activism and the engagement of individuals and communities in that process.¹ Philanthropy is also key for the existence of grassroots activists, social movements and CSOs, working to foster open societies, provide services and protect individuals' rights and freedoms. Activists, movements and CSOs rely on private giving to raise awareness and bring voices of those most affected to address and solve challenges to democracies (e.g. the need to regulate emerging technologies, reframe securitised policy approaches, fight authoritarianism and solve the climate crisis). Private giving – people and corporations who want to donate their resources to such causes – therefore needs to be supported. Providing for an enabling legal environment is key for such private giving to materialise and reach its purpose.

The different ways of giving

Soliciting or raising funds from individuals, communities and private companies is also referred to as fundraising from the public. Such fundraising can take place through traditional approaches. Examples include collection boxes at shop counters, face-to-face fundraising on the street or at the door, solicitations by mail, gaming activities, bequests and legacies.

Increasingly, movements and CSOs rely on new, digital platforms (e.g. crowdfunding via the Internet, e-payment systems, email and text-based campaigns) to encourage giving and raise funding. Between 2015-19, over USD 2 billion were raised for personal and non-profit causes using the Facebook causes functionality (Gleit, 2019^[143]). The digital revolution and artificial intelligence opened further horizons for donations. Machine-learning algorithms – and automated decision making – help CSOs and movements identify and reach out to potential donors, craft targeted messages, communicate through chat bots and run campaigns across borders. More and more organisations accept donations in cryptocurrencies. The spread of crowdfunding platforms decentralised and democratised philanthropy and offered new opportunities to attract resources without expensive campaigns. The COVID-19 pandemic amplified the role of digital fundraising for groups who could not exercise them in person.

The challenges to giving

Numerous laws regulate the legal and policy environment for private giving (e.g. framework laws on CSOs, money collection, taxation, data protection, consumer protection, accounting, banking, games of chance, anti-money laundering and counter-terrorism financing, online content regulation). This legal environment must be enabling for private giving to happen. Yet, in many countries, it is undergoing a stress test due to restrictive measures adopted by governments across the globe.

The research conducted by the ECNL shows some policy and legal trends that stifle giving (2017^[144]). An example might be a group that runs a homeless shelter and wants to launch a public collection campaign to raise funds for food and equipment. In some countries, such a group would first need to obtain permission from the authorities, through lengthy and burdensome administrative processes, to raise funds through boxes in supermarkets or collect donations online. In some countries, banks require additional documentation from such groups to open sub-bank accounts to fundraise through its website, thereby delaying transactions. If the group wants to receive funding from another country, it may need to request permission from the authorities and be subjected to burdensome oversight. Lengthy administrative processes and bank delays may hinder fundraising for emerging needs, such as natural disasters where rapid response would be crucial. In some countries, laws require that all donors are identifiable. This makes using certain fundraising tools, such as collection boxes nearly impossible as one cannot identify every person who has dropped a penny in a box. Instead, the focus should be on the appropriate use of those funds. Prohibition of anonymous donations is a problem for CSOs that work in more restrictive environments or for those who support causes considered controversial in a community (e.g. LGBTI). Being able to accept anonymous or pseudonymous donations and utilise them without being hindered by a local official can make a world of difference in terms of advocacy, safety and security for activists, groups and donors (New America, n.d.^[145]). Governments often justify their request for detailed information under the anti-money laundering and counter-terrorism financing framework (Section 5.5.2). However, such measures disrupt the legitimate activities of CSOs and are neither risk-based, proportionate nor effective.

The environment for giving needs support

The challenges in this area require a collaborative effort by societies as a whole. Philanthropy needs to be recognised, enabled and encouraged. Some countries are adjusting their legislation to enable giving. For example, in **Finland**, the 2019 Fundraising Act exempts small-scale fundraising from obtaining a license, thus allowing a freer flow of support (EFA, 2019^[146]). In the **Czech Republic** and **Ukraine**, the

legislation exempts text donations to CSOs from VAT. Governments can support an enabling environment for giving in practice as well. For example, in **Belgium**, the Governments of Flanders and Brussels co-finance the operation of a civic crowdfunding platform called Growfunding (n.d.^[147]), which has so far mobilised more than 78 000 people to support over 440 local projects. In parallel, CSOs are shaping the environment for giving by adopting higher standards and self-regulating practices. Self- and co-regulatory standards help build and maintain what is most important for people when they donate to a cause: trust.

States have signed international treaties to promote the freedom of association and facilitate access to resources. Under those treaties, restrictions are the exception and only insofar as restrictions are necessary. To support the adoption of progressive frameworks in line with international standards and good country practices, a community of experts formulated the Principles for Statutory Regulation and Self-regulation of Fundraising (ECNL, 2020^[148]). These principles highlight recommendations on how to ensure data protection, privacy, cross-border fundraising and accountability, balancing the need for permissions and reporting without stifling the giving and use of funds. In addition, there is an effort to develop more guidance on the use and regulation of digital fundraising tools, an evolving area (ECNL, 2021^[149]).

Fundraising online and across borders calls for new approaches and innovation both in regulation and practices. Key measures for countries include the promotion of an enabling environment for private giving and a greater use of new technologies in fundraising. Multi-stakeholder dialogues could be facilitated to engage civil society in policy discussions that affect private giving in order to find the best solutions. It would be also important to review existing laws and practices nationally to make sure that they promote rather than restrict philanthropic giving and can embrace new trends. Finally, it would be beneficial to resource further work of civil society to identify good practices, finding innovative regulatory solutions so that they embrace new trends and explore the full potential of digital fundraising, hence enabling the power of giving.

Key measures to consider on facilitating CSO funding opportunities

- *Adopting and implementing a comprehensive funding strategy for civil society to enhance predictability, reduce funding gaps and barriers and encourage access to different funding sources, facilitated by specific tax regimes for CSOs.*
- *Ensuring that the legal framework governing funding for CSOs facilitates access to a range of funding options, both public and private, as a means of avoiding over-reliance on government funds and enhancing CSO autonomy.*
- *Implementing a balanced combination of targeted project support to respond to existing CSO activities and services on short-, medium- and long-term bases, as well as core funding to contribute to the financial sustainability and long-term development of CSOs.*
- *Enhancing the gathering of statistical data on the length and modality of public funding for CSOs.*
- *Revising legal frameworks, in consultation with CSOs, to make sure that there are no arbitrary or disproportionate legal restrictions for CSOs to access foreign funding.*

5.4.2. Key challenges in practice for CSO funding, according to CSOs and other stakeholders

Research indicates that financial sustainability, and in particular access to public funding, remains a critical challenge for CSOs around the globe, with additional difficulties since 2020 due to the COVID-19 pandemic (ENNHRI, 2021^[150]; CIVICUS, 2019^[151]; FRA, 2021^[12]). In addition, OECD survey data confirm that short-term funding is the overwhelming funding modality for the CSO sector in many respondents.

While secondary sources and evaluations of government funding for the CSO sector are scarce, existing research on CSO funding in Latin America between 2014 and 2017 (CIVICUS, 2019^[151]) and in EU Member states between 2011 and 2017 (FRA, 2017^[66]) suggests that there has been a trend to concentrate funds for CSO activities that provide social services (health, social or education) at the expense of advocacy and watchdog activities. According to CIVICUS, only 5% of the funds accessible to CSOs in Latin America supported social and political influencing activities, for example, while the overwhelming majority of resources (94.5%) was made available to fund activities focused on providing social and basic services (CIVICUS, 2019^[151]). Similarly, a 2021 FRA survey finds evidence that advocacy organisations seem to be more affected by challenges related to funding than CSOs providing services (2021^[12]). A 2020 study on how DAC members support CSOs in development co-operation shows similar findings including the preponderance of short-term, project-based funding designed to meet development objectives related to service delivery (OECD, 2020^[129]). In a March 2022 resolution, the European Parliament criticised the outsourcing by public authorities of public services to CSOs in areas such as housing, health, education and asylum, and stressed that such 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” (2022^[22]).

The CIVICUS research also found that funding opportunities for CSOs in Latin America were often simultaneously offered to multiple actors, including international CSOs, private sector actors, national state entities, as well as international and intergovernmental bodies, which, in many cases, have a greater capacity to compete for funds.

The impact of regulations to counter money laundering and terrorism on civic space

A range of sources, including the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, in addition to CSOs, have argued that national security and counter-terrorism laws have had a tangible impact on civic space over the last two decades (OECD, 2021^[152]; Ní Aoláin, 2019^[153]). In 2021, 11% of CSOs operating in EU Member states reported facing challenges related to counter-terrorism measures (FRA, 2021^[12]). While the intended aims of these laws are to ensure security, CSOs and human rights bodies have stressed that the unintended collateral effects of rules and measures to counter money laundering and terrorist financing have also affected access to funding for CSOs.¹⁵ Such collateral effects can be particularly hard-hitting when they impede development co-operation and humanitarian CSOs’ efforts to respond to contexts of crisis and fragility where both basic human needs and rights are under threat (Eckert, 2022^[154]).

In particular, internationally endorsed recommendations from the Financial Action Task Force (FATF) require states to enact a wide range of legal measures and observe due diligence obligations in order to prevent terrorist financing through the global banking system (FATF, 2012^[155]). Research indicates that the over-zealous implementation of these standards has led to significant challenges to the CSO sector, which the FATF recognises and is increasingly trying to address (OECD, 2021^[152]).

The FATF is an intergovernmental body that sets standards that aim to prevent these illegal activities and the harm they cause to society, promotes the effective implementation of legal, regulatory and operational measures for combating terrorist financing and identifies national-level vulnerabilities with the aim of protecting the international financial system from misuse. As of 2022, over 200 jurisdictions around the

world have committed to the FATF Recommendations (FATF, 2022_[156]). Among the 40 recommendations adopted by the FATF in 2012, Recommendation 8 concerns the non-profit sector and the risk of abuse for the financing of terrorism. The original version of the interpretative note associated with Recommendation 8 stated that it has been “demonstrated that terrorists and terrorist organisations exploit the NPO (non-profit organisation) sector to raise and move funds, provide logistical support, encourage terrorist recruitment, or otherwise support terrorist organisations and terrorist activities” (FATF, 2012_[157]). This assessment was repeatedly contested by CSOs, whose position was that despite a few high-profile cases, evidence of registered NPOs being used in support of terrorist activities remained extremely rare (Hayes, 2017_[158]).¹⁶ National risk assessments conducted by governments in several OECD Members, such as **Germany** and the **United Kingdom**, also concluded that the risk of NPO abuse for money laundering and financing of terrorism is low or medium-low (HM Treasury, 2020_[159]; BMI, 2020_[160]).¹⁷ Germany’s 2020 risk assessment states that “there are hardly any cases of legitimate NPOs being abused to finance terrorism” (BMI, 2020_[160]). Thus, CSOs have underlined the need to make a clear distinction between the “vulnerability” of the sector to abuses (e.g. related to limited transparency) and the actual risk it represents (Charity and Security Network, 2015_[161]).

De-risking practices as a threat to CSOs

The obligations placed by the FATF on financial institutions to comply with its standards have led many banks to increase their due diligence threshold. This is in order to avoid economic sanctions, possible withdrawal of their licenses, difficulty in obtaining loans from international institutions and criminal prosecutions if found to be in breach of the rules (Hayes, 2017_[158]).

Research has shown that CSOs have experienced delays in transactions and requests for additional information on their activities as a result, significantly affecting their capacity to operate (Hayes, 2017_[158]; WO=MEN, 2019_[162]; Gillard, Goswami and van Deventer, 2021_[163]).¹⁸ In some instances, increased due diligence and reporting requirements have led banks to develop their own risk-averse controls and a shift from “risk management” to “risk avoidance”. Consequently, according to research from CSOs, some organisations have faced freezes of transfers, suspension of bank accounts or unjustified terminations of contracts. These practices, known as “de-risking” or “de-banking”, are increasingly observed in the banking sector (HSC and ECNL, 2018_[164]). While other factors leading to de-risking exist, anti-money laundering and counter-terrorist financing regulatory compliance issues have been identified as the primary reasons for de-risking (Eckert, Guinane and Hall, 2017_[165]), with potentially severe impacts. As an example, several CSOs operating in the Middle East and North Africa (MENA) region reported receiving a letter of termination of the bank-client relationship without justification in 2021, after years of working with the same financial institution.¹⁹ Similar incidents have been documented in OECD Members, such as **Latvia**, **Mexico**, the **Netherlands**, the **United Kingdom** and the **United States** in particular, but not only for CSOs operating in countries classified as “high risk” (HSC and ECNL, 2018_[164]; WO=MEN, 2019_[162]; Charity Finance Group, 2018_[166]; Eckert, Guinane and Hall, 2017_[165]). According to a 2020 survey conducted by the Latvian Centre for Human Rights (2021_[167]), 24% of NGOs faced difficulties opening a bank account in Latvian banks. The CSOs also criticised banks for not explaining why they refused to open or demanded the closure of the bank accounts.

