1 Overview of the OECD's approach to the protection and promotion of civic space

This chapter introduces the concept of civic space and its significance as a precondition for democratic governance and inclusive citizen and stakeholder participation. It reviews the OECD's growing body of work on the protection and promotion of civic space. It provides an overview of the report, in addition to a summary of the methodology. Finally, it reviews the state of civic space in OECD Members and presents selected key findings from the report, in addition to ten high-level recommendations.
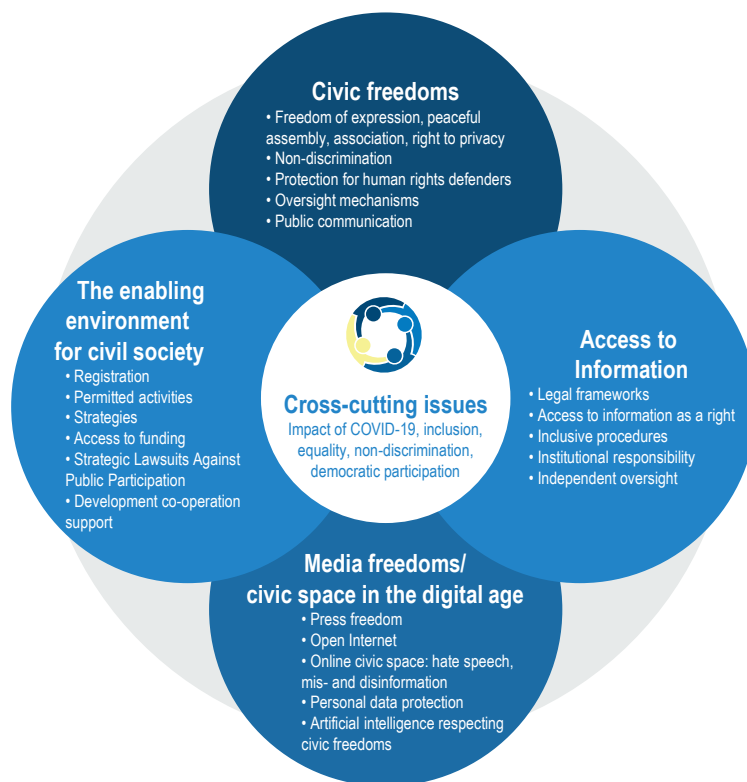
1.1. The importance of protected civic space

Protected civic space – defined in the OECD Survey on Open Government (hereafter "the Survey") as the set of legal, policy, institutional and practical conditions necessary for non-governmental actors to access information, express themselves, associate, organise and participate in public life (Figure 1.1) – enables collaboration between civil society, citizens[1] and governments. When the fundamental civic freedoms of expression, peaceful assembly, association and the right to privacy are protected, citizens can engage meaningfully in decision-making processes, evaluate outcomes and hold their governments to account. Protecting civic space is thus about fostering and promoting the necessary environment in which citizens and non-governmental actors can exercise their right to participate in public affairs (OHCHR, 2018[1]).

The protection of civic space comes in different forms in OECD Members, ranging from constitutional guarantees and legislation to specific policies and practices governing key areas of public life. A thriving civic space emerges through joint efforts by a range of governmental institutions and across the public sector to protect civic freedoms and foster substantive opportunities for civic engagement. However, while the essence of these rights remains static, their scope and implementation evolve and need to be recast over time. While societal change and technological innovation have invigorated civic space in many countries, they have also contributed to the emergence of new pressures and threats.

The acceleration of the digital transformation due to the pandemic, for example, presents a new set of opportunities as governments expand the scope of virtual participation for citizens. At the same time, this shift poses challenges to freedom of expression, as governments grapple with countering online hate speech and mis- and disinformation.[2] Traditional notions of freedom of assembly and association have become more complex with the global reach of today's online activism and the shift away from formal organisations towards informal social movements. Similarly, the right to privacy has to be balanced against governments' security imperatives and the growing pervasiveness of technology in everyday life. As always, context matters: countries where the rule of law and civic freedoms are respected, with strong oversight mechanisms and a long-standing commitment to democracy, are better equipped to provide an enabling environment for civic space and civil society than countries with less established institutions and protection mechanisms.

By promoting and protecting civic freedoms and providing concrete opportunities for collaboration with citizens and civil society, governments can better align services, policies and laws to societal needs. Ensuring a healthy civic space, both on and off line, is thus a prerequisite for more inclusive governance and democratic participation more broadly. Countries that commit to fostering civic space at both the national and local levels reap many benefits: higher levels of citizen engagement, strengthened transparency and accountability, and empowered citizens and civil society. In the longer term, a vibrant civic space can help to improve government effectiveness and responsiveness, contribute to more citizen-centred policies and programmes, boost social cohesion and ultimately increase trust in government. Crucially, in order to realise these benefits, sustained efforts are needed, coupled with ongoing data collection and monitoring to detect and counter any constraints, given the centrality of civic space to democratic life. Indeed, the degree to which a country protects its civic space is a strong gauge of the health of its democracy more broadly. See Figure 1.1 for an overview of the dimensions of civic space that are discussed in the report.