Furthermore, extensive due diligence requirements have pushed financial institutions, intergovernmental bodies, donors and other actors to outsource the screening procedures conducted by private companies, which produce and manage databases of “at-risk” individuals and organisations, with very limited to no transparency regarding the criteria used (Hayes, 2017_[158]). Consequently, individuals and organisations have been denied banking services without knowing the underlining cause and with very limited possibilities of redress (Charity and Security Network, 2016_[168]). In addition to limiting access to financial services, the “at risk” listing of organisations by private companies can also result in a loss of reputation, stigmatisation and a decline in donations, thus endangering their work (Roepstorff, Faltas and Hövelmann, 2020_[169]).

Countries and international organisations have taken a number of initiatives to address these issues. These include the establishment of multipartite dialogues in the **United Kingdom** and a global dialogue led by **Morocco**, the **Netherlands** and the UN Office of Counter-Terrorism (UNOCT) (Ministry of Finance of the Netherlands/HSC/World Bank, 2018^[170]; Global NPO Coalition on FATF, 2021^[171]; World Bank/ACAMS, 2017^[172]; GCTF, 2020^[173]).²⁰ Such initiatives recommend providing good practices and guidance to both CSOs and banks, harmonising due diligence procedures, adopting exemptions for humanitarian activities at the UN level, examining the possibilities of creating economic incentives for banks to provide services to smaller NPOs and ensuring a sustained dialogue between all stakeholders (Ministry of Finance of the Netherlands/HSC/World Bank, 2018^[170]).

The growth of these multi-stakeholder fora illustrates that concerns around the financial exclusion of CSOs are increasingly recognised and demonstrates the necessity for greater policy coherence to effectively combat the financing of terrorism while also safeguarding civic space and civil society (Ní Aoláin, 2019^[153]).

Emerging good practice: Civil society participation in the context of the FATF's risk-based approach

Before the adoption of the 2012 standards, the FATF did not engage with or consult civil society actors on the potential adverse effects of Recommendation 8 on their enabling environment. Consequently, CSOs joined together in the framework of the Global NPO Coalition on FATF to raise awareness and find collective solutions to mitigate its unintended consequences. This led to a revision of Recommendation 8 and its interpretative note in 2016 (ECNL, 2017^[174]). Notably, the NPO sector is no longer referred to as “particularly vulnerable” as a whole and countries are required to undertake a risk assessment process and adopt a risk-based approach to determine which NPOs present a risk of terrorist financing abuse (FATF, 2012^[157]). The FATF has advised that countries' measures should be proportionate and called for an increased engagement of governments with NPOs in risk assessment and reporting procedures (FATF, 2012^[157]). Following these new guidelines, some countries, including **Germany** and **Tunisia**,²¹ launched a consultation process with the non-profit sector to discuss threat scenarios and vulnerabilities (Evans, 2020^[175]; BMI, 2020^[160]) and to update the risk assessment of the sector. Both are examples of participatory processes that have yielded positive outcomes at the national level.

The FATF has also taken steps to clarify its standards and approach. In December 2020, the FATF Secretariat declared that requests for additional information without grounds of reasonable suspicion are not in line with the requirements set out in its standard, for example (Ní Aoláin, Voule and Lawlor, 2020^[176]; FATF, 2020^[177]). In February 2021, the FATF announced a new work stream focusing on the unintended consequences of its standards, in the areas of: de-risking; financial exclusion; undue targeting of NPOs through non-implementation of the FATF's risk-based approach; and the curtailment of human rights (FATF, 2021^[178]; Skoric and Londras, 2021^[179]). Within this framework, the project published a synopsis of the stocktake of these unintended consequences in October 2021 with the aim of informing further discussion with stakeholders on how to mitigate them (FATF, 2021^[180]). During a webinar organised by the OECD Observatory of Civic Space in July 2021, the Executive Secretary of the FATF further emphasised that the FATF is committed to promoting proportionate and measured responses to help prevent the financing of serious organised crime. Furthermore, it is in “direct contradiction of the FATF standards when measures are exploited to oppress human rights under the pretext of counter-terrorism” (OECD, 2021^[142]).

Key measures to consider on challenges to CSO funding

- Ensuring that existing laws and practices enable CSOs to seek, receive and utilise financial, material and human resources, whether domestic, foreign or international, for the pursuit of legitimate and lawful activities, as these are essential to their existence and operations, and that regulations to address security and terrorism threats are risk-based and proportionate so as not to disrupt legitimate CSO activities.

- Identifying and removing any disproportionate legal restrictions to accessing funding, in addition to reporting requirements that are unnecessarily bureaucratic and unduly obstruct the legitimate work carried out by CSOs.

- Ensuring that government funding for CSOs covers the full range of civil society activities and that an adequate balance is maintained between funding for CSO programmes focusing on public service delivery and other beneficial activities focused on advocacy, public education, research and campaigning.
- Consulting with the civil society sector in order to ensure that funding covers real needs when designing funding programmes.
- Assessing the impact of national policies related to money laundering and anti-terrorism financing policies on civil society and implementing a risk-based approach in their assessments of the sector.
- Systematically engaging in dialogue with civil society actors when designing anti-terrorism and security policies and measures, to reduce the risk of security measures having a disproportionate impact on civic space or leading to unintended consequences for CSOs.

5.5. The promotion of civic space as part of development co-operation

In countries where civic space may be in decline, donor engagement can affect “civil society’s capacity to safely contribute to protecting basic rights and social and economic indicators, as well as address humanitarian crises” (Jäntin and Moreira da Silva, 2021^[181]). A coherent and sustained policy approach to supporting civic space on national territory, as well as within partner countries, can thus be of great benefit.

The DAC explicitly recognises that engagement with and support for civil society is a development priority. The DAC *Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance* (OECD, 2021^[4]) aims to support, guide and incentivise DAC members and other development co-operation and humanitarian assistance providers, to advance policies and practices that reinforce the impact and roles of civil society as critical contributors to the 2030 Agenda for Sustainable Development, and to protect and strengthen democracy (Box 5.8).

Box 5.8. The DAC Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance

The OECD DAC is currently composed of 30 members, representing many of the largest country providers of aid (2018^[182]). DAC’s mandate is “to promote development co-operation and other relevant policies so as to contribute to the implementation of the 2030 Agenda for Sustainable Development” with a focus on eradicating poverty, improving the standard of living and ensuring inclusive economic growth (OECD, 2018^[182]). In this regard, DAC monitors and analyses official development assistance alongside other private flows of aid, provides guidance and shares good practices to support its members in enhancing the effectiveness of their development co-operation activities and promotes the importance of policy coherence in this domain (OECD, 2018^[182]).

In 2021, the DAC adopted the first international standard for donors to improve the enabling environment for CSOs and maximise the contribution of civil society to the 2030 Agenda. The DAC *Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance* [OECD/LEGAL/5021] recognises that civil society stakeholders are crucial actors in achieving the 2030 Agenda – both as donors’ implementing partners and as independent actors in their own right – and establishes three interlinked pillars of how donors: respect, protect and promote civic space; support and engage with civil society; and incentivise CSOs’ effectiveness, transparency and accountability (OECD, 2021^[4]). Crucially, it recognises that “closing civic space poses real danger” to civil society actors in many countries, which “affects the quality and effectiveness of development co-operation, humanitarian assistance and peacebuilding” efforts (OECD, 2021^[4]). As part of the Recommendation, Adherents are encouraged to “develop clear policy positions on the value of an

inclusive and independent civil society and on the importance of respecting, protecting and promoting civic space” (OECD, 2021^[4]).

The DAC Recommendation thus “addresses a constellation of challenges impeding civil society actors from reaching their full potential” and, significantly, “is underpinned by a recognition of the diversity within civil society and the varied roles civil society actors play” (OECD, 2021^[4]).

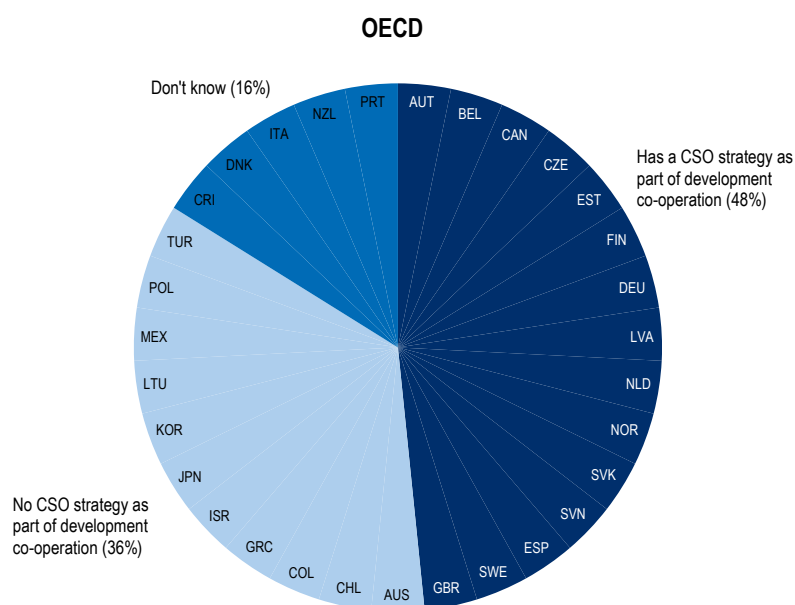
Source: OECD (2018^[182]), “Development Assistance Committee (DAC)”, <https://www.oecd.org/dac/development-assistance-committee/>; OECD (2021^[4]), *DAC Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance*, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-5021#relatedInstruments>.

5.5.1. Strategies and standards to promote CSOs as part of development co-operation

As part of the Recommendation detailed in Box 5.8, Adherents are encouraged to “develop clear policy positions on the value of an inclusive and independent civil society” (OECD, 2021^[4]). A total of 48% of respondent OECD Members have a dedicated policy or strategy in place to promote CSOs as part of development co-operation (Figure 5.22). Many of these policies have similar characteristics, including: sections outlining ways in which the donor is currently supporting civil society and civic space abroad; the importance of partnerships with CSOs; and, in some advanced cases, the need to build autonomy and independence within the CSO sector.


Figure 5.22. OECD Members with a dedicated policy or strategy to promote CSOs in beneficiary countries as part of development co-operation, 2020

Percentage of OECD Members that provided data in the OECD Survey on Open Government



Note: OECD refers to 31 OECD Members.

Source: 2020 OECD Survey on Open Government.

StatLink  <https://stat.link/q14peb>

Frameworks for promoting the role of civil society in development can take various forms. Some OECD Members include relevant provisions in a government programme or specific law, others mention it in an overall strategy or policy document on development co-operation, while still others have dedicated civil society policies, strategies or guidelines. Many respondents have a combination of the above. For example, **Belgium's** 2020 Government Programme states that, due to the CSO sector's expertise and proven impact, civil society actors are key partners in development alongside public institutions working on development (Government of Belgium, 2020^[183]). The **Slovak Republic** has a 2015 Law on Development Cooperation (Government of the Slovak Republic, 2015^[184]) alongside a Mid-term Strategy for Development Cooperation for 2019-2023 (Government of the Slovak Republic, 2018^[185]). The law stipulates that the implementation of development co-operation should involve "civic associations, non-profit organisations providing services of general interest, foundations and other legal entities that are not involved in the state budget" (Government of the Slovak Republic, 2015^[184]).

Many respondents prioritise the promotion of civic space within a wider development policy or strategy, with a variety of goals. The **Czech Republic's** Development Cooperation Strategy 2018-2030 strives to create strategic partnerships between the public, private, civil society and academic sectors (Government of Czech Republic, 2017^[186]). **Latvia's** Development Cooperation Policy 2021-2027 highlights the country's guiding principles on development co-operation and 55% of the country's bilateral development co-operation financing is used in projects involving CSOs and the private sector in partner countries (Government of Latvia, 2020^[187]).

Some OECD Members include ambitious goals in these strategies. The **Netherlands' Policy** on Development Co-operation highlights the need to "invest in activities that create space for dialogue and dissent, making government policy more effective and inclusive" (Government of the Netherlands, 2021^[188]). The Netherlands has established specific programmes and funds to co-operate with civil society in this policy area, including Strategic Partnerships in the Area of Lobbying and Advocacy and a Human Rights Fund (Government of the Netherlands, 2021^[188]). **Canada** has a specific Civil Society Partnerships for International Assistance Policy, which stresses that fostering strong partnerships with civil society alongside a safe and enabling environment are two essential conditions for achieving its core objectives of reducing extreme poverty and achieving gender equality (Government of Canada, 2020^[189]). In addition, Canada involved CSOs in a consultation process to provide input on the policy and its implementation plan and annual meetings are held with CSOs to evaluate progress against its objectives (Government of Canada, 2022^[190]).

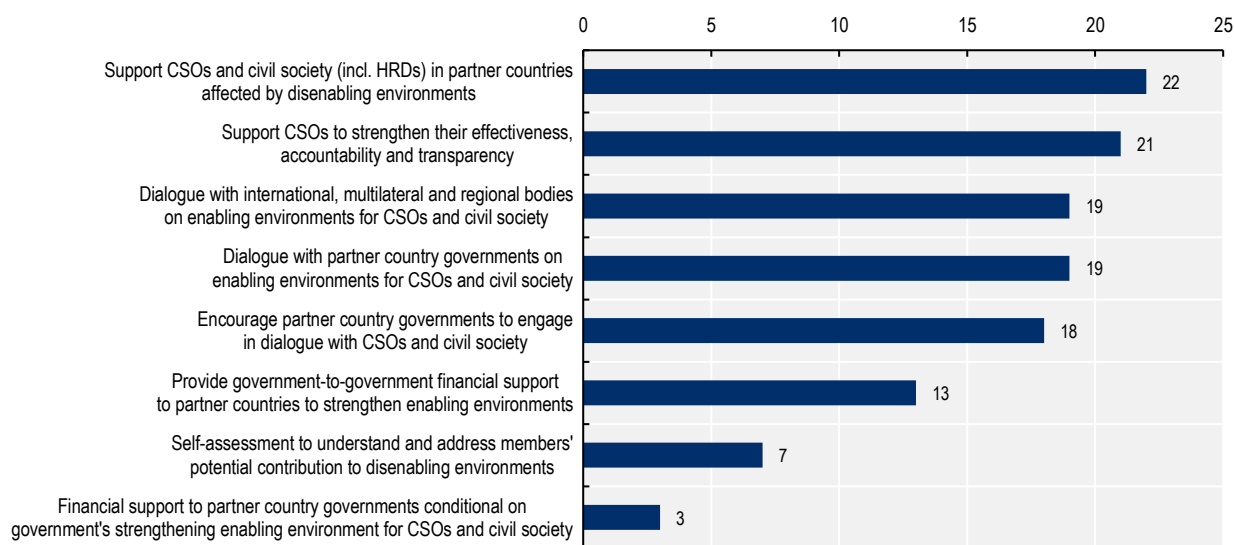
Finland outlines its aim to strengthen civil society in its Guidelines for Civil Society in Development Policy document (Government of Finland, 2017^[191]), which also highlights ways to ensure that civil society actors can contribute to achieving Finland's development goals and stresses the importance of a strong enabling environment for civil society. **Sweden's** Strategy for Support via Swedish Civil Society Organisations for 2016-2022 (Government of Sweden, 2015^[192]) aims to strengthen CSO capacity with the twin aim of poverty reduction and improving standards of living. It also intends to accomplish greater awareness of and engagement with citizens to inform them of their fundamental democratic rights and freedoms (Government of Sweden, 2015^[192]). It is complemented by a more civil society-specific document, the Guiding Principles for Sida's Engagement with and Support to Civil Society which reinforces the importance of civil society support geared to strengthen a pluralistic and independent civil society in its own right, as well as to reach various other development objectives (Sida, 2019^[193]). **Norway** developed its New Principles for the Norwegian Agency for Development Cooperation (Norad)'s Support to Civil Society through an open consultation process, with a particular focus on partnership models that strengthen local civil society and enhance local ownership, decision-making power and legitimacy (Government of Norway, 2018^[194]). The objectives of the principles are primarily to enhance democracy and human rights and to eradicate poverty (Government of Norway, 2018^[194]).

A 2020 survey-based study from the OECD Development Co-operation Directorate (DCD) provides an analysis of the most frequent practices that DAC members adopt to fulfil their commitments to supporting

CSOs and their enabling environments (OECD, 2020_[129]) (Figure 5.23). Stated aims include supporting CSOs in partner countries with “disabling environments” (22 respondents). Other common aims are to support CSOs to strengthen their own effectiveness, accountability and transparency (21 respondents) and to foster dialogue between CSOs, international partners and governments to improve the enabling environment (19, 19 and 18 respondents). Donor assistance may also explicitly support governments to strengthen the enabling environment for CSOs (13 respondents) and, in a few cases, conditionalities related to CSOs’ enabling environment may be attached to receiving aid (3 respondents) (OECD, 2020_[129]).

Some OECD Members conducted evaluations of support for CSOs in the context of development co-operation which offers good examples of how to base public decision making on a foundation of sound evidence gained through evaluating public policies (Australian Government, 2015_[195]; Norad, 2018_[196]).

Figure 5.23. DAC member practices to promote CSOs and an enabling environment for civil society in partner countries, 2019



Note: A total of 24 members responded, with respondents able to select multiple options. The options shown here are shortened versions of the language used in the Survey.

Source: Responses to the *How DAC Members Work with Civil Society* survey of members, conducted between November 2018 and March 2019.

5.5.2. Funding for CSOs as part of development co-operation

In line with the 2030 Sustainable Development Goals (SDGs) (UN, 2015_[197]), there is wide recognition among donors that CSOs are a crucial actor in ensuring that a range of voices is represented in policy making and that no one is left behind as part of inclusive and sustainable development.²² One area that deserves special attention is whether financial support is channelled *through* or *to* CSOs.²³ As discussed in Section 5.4, support *to* CSOs is otherwise known as *core support* for CSOs to pursue their own-defined objectives and, as such, respects CSOs’ “right-of-initiative”. Core support is deemed most appropriate for strengthening civil society and civic space. Support is provided *through* CSOs when donors seek to work with CSOs primarily as implementers of projects or programmes (OECD, 2020_[129]).

While the volume of DAC members’ spending on CSOs has increased by 14% between 2011 and 2020, the volume of official development assistance (ODA) going *to* CSOs, thus contributing to strengthening civic space in developing contexts, is much smaller (Table 5.3). Total spending on CSOs as part of ODA

reached USD 18 billion in 2020, with ODA going *through* CSOs being nearly six times the volume (USD 3 billion) of support that flowed *to* CSOs (OECD, 2022_[130]). Furthermore, OECD statistics over recent years show that CSO support is predominantly channelled *through* CSOs as programme implementers to meet development objectives unrelated to the broader goal of strengthening civil society as an independent development actor (OECD, 2022_[130]). Most ODA allocation through CSOs goes to sub-sectors, such as emergency response, government, health, education and agriculture (OECD, 2020_[129]; 2022_[130]). Critically, the main beneficiaries of the ODA that is oriented towards the civil society sector are CSOs based in donor countries (65% of total ODA to CSOs) rather than CSOs based in developing countries (OECD, 2022_[130]). Overall, only a small percentage of funding is channelled towards developing-country-based CSOs. The majority goes to international or DAC-country-based CSOs acting as intermediaries between donors and CSOs (GSDRC, 2019_[198]). In 2019 and 2020, only 7% of ODA flows went to developing country-based CSOs, costing just over approximately USD 1 billion (OECD, 2020_[129]).

Table 5.3. ODA allocations to and through CSOs by type of CSO, 2011-20

Total to and through	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
International CSO	3 476	3 624	4 061	4 259	4 644	4 998	5 330	5 510	5 614	6 021
Donor country-based CSO	13 196	12 698	12 455	13 232	14 365	14 546	14 308	13 533	13 602	13 994
Developing country-based CSO	1 151	1 255	1 487	1 474	1 399	1 286	1 407	1 416	1 441	1 458
Undefined	1 042	949	1 001	1 069	417	328	251	183	187	114
Aggregate	18 865	18 526	19 004	20 034	20 825	21 158	21 296	20 642	20 844	21 587

Note: The figures are in USD billion, 2020 constant prices. "Developing country-based CSO" is used in this table as it is the term used in the DAC statistical reporting directives. "Undefined" is used when member reporting does not specify the type of CSOs that receive funds.

Source: OECD (2022_[130]), *Aid for Civil Society Organisations*, www.oecd.org/development/financing-sustainable-development/development-finance-topics/Aid-for-CSOs-2022.pdf.

Some donors are working to remove obstacles that prevent developing country-based CSOs from receiving funding by simplifying their procedures and establishing guarantee instruments and shared mechanisms with national authorities to fund local partners. In order to facilitate access to financial support by local, small- and medium-sized organisations, some donors provide multi-year funding, for example, or try to simplify and harmonise funding requirements (GPEDC, 2020_[199]). For instance, the **United Kingdom's** Foreign, Commonwealth and Development Office (FCDO) simplified its guidance and templates for grant applicants in 2021 to provide clarity on eligible administrative costs and ensure consistency in administrative cost coverage (FCDO, 2021_[200]).

In a positive development, many donors are also funding a wide spectrum of different CSOs, including advocacy organisations and watchdogs, in partner countries. However, only a few provide funding to informal civil society actors that are not formally registered. For example, the **Swedish** International Development Cooperation Agency (Sida) uses a guarantee instrument to absorb the risks that might make international or Swedish CSOs hesitate to partner with nascent CSOs or informal groups (Sida, 2021_[201]).

Several donors are also attempting to balance supporting the priorities defined by the donor (i.e. support *through* CSOs) and CSOs' right-of-initiative (i.e. support *to* CSOs). For example, some have developed funding mechanisms that respond to initiatives launched and led by CSOs in their own right, which may not necessarily align with the donor's priorities. The **Netherlands** activated several such funds and subsidy schemes to which organisations in 52 developing countries can apply directly in order to implement a project. These programmes address different themes, including economic development, infrastructure,

preventing child labour, capacity building for youth and women's empowerment, and the SDGs (Government of the Netherlands, n.d.^[202]). The **Austrian** Development Agency has a mix of funding instruments for Austrian CSOs to work in partnership and engage in the capacity development of CSOs or other actors in aid recipient countries. These instruments allow CSOs who have successfully received funding in the past to concentrate on their own initiatives for longer periods (ADA, n.d.^[203]).

Donors can provide funding to CSOs based in developing countries either directly or by setting up shared structures that involve national governments through co-financing arrangements led by the state. For instance, in **Cameroon**, the EU delegation has established a national entity for strengthening CSOs (PROCIVIS Active Citizenship Strengthening Programme). The national government is in charge of formulating and implementing a national strategy for citizen engagement, participation and human rights protection, while PROCIVIS is responsible for publishing local calls for allocating grants based on jointly developed criteria. To fund a broad range of developing country-based CSOs, donors are increasingly turning to the use of multi-donor pooled funds (OECD, 2020^[129]).

Aside from government funding, private philanthropy also plays an increasingly important role in supporting civic space in the development context, as reflected in the latest data from the OECD Centre on Philanthropy and its 2021 report on Private Philanthropy for Development (Box 5.9).

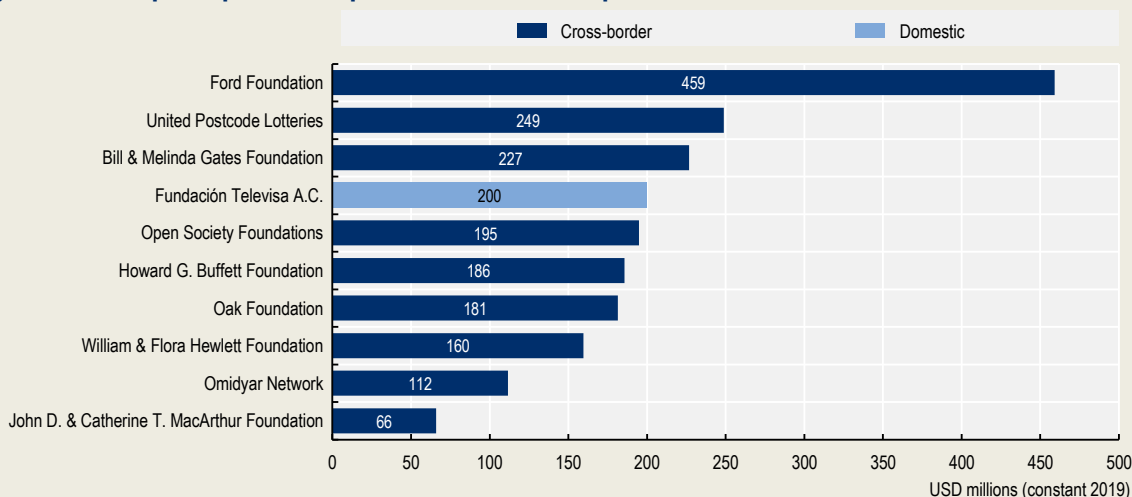
Box 5.9. Unpacking private philanthropy for civic space in developing countries

The following provides an overview of philanthropic giving for the promotion and protection of civic space in developing countries between 2016 and 2019.¹ The analysis draws on OECD data from 129 foundations and their financial contributions to the government and civil society sector in developing countries.²

Open, comparable and comprehensive data on philanthropy's support to civic space are essential to track financial flows for development, and are the cornerstone for informed decision making and effective co-ordination and collaboration among donors, both private and public. With this information, foundations and other development donors can avoid duplication and explore synergies and co-funding opportunities.