Figure 1.1. The dimensions of civic space

Civic freedoms
• Freedom of expression, peaceful assembly, association, right to privacy
• Non-discrimination
• Protection for human rights defenders
• Oversight mechanisms
• Public communication

The enabling environment for civil society
• Registration
• Permitted activities
• Strategies
• Access to funding
• Strategic Lawsuits Against Public Participation
• Development co-operation support

Cross-cutting issues
Impact of COVID-19, inclusion, equality, non-discrimination, democratic participation

Access to Information
• Legal frameworks
• Access to information as a right
• Inclusive procedures
• Institutional responsibility
• Independent oversight

Media freedoms/ civic space in the digital age
• Press freedom
• Open Internet
• Online civic space: hate speech, mis- and disinformation
• Personal data protection
• Artificial intelligence respecting civic freedoms

Source: OECD (n.d.[2]), "Civic Space", OECD, Paris, https://www.oecd.org/gov/open-government/civic-space.htm (accessed on 29 August 2022).

1.2. The role of civic space in strengthening democratic governance

The past decade has seen increasing international recognition of civic space as a cornerstone of functioning democracies and significant efforts to defend and support it. A range of international initiatives and declarations have elevated related concerns to the height of international policy debate in recent years (UN, 2020[3]; PACE, 2018[4]; UN, 2016[5]; 2021[6]). In 2020, the Secretary-General of the United Nations (UN) António Guterres launched a high-profile Call to Action for Human Rights with seven priority areas, including "rights in times of crisis" and "public participation and civic space" (UN, 2020[7]). The same year, the European Union (EU) released a European Democracy Action Plan to address growing challenges to democracy (EC, 2020[8]). The United States (US) President Joe Biden convened a Summit for Democracy in 2021 aiming to demonstrate how democracies can deliver on the issues that matter most to people, including civic freedoms and civic capacity. The Open Government Partnership (OGP), which gathers government leaders and civil society to promote transparent, participatory, inclusive and accountable governance, also launched a high-profile Call to Action to encourage its members to protect civic space and enhance citizen participation in 2021. Reinforcing democracy became a central priority for the OECD Public Governance Committee in 2021.

Such initiatives come as a response to concerns about a democratic backslide across the world in recent years that is affecting civic space and reshaping the contours of engagement between people and their governments. The Varieties of Democracy (V-Dem) Institute[3] noted in 2021 that while the world is still more democratic today than it was in the 1970s or 1980s, there has been a global decline of liberal democracy over the past decade (Alizada et al., 2021[9]). At the same time, low voter turnout and increasing apathy towards mainstream political parties in many established democracies are a sign of disengagement from

traditional democratic institutions. Indeed, data suggest that public satisfaction with the way that institutions are functioning is low. Results from the 2021 OECD *Drivers of Trust in Public Institutions* survey illustrate that governments could do better in responding to citizens' concerns and expectations (OECD, 2022[10]). The survey finds public confidence is evenly split between people who say they trust their national government and those who do not. Just under four in ten respondents, on average across countries, say that their government would improve a poorly performing service, implement an innovative idea or change a national policy in response to public demands. Only three in ten feel they have a say in what the government does (OECD, 2022[10]). Crucially, people's perception of opportunities for meaningful engagement is strongly associated with levels of trust in government. Complex and sometimes transboundary global issues are influencing the malaise, including economic and climate pessimism, concerns about disinformation, rising populism and political polarisation, coupled with increasing inequity and inequality across the globe. The challenge for democratic governments is to ensure that a greater number of people feel that political systems and institutions are meeting their needs and that their voices are valued and listened to.

By linking the protection of civic space with their public governance reform efforts, OECD Members are seeking to ensure more effective, inclusive and impactful civic participation in democratic processes and government decision making. Mindful of the challenges they face, OECD Members are thus working to strengthen their civic space as part of reinforcing and renewing their democratic institutions.

Box 1.1. The global decline in the protection of civic space

At the global level, the past two decades have seen restrictions imposed on civic space by governments (Figure 1.4). Data from the V-Dem Institute show that, in many countries, this shift is most evident in restrictions to freedom of expression and the media, freedom of assembly and association, and repression of civil society (Alizada et al., 2021[9]; Boese et al., 2022[11]).[1] Currently, an unprecedented number (35) of countries are seeing a decline in freedom of expression, for example, while only 10 are making advances, according to the institute (Boese et al., 2022[11]). This is a reversal of the trend a decade ago when more countries were advancing in this area than declining.