Private philanthropy for development provided an estimated total of USD 2.5 billion over 2016-19, or an average of USD 633 million per year in support of government and civic space. Philanthropic funding for civic space was highly concentrated within a few foundations. The top 5 foundations represented more than half of all funding (53% of total) and the top 10 represented 80% of total funding.

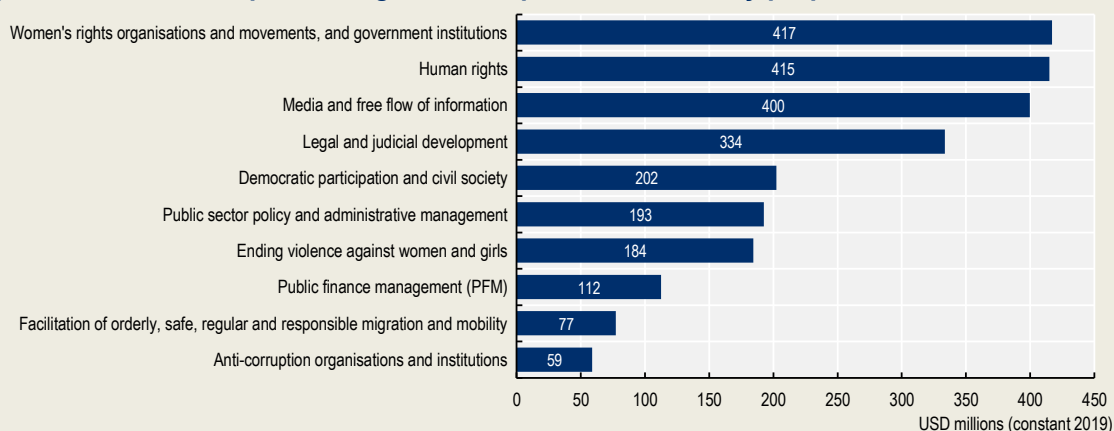
The Ford Foundation was the largest funder between 2016 and 2019 with USD 459 million (18% of total), followed by United Postcode Lotteries with USD 249 million (10%), the Bill & Melinda Gates Foundation (BMGF) with USD 227 million (9%), Fundación Televisa A.C. with USD 200 million (8%) and the Open Society Foundations (OSF) with 195 million (8%) (Figure 5.24). Seven foundations in the top ten are based in the United States, two in Europe (United Postcode Lotteries and Oak Foundation) and one in Latin America (Fundación Televisa A.C.).

Figure 5.24. Top ten philanthropic donors in civic space in 2016-19

Note: Includes 25 regular reporters to OECD DAC statistics and 88 organisations surveyed for the report *Private Philanthropy for Development 2016-19* (2021_[204]).

Source: OECD (n.d._[205]), *OECD DAC Statistics*; OECD (2021_[204]), *Private Philanthropy for Development – Second Edition: Data for Action*, <https://doi.org/10.1787/cdf37f1e-en>; OECD (n.d._[206]), “The role of philanthropy in financing for development”, <https://www.oecd.org/development/financing-sustainable-development/development-finance-standards/beyond-oda-foundations.htm>; OECD (2022_[207]), *Private Philanthropy for Development* (CRS) (database), https://stats.oecd.org/Index.aspx?DataSetCode=DV_DCD_PPF.D.

In developing countries, private philanthropy for civic space is concentrated in women’s rights organisations and movements, and towards promoting human rights: 68 foundations (out of 129) disbursed USD 417 million on women’s rights organisations and movements between 2016 and 2019, while human rights programmes received USD 415 million from 19 foundations – together representing one-third of all funding for civic space. The remaining funding was disbursed to programmes that focused on media and free flow of information (USD 400 million), legal and judicial development (USD 334) and democratic participation and civil society (USD 202 million) (Figure 5.25).

Figure 5.25. Philanthropic funding for civic space in 2016-19, by purpose

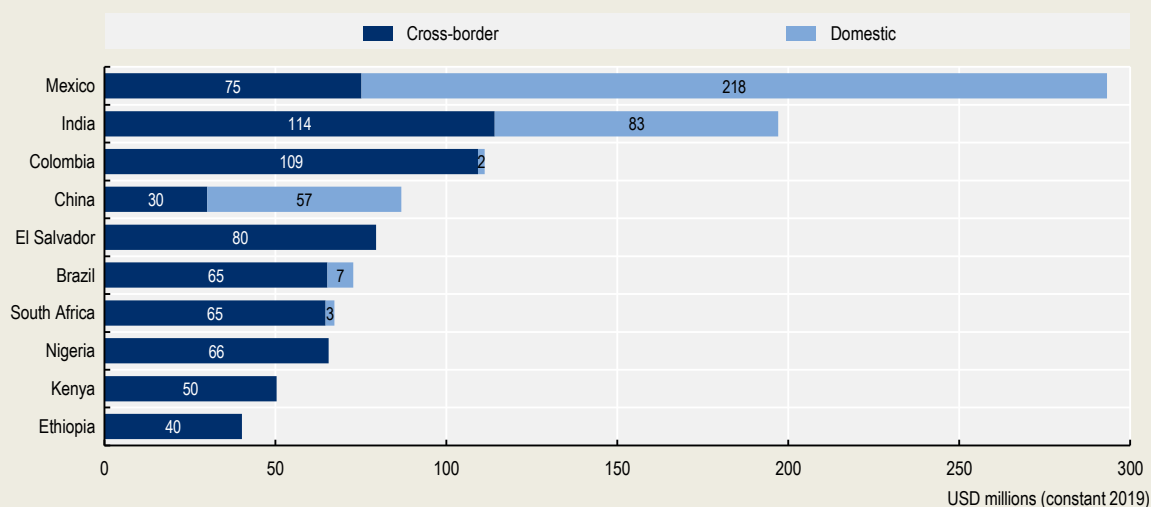
Note: Includes 25 regular reporters to OECD DAC statistics and 88 organisations surveyed for the report *Private Philanthropy for Development 2016-19* (2021_[204]).

Source: OECD (n.d._[205]), *OECD DAC Statistics*; OECD (2021_[204]), *Private Philanthropy for Development – Second Edition: Data for Action*, <https://doi.org/10.1787/cdf37f1e-en>; OECD (n.d._[206]), “The role of philanthropy in financing for development”, <https://www.oecd.org/development/financing-sustainable-development/development-finance-standards/beyond-oda-foundations.htm>; OECD (2022_[207]), *Private Philanthropy for Development* (CRS) (database), https://stats.oecd.org/Index.aspx?DataSetCode=DV_DCD_PPF.D.

LAC received the largest share of philanthropic giving (USD 706 million, 28% of total), followed by Sub-Saharan Africa (USD 312 million, 12% of total), South Asia (USD 220 million, 9%), East Asia and Pacific (USD 169 million, 7%), Middle East and North Africa (USD 134 million, 5%) and Europe and Central Asia (1%). Almost 38% of total philanthropic giving (USD 954 million) could not be allocated to a country or region (i.e. funding was targeted to multiple regions).

Mexico was the largest beneficiary of philanthropic funds for civic space with USD 293 million (12%), followed by India with USD 197 million (8%), Colombia with USD 111 million (4%), China with USD 87 million (3%) and El Salvador with USD 80 million (3%) (Figure 5.26). Domestic giving represented a larger share than cross-border funding for China, India and Mexico.

Figure 5.26. Top ten recipient countries of private philanthropy for civic space in 2016-19, cross-border and domestic financing



Note: Includes 25 regular reporters to OECD DAC statistics and 88 organisations surveyed for the report *Private Philanthropy for Development 2016-19* (2021_[204]).

Source: OECD (n.d._[205]), *OECD DAC Statistics*; OECD (2021_[204]), *Private Philanthropy for Development – Second Edition: Data for Action*, <https://doi.org/10.1787/cdf37f1e-en>; OECD (n.d._[206]), “The role of philanthropy in financing for development”, <https://www.oecd.org/development/financing-sustainable-development/development-finance-standards/beyond-oda-foundations.htm>; OECD (2022_[207]), *Private Philanthropy for Development* (CRS) (database), https://stats.oecd.org/Index.aspx?DataSetCode=DV_DCD_PPFDD.

1. The terms “developing countries” and “developing economies” refer to all countries and territories on the OECD DAC List of ODA Recipients. The list comprises all low- and middle-income countries based on gross national income per capita as published by the World Bank, with the exception of Group of 8 (G8) members, EU Member states and countries with an EU accession perspective. It also includes all of the least developed countries as defined by the UN (OECD, n.d._[208]).

2. All financing from each foundation classified as “government and civil society” is included. The analysis draws on data from two OECD surveys. It features data from a second edition of the OECD Global Survey on Private Philanthropy for Development, led by the OECD Centre on Philanthropy, which capture philanthropic flows and organisational strategies from 91 cross-border and 115 domestic foundations working in developing countries. It is also informed by data from OECD DAC statistics on development finance, which include a sample of 41 foundations active in international development that report to the OECD on a yearly basis. Funding for civic space is understood to cover a range of funding areas, including: anti-corruption organisations and institutions; facilitation of orderly, safe, regular and responsible migration and mobility; public finance management (PFM); ending violence against women and girls; public sector policy and administrative management; democratic participation and civil society; legal and judicial development; media and free flow of information; human rights; and women’s rights organisations and movements, and government institutions.

Key measures to consider on the promotion of civic space as part of development co-operation

- Non-adherent countries to the DAC Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance are encouraged to adhere to and follow its provisions.
- Countries are encouraged to contribute to strengthening civic space and CSOs as independent development actors in developing country contexts by: introducing or increasing funding modalities for developing country-based CSOs to receive donor funding by: simplifying procedures and establishing shared and/or pooled funding mechanisms targeting these CSOs; introducing or increasing the availability and accessibility of direct, flexible and predictable support, including core support, to developing country-based CSOs; ensuring that development policies and programmes support a diversity of civil society actors in developing contexts.

5.6. Civic space in the European Union: Contribution from the EU Agency for Fundamental Rights (FRA) on key challenges and restrictions for CSOs

5.6.1. Civic space and the enabling environment in the European Union

In the EU, since its establishment, civil society actors have played an important role in bringing to life the values shared between the EU and its Member states, as specified in Article 2 of the Treaty on European Union. Moreover, they make a substantial contribution to the implementation of EU policies in the area of human rights. The EU Agency for Fundamental Rights (FRA) co-operates systematically with civil society actors and reports on the state of civic space in the EU (Box 5.10). Since the FRA's first report, *Challenges Facing Civil Society Organisations Working on Human Rights in the EU* (2018^[209]), the agency has consistently pointed to a number of challenges facing CSOs in the EU, as well as to positive developments that foster an enabling environment for their work. This was most recently described in the FRA's 2021 report on *Protecting Civic Space in the EU* (2021^[12]).

Box 5.10. EU Agency for Fundamental Rights: Methodology of work on civic space

The FRA co-operates with NGOs and civil society actors active in the field of fundamental rights through its Fundamental Rights Platform. In this context, the agency consults civil society actors on their experiences annually.

In 2021, 398 human rights CSOs from across the EU, including over 50 EU-level umbrella organisations, responded to the FRA's online consultation on civic space. These organisations are active at international, EU, national or local levels, working in a range of different areas, including advocacy, campaigning and awareness-raising, service provision, community engagement, victim support, research and data collection and litigation.

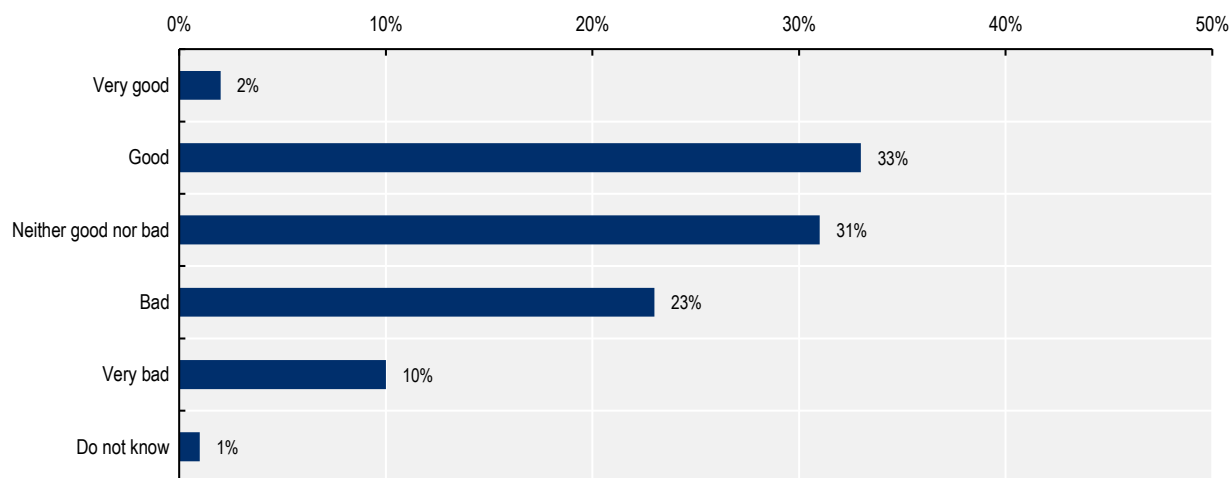
Moreover, the agency's research network FRANET collects information on a yearly basis on legal and policy developments related to an enabling space for human rights civil society across the EU and in the accession countries of North Macedonia and Serbia.

FRA research and the input provided by civil society actors point to challenges facing CSOs in the EU regarding:²⁴

- the relevant legal framework
- access to resources
- participation in policy and decision making
- operating in a safe environment.

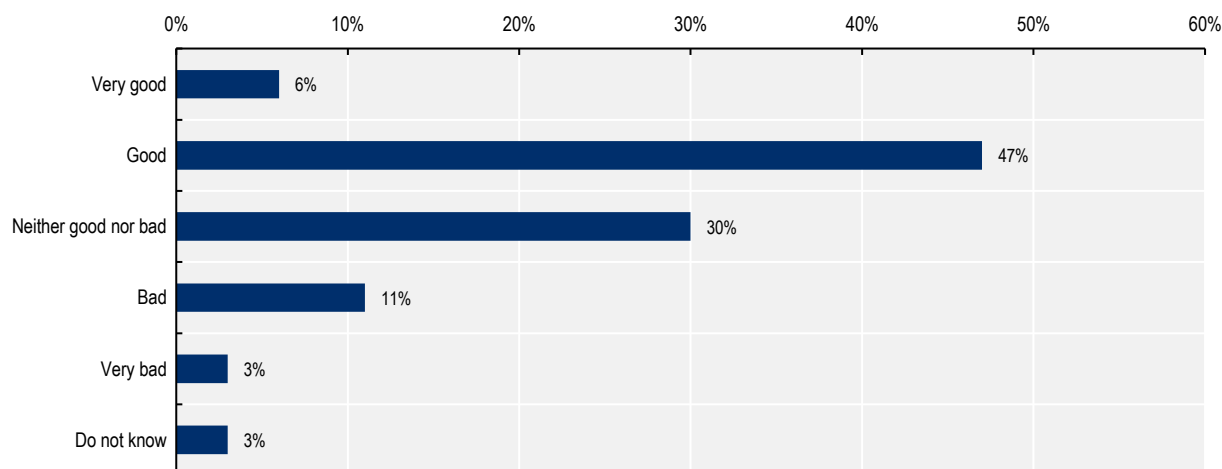
The nature and extent of these challenges, as well as the negative impact of the COVID-19 pandemic, vary considerably across the EU. The figures below illustrate the general conditions for CSOs working on human rights in the EU at the national and local levels (Figure 5.27), at the EU and international levels (Figure 5.28) as perceived by CSOs, and last, the perceived changes in their operational environment (Figure 5.29).

Figure 5.27. General conditions for CSOs working on human rights in the EU at the national and local levels, 2021

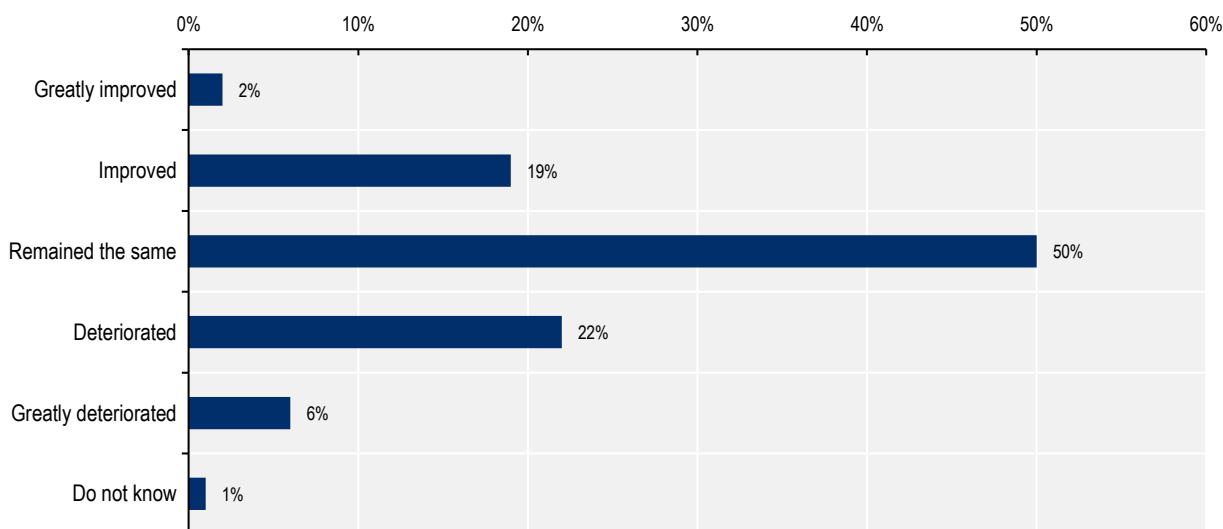


Note: The question was “How would you describe in general the conditions for CSOs working on human rights in your country today?” (N=289).
 Source: FRA *Civic Space Consultation 2021*.

Figure 5.28. General conditions for CSOs working on human rights at the EU level, 2021



Note: The question was “How would you describe the general conditions for CSOs working on human rights at EU level (including advocacy and human rights work with EU institutions)?” (N=101).
 Source: FRA *Civic Space Consultation 2021*.

Figure 5.29. CSOs' perceived change of situation of own organisations in 2021

Note: The question was “Thinking about your own organisation, how has its situation changed in the past 12 months?” (N=390).

Source: FRA *Civic Space Consultation 2021*.

The above results are influenced by the impact of the COVID-19 pandemic, which continued to pose additional challenges to civil society work in 2021. The results show that the situation has not changed much since 2020, when, in a separate FRA consultation on COVID impact, 75% of responding CSOs stated that measures to combat the pandemic negatively impacted their work, particularly with regard to providing regular services to their beneficiaries, reduced possibilities for participating in decision making and the psychological impact on staff and volunteers (FRA, 2020_[210]).

5.6.2. An enabling institutional and policy framework

Governments can support the development of the civil society sector and strengthen mutual engagement between public authorities and CSOs through relevant policy frameworks and permanent dialogue structures. In this regard, the FRA’s research reveals both positive and negative developments across the EU in 2021.

Positive steps taken in several EU Member states include policy measures creating a more conducive environment for civil society development and strengthening co-operation between public authorities and CSOs. This, among other things, entails the creation of infrastructures aimed at providing space for dialogue and channelling targeted support to civil society, or including specific commitments to creating an enabling environment in national action plans on open government. In some EU Member states, CSOs are particularly proactive in improving the policy framework in which they operate, including through coalition building.

FRA policy pointers on protecting civic space

Governments are encouraged to refer to the UN Guidance Note on the Protection and Promotion of Civic Space, which indicates clear steps to be taken to protect and promote civic space.

A conducive legal environment for civil society requires laws that protect and promote the freedom of association, peaceful assembly and expression in conformity with EU and international human rights laws and standards. EU Member states should review, in close consultation with CSOs, existing legislation that directly or indirectly affects the establishment and operations of CSOs, particularly regarding their actions in support of the exercise of the rights to freedom of association, freedom of expression and information, and freedom of assembly.

EU Member states should ensure that crimes committed against CSOs and human rights defenders are publicly condemned and properly recorded, investigated and prosecuted, including under applicable hate crime provisions when relevant. Politicians and policy makers should avoid statements fuelling hostility towards CSOs and rights defenders that could have a chilling effect or otherwise undermine their work.

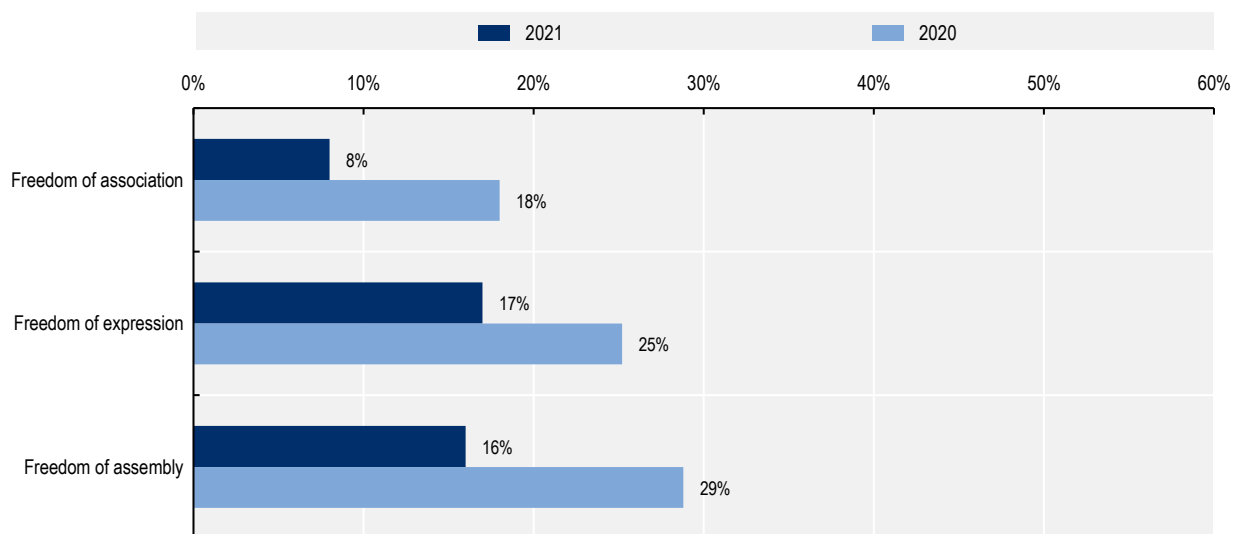
Public and private bodies offering to fund CSOs (donors) should ensure that their support covers the full range of civil society activities, including advocacy, litigation, campaigning, watchdog activities, human rights and civic education, community engagement and awareness-raising. To ensure that funding is targeted and covers real needs, donors should consult with CSOs when drawing up their funding programmes. Donors should consider simplifying eligibility requirements as well as application and reporting procedures, providing core/infrastructure funding in addition to project funding, and introducing longer funding cycles to allow for sustainable long-term impact.

Processes, tools and methods for public participation should be diversified and improved targeting specifically relevant CSOs. Public authorities at the EU, national and local levels should provide adequate human and financial resources, sufficient time and training to public officials on developing and implementing meaningful participation of CSOs. Emphasis should, in this regard, be given to access to information and to the participation of CSOs representing vulnerable and under-represented groups.

5.6.3. The legal environment

In 2021, CSOs across the EU reported difficulties relating to fundamental civic freedoms. However, the situation improved as compared to 2020 (Figure 5.30), when COVID measures had a strong impact restricting freedom of assembly and, to some extent, association and expression. The FRA's Civic Space Consultation 2021 found that 16% (compared to 29% in 2020) of responding organisations reported challenges in exercising their fundamental freedom of peaceful assembly, 17% (25% in 2020) reported challenges related to freedom of expression and 8% (18% in 2020) related to freedom of association.

Figure 5.30. Civic freedoms where civil society faced challenges in 2021 compared to 2020



Note: The question was “In the past 12 months, has your organisation faced difficulties in any of the following areas?” (2021 N=334, 2020 N=333).

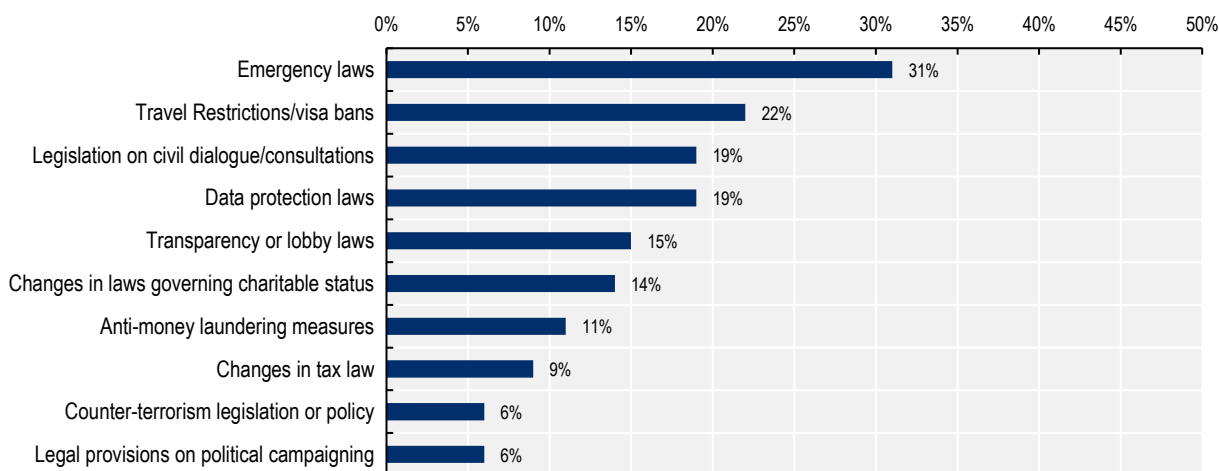
Source: FRA Civic Space Consultation 2021 and 2020 (FRA, 2021^[211]) <https://fra.europa.eu/en/cooperation/civil-society/civil-society-space>.

Freedom of expression was affected by provisions criminalising speech, including those adopted within the framework of counter-terrorism laws, which risk having a chilling effect on the exercise of freedom of expression. In other cases, governments stepped up enforcement and sanctions in efforts to counter disinformation and fake news in connection with the COVID-19 pandemic. In some EU Member states, attempts to tackle hate speech, in particular online, have raised concern about their potentially disproportionate impact on free speech. Civil society actors in a few EU Member states also noted challenges related to media pluralism and freedom, as well as artistic and academic freedom (FRA, 2021^[12]).

Freedom of association was affected by existing or new measures, ranging from the dissolution and deregistration of CSOs to unfavourable rules on their status, strict reporting requirements and attempts to criminalise certain activities to assist migrants and asylum seekers, such as search and rescue operations at sea and humanitarian assistance. Stricter rules on CSOs' establishment and functioning proposed in an effort to reconcile freedom of association and the protection of national security or democratic values attracted criticism in terms of their legality and proportionality in a few EU Member states. However, in a number of other countries, civil society actors reported positive measures, for example, by easing bureaucratic procedures, improving the data protection framework or by simplifying registration systems.

Figure 5.31 shows the proportion of respondents to the FRA's Civic Space Consultation 2021 who reported facing challenges in other legal areas.

Figure 5.31. Challenges encountered by CSOs in the legal environment in the EU in 2021

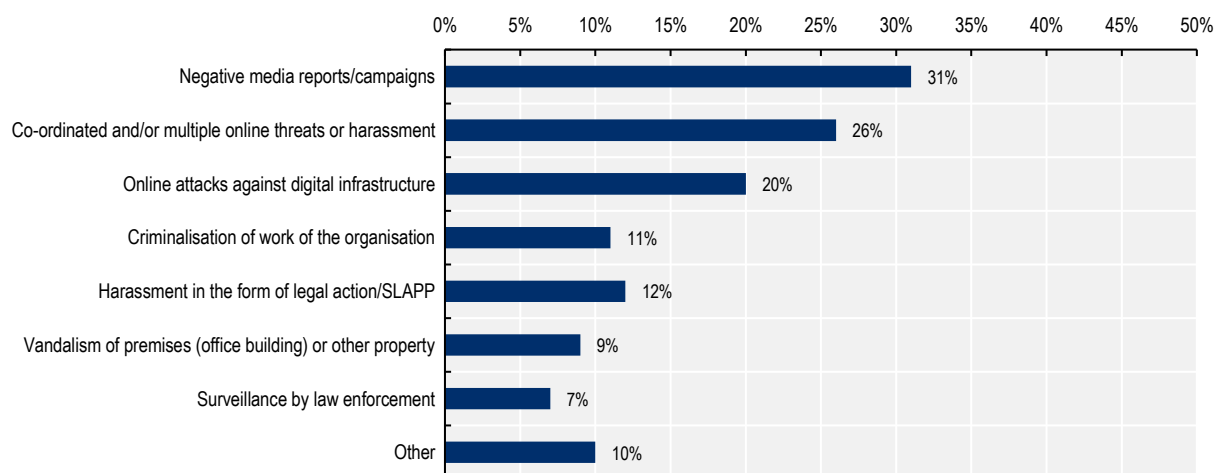


Note: The question was "In the past 12 months, has your organisation encountered difficulties in conducting its work due to legal challenges in any of the following areas? You can tick all boxes that are relevant." (N changes per question, between N=317-328).

Source: FRA *Civic Space Consultation 2021*.

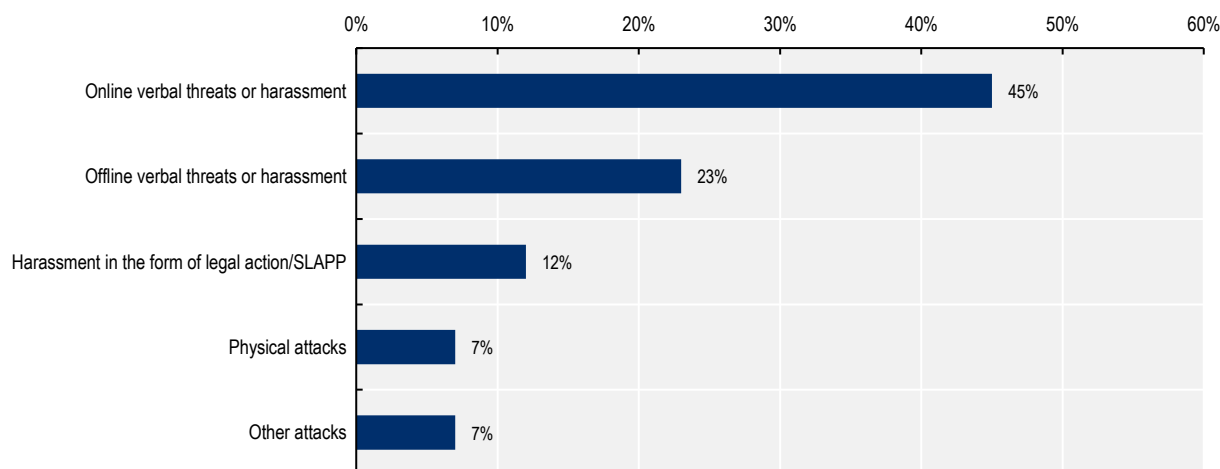
5.6.4. Threats and attacks targeting CSOs

Threats and attacks against CSOs and human rights defenders are outlined in the FRA's civic space reports.²⁵ They include threats and attacks against organisations, as well as against their staff or volunteers, with instances ranging from online as well as offline intimidation and harassment, allegations of negative public statements and smear campaigns, verbal threats, to physical attacks.²⁶ Figure 5.32 illustrates the most common threats and attacks experienced by CSOs, ranging from negative media reports/campaigns to surveillance by law enforcement. Figure 5.33 provides an overview of those threats and attacks experienced by individual staff and volunteers.

Figure 5.32. Experiences of threats and attacks by CSOs in the EU in 2021

Note: The question was “In the last 12 months, has your organisation experienced any of the following?” (N changes per question, between N=325-342).

Source: FRA *Civic Space Consultation 2021*.

Figure 5.33. Experiences of threats and attacks by CSO staff or volunteers in the EU in 2021

Note: The question was “In the last 12 months, have any of your employees/volunteers experienced any of the following due to their work?” (N changes per question, between N=328-348)

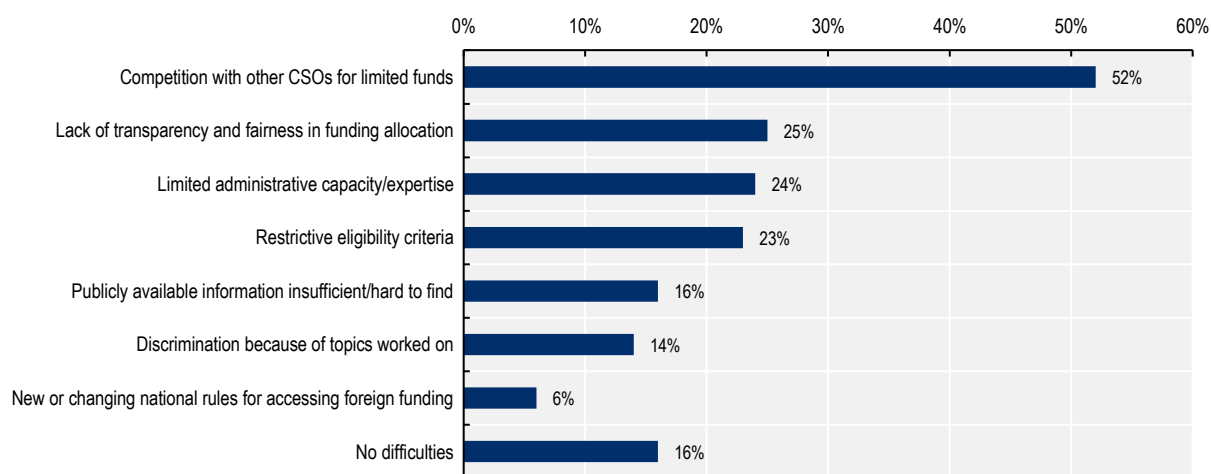
Source: FRA *Civic Space Consultation 2021*.

In around one-third of threats and attacks, responding CSOs claimed that a state actor was known or suspected to be the perpetrator. Hate speech and attacks targeting ethnic and religious minorities, women human rights defenders and LGBTI+ people, sometimes in connection with nationalist and extremist rhetoric, has a particular impact on CSOs and rights defenders engaging in the support and protection of targeted groups.²⁷ The consultation further showed high under-reporting rates (just over a quarter), with CSOs expressing frustration about how incidents are (not) dealt with by the authorities.

5.6.5. Access to resources

Finding and accessing resources and funding remains an ongoing concern for CSOs,²⁸ an issue which in 2020 and 2021 was aggravated further by the COVID-19 pandemic. Challenges reported in relation to the COVID-19 pandemic ranged from the diversion of public funds to other (pandemic-related) priorities to a decrease in private donations and the inability to organise fundraising events, as well as a decline in in-kind contributions through volunteering (FRA, 2020_[210]). Where funding is available, CSOs face hurdles in accessing it, including competition with other CSOs when funds are limited, lack of public information about available funding, limited capacity to apply for funding and restrictive eligibility criteria (Figure 5.34) (FRA, 2021_[112]).

Figure 5.34. Difficulties encountered by CSOs in accessing national funding in the EU in 2021



Note: The question was “In the last 12 months, did you experience any of the following difficulties when trying to access national funding? Please select up to three.” (N=180).

Source: FRA Civic Space Consultation 2021.

At the same time, the FRA’s research identified a range of positive developments at the national level. Several countries set up targeted support schemes for CSOs due to COVID, a few have improved their general financing frameworks (for example Denmark, Finland, Lithuania, Luxembourg and Malta), whereas others explored a more favourable taxation framework for CSOs (such as in Estonia and France).

5.6.6. Participation in policy and decision making

The participation of civil society in policy- and decision-making processes is an indicator of democracy and contributes to the sustainability of laws and policies. Article 11 of the Treaty on European Union defines civil dialogue as an essential component of participatory democracy. This obligation to maintain an open, transparent, regular civil dialogue also applies to EU Member states when acting in the scope of EU competencies under Article 10(3) (EU, 2012_[212]).

The FRA’s Civic Space Consultation 2021 shows that despite efforts in some EU Member states to improve consultation practices, channels for CSOs’ access to and participation in policy and decision making remain patchy. Participating CSOs report, *inter alia*, a lack of information about participation processes (41%), too short deadlines (37%), lack of feedback on the outcome (37%), lack of trust between civil society and public authorities (25%), and lack of capacity in their own organisation (time, skills, knowledge) (23%). The COVID-19 pandemic further aggravated this situation, as most EU Member states had to apply fast-track, emergency legislative procedures with strongly reduced consultation processes. CSOs also

frequently mention that minorities and vulnerable groups are not adequately represented in consultations (FRA, 2021^[12]).

FRA research identified some efforts to improve consultation processes, such as the opening of previously closed processes to consultations, as well as some progress on the creation of an infrastructure to facilitate CSOs' co-operation with national authorities and their participation in the development of policies and strategies (FRA, 2021^[12]). EU action can serve as a catalyst in this regard, as many EU strategies require the adoption of national action plans, for which the involvement of CSOs is considered good practice. Additional good practices regarding key freedoms and rights and the enabling environment for civic space more broadly are presented in Box 5.11.

Box 5.11. Promising EU practices related to the protection of civic space

Improving government funding processes for civil society

Finland adopted a new Fundraising Act for CSOs in 2020 based on evidence from extensive research (EFA, 2020^[213]). In **Germany**, increased funding for activities to prevent extremism and radicalisation was made available (Government of Germany, 2016^[214]). In **Lithuania**, the European Social Fund Agency introduced an innovative funding instrument called the Alternative Investment Detector (AID) to support NGOs working in the field of social inclusion (ESFA, 2020^[215]). In **Estonia**, returns of income tax can be donated in whole or in part using a simplified procedure in the Tax and Customs Board (*Maksu- ja Tolliamet*) self-service environment e-MTA to a maximum of three associations since 2020 (Government of Estonia, n.d.^[216]).

Freedom of association

In **Lithuania**, newly adopted registration rules for non-governmental CSOs revolve around self-declaration and a free-of-charge registration procedure (Government of Lithuania, 2020^[217]; 2020^[218]). The registry system was streamlined and improved in the **Slovak Republic** to ensure better transparency, in consultation with CSOs (Government of the Slovak Republic, 2018^[219]).

Protection against discrimination

In **Belgium**, the Federal Minister for Equal Opportunities announced that civil society and the target groups themselves would be involved in developing a National Action Plan against Racism (NAPAR) (ENAR, 2018^[220]). More specifically, the action plan will be developed together with the NAPAR Coalition, a group of 60 CSOs.

Source: (EFA, 2020^[213]); (Government of Germany, 2016^[214]); (ESFA, 2020^[215]); (Government of Estonia, n.d.^[216]); (Amnesty International, 2020^[221]); (Government of Lithuania, 2020^[217]); (Government of Lithuania, 2020^[218]); (Government of the Slovak Republic, 2018^[219]); (ENAR, 2018^[220])

CSOs in the EU play a crucial role in promoting fundamental rights and so contribute to the functioning of democracy. The evidence collected by the FRA shows that it has become harder for them to operate in the past year, despite a range of positive developments. The nature and extent of the challenges CSOs face vary across the EU. Civil society actors need to be able to operate without unnecessary or arbitrary restrictions. In this regard, EU Member states should take measures to create a more enabling environment for CSOs.

5.7. Civic space in Africa: Contribution from the Mo Ibrahim Foundation

Despite significant advances in democracy in Africa in recent decades, restrictions on civic space and wariness among citizens of their governments continue to pose challenges. Box 5.12 shows a general decline in citizen participation, civic rights and inclusion, with COVID-19 exacerbating many existing challenges, such as low trust in political leadership. However, there are also positive drivers of change in several countries (Box 5.12).

Box 5.12. An analysis of civic space in Africa: Contribution from the Mo Ibrahim Foundation

A concerning decline in protection for civic space in Africa

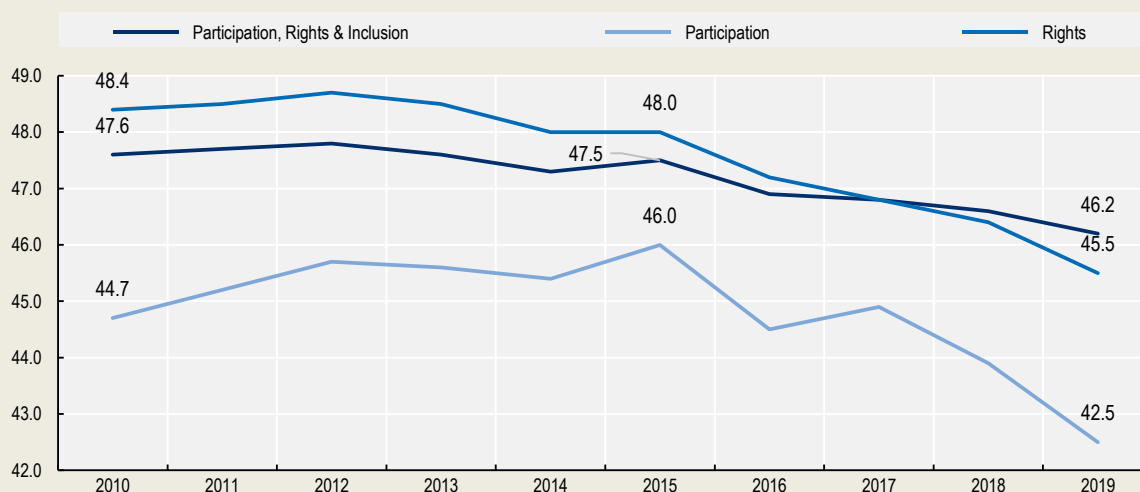
The Ibrahim Index of African Governance (IIAG),¹ which has been published since 2007, assesses governance performance in 54 African countries over the latest available 10-year period. In the case of the 2020 IIAG, this includes the period from 2010 to 2019. The IIAG constitutes the most comprehensive dataset measuring African governance, providing scores and trends for African countries on a whole spectrum of thematic governance dimensions, from security to justice, to rights and economic opportunity, and health and environment.

Participation, rights and inclusion: Most declined and lowest-scoring IIAG category since 2010

Results from the 2020 IIAG paint a bleak picture when it comes to civil rights, liberties and civic space in Africa. The IIAG category assessing these dimensions – Participation, rights and inclusion – is not only the lowest scoring of the 4 categories but also the one that has decreased the most, losing -1.4 points over the last decade (2010-19), with the rate of decline increasing between 2015 and 2019.

Both the underlying Participation and Rights sub-categories have declined over the 10-year and 5-year period with the rate of deterioration accelerating since 2015. Worryingly, between 2015 and 2019, Participation and Rights are the 2 most deteriorated sub-categories (out of 16) in the IIAG (Figure 5.35).

Figure 5.35. Africa: Participation, rights and inclusion category, Participation and Rights sub-categories, average scores, 2010-19



Note: The standardised IIAG index has a scale of 0-100 where 100 is the best possible score.

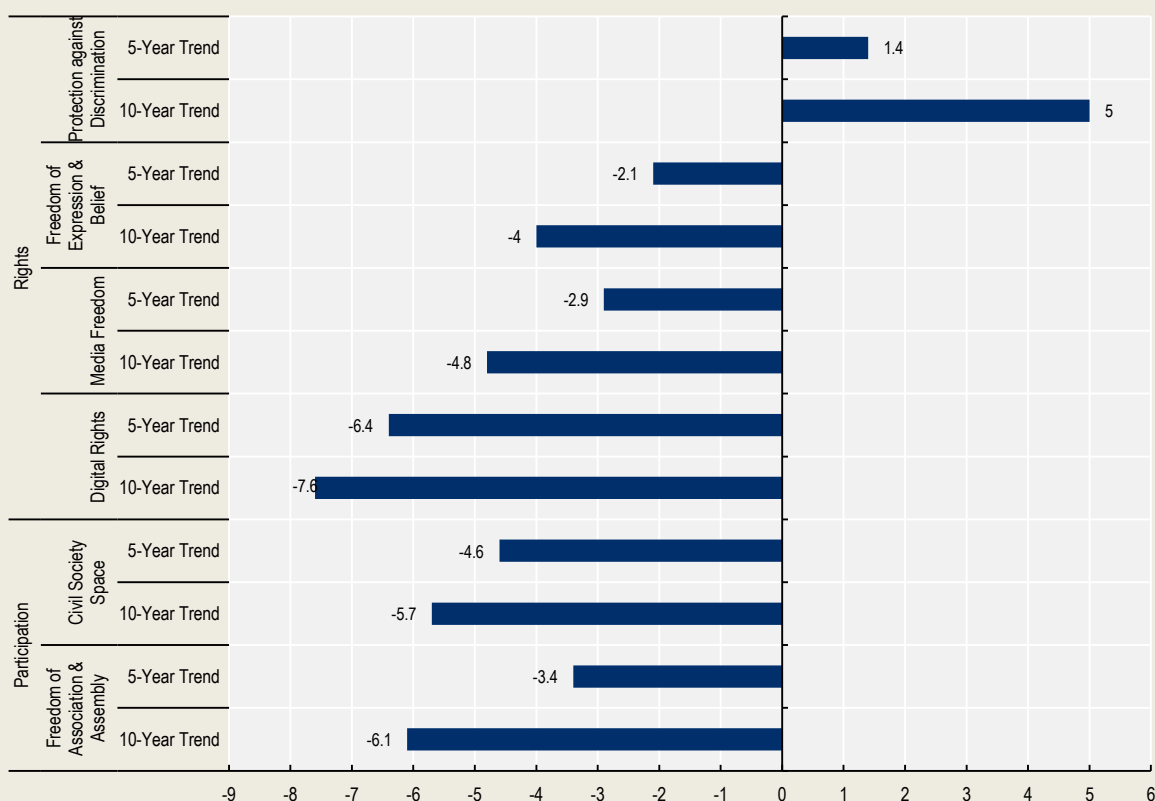
Source: 2020 Ibrahim Index of African Governance (IIAG).

Closing civic space and restrictions to basic freedoms are the main drivers of continental decline

To assess the drivers of these trends and to provide a more detailed picture of the rights and status of civic space on the continent, the most relevant indicators are the “Freedom of association and assembly and civil society space from the participation” sub-category and the “Digital rights, freedom of expression and belief, media freedom and protection against discrimination from the rights” sub-category.²

Worryingly, large downward trends are observed in all these indicators except Protection against discrimination. Across the continent, citizens have seen restrictions on their freedom to associate and assemble and their freedom of expression and belief along with closing civil space and clampdowns on free media and digital space. All of the above indicators from the Participation and Rights sub-categories are among the ten indicators that have declined the most in the 2020 IIAG since 2010. Although the continent has on average made progress in protecting citizens against discrimination, work is still to be done as Protection against discrimination is the lowest-scoring IIAG indicator (out of 79) in 2019 (Figure 5.36).

Figure 5.36. Selected indicator scores for Africa, 5-year and 10-year trends



Note: The above showcases changes in average index scores over time to indicate overall trends.

Source: 2020 Ibrahim Index of African Governance (IIAG).

Deteriorations in most countries, with some positive exceptions

Thirty-eight out of 54 countries have experienced a deterioration in their Participation, rights and inclusion score over the past 10 years and, for 29, this decline has happened at a faster rate between 2015 and 2019. The **Seychelles** is the only country to have improved in all indicators of both the Participation and Rights sub-categories over both time periods. **Gambia** shows a similarly good record apart from declining in Protection against discrimination. Despite declining Freedom of expression and belief and Digital rights over the decade, **Angola** has since 2015 shown improvement in all relevant civil liberties and civic space indicators.

Country cases: Drivers of positive change

Increased freedom of association and assembly, protection against discrimination and wider civil society space are among the main drivers of the **Seychelles'** positive trajectory in Overall governance. In **Gambia**, improvements at the Overall governance level have been driven by the Participation and Rights sub-categories for which the country is the most and second most improved in the decade respectively. Opening up the digital and civil society space as well as increasing media freedom are among the main contributors to **Gambia's** progress. For **Angola**, the Rights sub-category has driven positive change between 2015 and 2019 in Overall governance the most, in particular, due to improving media freedom, freedom of expression and belief and digital rights.

Country cases: Drivers of negative change

Both **Benin's** and **Guinea's** negative overall governance paths have been driven the most by declines in both the Participation and Rights sub-categories. In **Benin**, attacks on freedom of association and assembly, digital rights and the freedom of the media have largely contributed to the Overall governance decline while, in the case of **Guinea**, closing civil society space and limiting digital rights are among the key drivers of the country's governance decline. In **Burundi**, limiting freedom of association and assembly and media freedom are among the main drivers of the country's negative governance trajectory while Liberia's most declined indicator (out of 79) is Digital rights.

Benin has declined in all IIAG indicators relevant to civil liberties and civic space, in particular within the last five years. **Burundi**, **Comoros**, **the Republic of the Congo** and **Liberia** have declined in all civil liberties and civic space-related indicators apart from Protection against discrimination for which there has been no change but the countries already score very low. **Guinea** has limited all civil liberties and civic space between 2015 and 2019 while at the same time receiving the lowest possible score of 0.0 with regard to protection against discrimination.

COVID-19 is exacerbating already alarming trends

The COVID-19 pandemic hit the African continent while it was already set on a negative path of decline in Participation, rights and inclusion over the 2010-19 decade. Analyses from the 2021 Ibrahim Forum Report show that the pandemic has further exacerbated these already alarming trends by justifying repressive measures as a necessity in the response to the public health crisis, for instance introducing excessive measures or keeping emergency provisions in place for an extended time period.

Freedom House has observed a decline in freedom in 23 African countries between 2019 and 2020. For 21 African countries, the decline in their Freedom House score between 2019 and 2020 has been worse than the annual average change in score over the last decade (2011-20). Most declines have happened with regard to freedom of expression and belief.

According to the Pandemic Violations of Democratic Standards Index (PanDem) by Varieties of Democracy (V-Dem Institute), more than two-thirds (38) of African countries have engaged in major violations of media freedom, more than in any other form of democratic violation. In 34 countries, the

media faced limitations when reporting about the government's response to COVID-19. Additionally, journalists and media organisations faced arrests and criminal investigations as well as verbal and physical attacks covering COVID-19 (V-Dem Institute, 2021^[222]).

Trust in political leadership on the continent is limited and at risk of being further undermined due to COVID-19

These developments are taking place against the backdrop of low and declining trust in political leaders from Africa's citizens. According to Afrobarometer data covering 34 African countries between 2016 and 2018, only 46.8% of citizens trust their elected leaders, while trust in community leaders, such as traditional (55.8%) and religious (69.4%) leaders is much higher. Overall, however, trust in any leadership has been on the decline. In the previous round of Afrobarometer surveys, conducted between 2014 and 2015, trust levels for political, traditional and religious leaders were all higher (Afrobarometer, 2020^[223]).

The wariness of Africans regarding their political leaders is also seen in concerns related to governments' COVID-19 response, with perceptions that governments are abusing power or making opportunistic use of COVID-19, risking to erode public trust further (Afrobarometer, 2020^[223]). Afrobarometer surveys across 15 African countries since the start of the pandemic show that over two-thirds (67%) of all respondents believed resources intended for the pandemic response have been lost due to corruption. Mistrust in government abusing their power under the guise of the pandemic is as high as 70% in Senegal, 68% in Mauritius and 65% in Togo (Mo Ibrahim Foundation, 2021^[224]).

A survey carried out by the Mo Ibrahim Foundation Now Generation Network (NGN) in 2021 shows that young Africans have higher trust in civil society and multilateral organisations like the African Union or the World Health Organization than in their national governments for pandemic response and rather disagree that governments have put citizens' interest at the centre of crisis response. More than 90% of respondents also think that corruption and embezzlement are exacerbating the COVID crisis and most of the respondents think that the pandemic has an impact on civil society space, human rights and civil liberties (Mo Ibrahim Foundation, 2021^[224]).

A balanced approach to governance is key

The 2020 IIAG findings highlighted that the continent is following an unbalanced path towards governance. Over the past decade, 20 countries, home to 41.9% of Africa's population, while achieving progress in Human development and Foundations for economic opportunity, have at the same time declined in both Security and rule of law and Participation, rights and inclusion. This is particularly concerning as both in 2019 and over the ten-year time series, the indicators showing the strongest relationships with high governance scores span across all four IIAG categories, underlining the need for a balanced approach to governance.

In addition, it is key to underline that some of the most correlated factors with high Overall governance scores pertain to personal liberties, executive compliance with the law, judicial processes, equal opportunities and rights, as well as budgetary management, statistical capacity, quality of education and environmental policies. Apart from Morocco, all of the ten highest-scoring countries for Overall governance also feature in the top ten for the Participation, rights and inclusion category. Similar observations are made at the sub-category level. Eight of the ten best countries at the Overall governance level are among the ten highest-scoring countries in Participation and Rights.

These results are also relevant for governments' approach to dealing with the COVID-19 crisis. To offer citizens an environment conducive to good governance, governments should not neglect civil rights and freedoms and restrict civic space as part of their COVID-19 response when dealing with the health and economic consequences of the pandemic. In doing so, leaders would risk losing even more of citizen

trust as well as aggravating the already unbalanced progress regarding good governance on the continent.

1. The Ibrahim Index of African Governance (IIAG) is a composite index providing a statistical measure of governance performance in 54 African countries. Each IIAG [dataset](#) analyses a window of comparable data within a ten-year period. The IIAG governance framework comprises four categories: Security and rule of law; Participation, rights and inclusion; Foundations for economic opportunity; and Human development. These categories are made up of 16 sub-categories, for a total of 79 indicators. The 2020 IIAG is calculated using data from 40 independent African and global institutions. Once collected, raw data for the IIAG are transformed to a standardised range of 0.0-100.0, where 100.0 is the best possible score, before using a simple method of aggregation to calculate the scores. The Overall governance score is the average of the underlying category scores; the category scores are the average of their underlying sub-categories, and the sub-categories are the average of their constituent indicators. For more information, see the [2020 IIAG Report](#), [2021 Ibrahim Forum report](#) and the latest IIAG report [COVID-19 in Africa: A challenging road to recovery](#).

2. The 2020 IIAG contains 79 governance indicators under four categories: Security and rule of law; Participation, rights and inclusion; Foundations for economic opportunity; and Human development. The Participation sub-category assesses freedom of association and assembly, political pluralism, civil society space and the integrity of elections. The Rights sub-category assesses personal liberties, freedom of expression and belief including academic freedom, media freedom, digital rights and protection against discrimination.

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Notes

¹ The OECD Survey on Open Government instrument was developed before the adoption of the DAC Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance in 2021, which defines civil society as “uncoerced human association or interaction by which individuals implement individual or collective action to address shared needs, ideas, interests, values, faith, and beliefs that they have identified in common, as well as the formal, semi- or non-formal forms of associations and the individuals involved in them. Civil society is distinct from states, private for profit enterprises, and the family”. CSO is defined as “an organisational representation of civil society and includes all not-for-profit, non-state, non-partisan, non-violent, and self-governing organisations outside of the family in which people come together to pursue shared needs, ideas, interests, values, faith and beliefs, including formal, legally registered organisations as well as informal associations without legal status but with a structure and activities” (OECD, 2021^[4]).

² European Court of Human Rights, *Croatian Golf Federation v. Croatia*, Application no. 66994/14, judgment of 17 December 2020, paras. 96 and 100. See also Council of Europe, Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, 10 October 2007, para. 44, which also in principle permits the dissolution of non-governmental organisations based on bankruptcy, prolonged inactivity or serious misconduct.

³ The Electoral Act defines “political purpose” as “any campaign conducted with a view to promoting or procuring a particular outcome in relation to a policy or policies or functions of the Government or any public authority”. The General Scheme of the Electoral Reform Bill, which introduced a range of reforms in January 2021 acknowledged that, “[i]t should be noted that the definition of political purposes is the subject of concern for a number of civil society groups who contend that it is too broad and adversely affects the ability of third parties in raising funding in support of undertaking their ordinary day-to-day advocacy work” (Government of Ireland, 2021^[229]).

⁴ Article 8 of UN General Assembly *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, adopted by General Assembly Resolution 53/144 of 9 December 1998. See also: Kiai (2012^[8]), para. 73; Council of Europe (2007^[9]), paras. 9, 14 and 55; OSCE/ODIHR/Venice Commission (2015^[10]), paras. 102 and 183 and following.

⁵ The V-Dem Institute’s indicator on CSO repression is based on the evaluation of multiple ratings provided by country experts, of whom about 85% are academics or professionals working in media, or public affairs (e.g. senior analysts, editors, judges); about two-thirds are also nationals of and/or residents in a country and have documented knowledge of both that country and a specific substantive area.

⁶ For more information on the Expert Group against SLAPP, see <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?do=groupDetail.groupDetail&groupID=3746>.

⁷ The “Facilitators Package” refers to Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence and Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.

⁸ **Slovenia** is kindly asked to validate (Law on Non-Governmental Organisations was passed on 23 March 2018).

⁹ However, due to COVID-19, gambling tax returns were affected (Government of Estonia, 2022^[226]).

¹⁰ In **Finland**, gains from gambling activities decreased due to the pandemic, highlighting the need for a sustainable funding model that can withstand shocks and crises (OECD, 2021^[142]). In 2021, the government compensated the losses with funding from the state budget (EUR 349 million).

¹¹ The OECD Development Assistance Committee (DAC) is an international forum of many of the largest providers of aid, with the overarching objective of promoting development co-operation to contribute to the implementation of the 2030 Agenda for Sustainable Development. DAC’s 30 members are: Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, the United Kingdom, the United States and the European Union (OECD, 2018^[182]).

¹² The **Dominican Republic** established a single entity (*Centro Nacional de fomento y promocion de las asociaciones sin fines de lucro*) within the Ministry of Economics, Planning and Development, with a mandate to register CSO applications and transfer them to the relevant ministries.

¹³ **Kazakhstan** established a single Civil Initiatives Support Center under the Ministry of Information and Public Development, with the purpose of allocating government and non-government grants to CSOs to “implement the social projects of the state”.

¹⁴ While desk research indicates that many respondents also restrict funding from abroad in anti-money laundering or anti-terrorism laws, these are not reflected in Figure 5.21. According to the Peace Research Institute Oslo, a total of 58 countries, including some OECD Members, had restrictions in place on CSOs' ability to access foreign funding as of 2019 (Baldus, 2019_[228]).

¹⁵ The Special Rapporteur on the promotion and the protection of human rights and fundamental freedoms while countering terrorism highlighted this phenomenon in a 2019 report dedicated to the impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors. The report noted that 66% of relevant communications sent to her office between 2012 and 2018 were related to the abusive use of counter-terrorism laws to curb civil society freedom (Ní Aoláin, 2019_[153]). Reports show that additional registration requirements, cumbersome administrative processes, increased surveillance and sometimes criminal prosecutions have been imposed on CSOs in the name of compliance with counter-terrorism regulations (Ní Aoláin, 2019_[153]).

¹⁶ The UN Counter-Terrorism Implementation Task Force (CTITF) Working Group on Tackling the Financing of Terrorism noted in 2009 that the actual percentage of NPO financial flows abused for terrorism financing was very small and recommended that states “avoid rhetoric that ties NPOs to terrorism financing in general terms because it overstates the threat and unduly damages the NPO sector as a whole” (CTITF, 2009_[230]).

¹⁷ The **United Kingdom's National Risk Assessment of Money Laundering and Terrorist Financing for 2020** concluded that “consistent with the findings of the previous NRA, this NRA assesses that the NPO sector is not attractive to money laundering and assesses the risk to be low” and “overall, the risk of terrorist financing through the NPO sector continues to be assessed as low” (HM Treasury, 2020_[159]). These conclusions are similar to the findings of the 2020 national risk assessment conducted by the Ministry of the Interior of **Germany**, which stated that “the risk that a legitimate NPO is being abused for purposes of terrorist financing is considered medium-low”, adding that “there are hardly any cases of legitimate NPO being abused to finance terrorism” (BMI, 2020_[160]).

¹⁸ Requests for additional information can include the identification of beneficiaries of aid, which can be difficult to provide for humanitarian activities targeting vulnerable populations. Many CSOs, especially those that work in, on and around conflict zones, have been affected by these stringent requirements, undermining relief and development work in these regions and thus posing an additional threat to already vulnerable populations (Hayes, 2017_[158]).

¹⁹ Interview, CSO operating in the MENA region, 22 February 2021. Some of these CSOs were able to reverse the decision after sending a complaint to the relevant bank.

²⁰ In October 2020, **Morocco**, the **Netherlands** and the UN Office of Counter-Terrorism (UNOCT) launched an initiative on “Ensuring the Effective Implementation of Countering the Financing of Terrorism Measures While Safeguarding Civic Space” to strengthen the dialogue and co-ordination among counter-terrorism and counter-financing of terrorism actors, the UN, governments, financial intelligence units, civil society, the private sector and supervisory authorities (GCTF, 2020_[173]). Another example is the Stakeholder Dialogue on De-Risking set up by the World Bank and the Association of Certified Anti-Money Laundering Specialists in an effort to address financial exclusion, which comprised roundtables between US regulators, NPOs and banks to produce guidance papers on due diligence approaches (World Bank/ACAMS, 2017_[172]).

²¹ Through this partnership, the country managed to become compliant with Recommendation 8 in 2019 and was removed from the FATF's “high-risk jurisdiction” list (Global NPO Coalition on FATF, n.d._[225]).

²² Sustainable Development Goal 17 (Strengthen the means of implementation and revitalise the Global Partnership for Sustainable Development) considers multi-stakeholder partnerships as a goal in themselves. Partnerships are recognised as important vehicles for mobilising and sharing knowledge, expertise, technologies and financial resources to support the achievement of the sustainable development goals in all countries, particularly developing countries.

²³ The OECD notes that an “activity is characterised as aid to CSOs when the core contributions and pooled programmes and funds are programmed by the CSOs and include contributions to finance the CSOs’ projects. An activity is characterised as aid through CSOs when funds are channelled through CSOs and other private bodies to implement donor-initiated projects” (OECD, 2021^[227]).

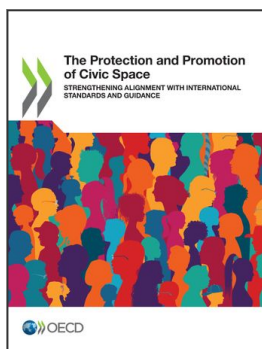
²⁴ See in particular reports from the EU Agency for Fundamental Rights (FRA) (2017^[66]; 2018^[232]; 2020^[231]; 2020^[233]; 2021^[211]).

²⁵ See EU Agency for Fundamental Rights (2021^[12]) and the FRA civic space consultations (2020, 2019, 2018) at <https://fra.europa.eu/en/cooperation/civil-society/civil-society-space>.

²⁶ See the FRA civic space consultations (2020, 2019, 2018) at <https://fra.europa.eu/en/cooperation/civil-society/civil-society-space>.

²⁷ See, for example, the sCAN Project (n.d.^[234]).

²⁸ See the FRA civic space reports (2021 and 2018) at <https://fra.europa.eu/en/cooperation/civil-society/civil-society-space>.



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