Evidence from a range of civil society organisations (CSOs), academics and international organisations shows that civic voices are being silenced in a variety of ways. These include: smear campaigns targeting CSOs; a rise in state surveillance of civil society; targeting of journalists and activists; onerous administrative procedures for the registration of CSOs; muzzling of watchdogs, journalists and human rights defenders[2] by both state and non-state actors; intimidation and violence from state security forces; harassment, criminalisation and prosecutions of CSOs and activists; and the use of overly broad counterterrorism or criminal laws to control civil society, according to civil society, academic, OECD and UN sources (Bossuyt and Ronceray, 2020[12]; Hossain et al., 2018[13]; UN, 2019[14]; Vosyliute and Luk, 2020[15]; OECD, 2020[16]). In some countries, organised crime and criminal gangs play a particular role in targeting, threatening and killing journalists to prevent them from reporting, particularly on issues related to politics, crime and corruption (RSF, 2021[17]; CPJ, 2021[18]; UNESCO, 2021[19]), necessitating dedicated protection programmes and initiatives from governments. Limits on access to information, censorship, arbitrary detentions of journalists and state-sponsored disinformation have also been reported by civil society groups (RSF, 2021[20]; Freedom House, 2021[21]; Frontline Defenders, 2022[22]; UNESCO, 2021[19]; 2022[23]; CPJ, 2021[18]). In 2021, a record 293 journalists were imprisoned worldwide, according to the Committee to Protect Journalists (2021[18]). A growing number of human rights defenders are being killed; at least 358 verified killings took place in 35 countries in 2021 alone, of which 250 occurred in Latin America, according to Frontline Defenders (2022[22]).

The onset of COVID-19 in 2020 exacerbated pressures on civic space as economies were brought to a standstill and governments introduced emergency measures to prevent the collapse of national health systems, which in some cases led to derogations of key civic freedoms. While most democracies introduced measures with time limits and with the necessary oversight, others did not, despite clear international guidance in this area (Section 2.1.5 in Chapter 2).

1. The V-Dem Institute reports that "freedom of expression and the media" make up eight out of ten indicators that have declined in the greatest number of countries in the past ten years (Alizada et al., 2021[9]).
2. Human rights defenders are defined in this report as all persons, who individually or in association with others, act to promote or protect human rights peacefully.
Source: Authors.

1.3. The OECD's work on the protection of civic space

The OECD's work on civic space and civil society stretches back over a decade.[4] The OECD Observatory of Civic Space was established in 2019 with the aim of gathering data and good practices on the legal, institutional and policy frameworks that OECD Members can implement to promote and protect civic space (Box 1.2) [GOV/PGC(2018)4/FINAL]. Since then, through both the observatory and other parts of the OECD Secretariat, the Organisation has engaged in the following range of activities, in line with increased demand and requests from OECD Members:

- **Civic space scans and open government reviews:** In-depth qualitative scans and chapters in open government studies have been completed or are ongoing in several OECD Members and non-Members including Brazil, Finland, Morocco, Portugal, Romania and Tunisia, providing specific guidance to governments on protecting their civic space at the national level.

- **Global analysis of civic space:** The present report is based on a 2-year data-gathering exercise from a total of 52 OECD Members and non-Members, yielding a vast evidence base on related initiatives, gaps and good practices. A follow-up survey will be repeated every three years.

- **Civic space standards:** In 2021, the OECD Development Assistance Committee (DAC), comprising 30 OECD members, adopted the DAC *Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance* [OECD/LEGAL/5021]. The standard includes pillars on protecting civic space (Pillar 1) and supporting and engaging with civil society (Pillar 2) in development co-operation. In June 2022, the *Recommendation on Creating Better Opportunities for Young People* [OECD/LEGAL/0474] was adopted by the OECD Council. It includes a provision on recognising and safeguarding youth rights and protecting civic space for young people with targeted measures for disadvantaged and under-represented groups.

- **Forum for dialogue and exchange:** The OECD continues to act as a convenor of dialogue on civic space, public governance and democracy, bringing together governmental and non-governmental actors at the highest levels for regular interaction, dialogue, consensus building and the development of standards.

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Box 1.2. Civic space and the OECD Recommendation on Open Government

The OECD's civic space work is anchored in the *OECD Recommendation of the Council on Open Government* [OECD/LEGAL/0438] (hereafter "the Recommendation"). The Recommendation – the only legal instrument of its kind in this area – defines open government as "a culture of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth" (OECD, 2017[24]). Four of the Recommendation's provisions are particularly relevant to civic space:

- **Provision 1** recommends that Adherents take measures "in all branches and at all levels of the government, to develop and implement open government strategies and initiatives in collaboration with stakeholders".

- **Provision 2** focuses on the need to ensure the "existence and implementation of the necessary open government legal and regulatory framework" while establishing adequate oversight mechanisms.

- **Provision 8** recognises the need to grant all stakeholders "equal and fair opportunities to be informed and consulted" on governance issues and for them to actively engage in all phases of public sector decision-making and service design and delivery.

- Furthermore, the Recommendation calls for specific efforts to reach out to "the most relevant, vulnerable, underrepresented, or marginalised groups in society", while avoiding undue influence and policy capture, and to "promote innovative ways to effectively engage with stakeholders to source ideas and co-create solutions and seize the opportunities provided by digital government tools" (**Provisions 8 and 9**) (OECD, 2017[24]).

As such, the report presents numerous legal and policy initiatives, good practices and concrete policy recommendations and associated measures that could be considered by governments as they are directly relevant to implementing the Recommendation.

Source: Authors.

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By integrating civic space into its public governance agenda in the context of the COVID-19 pandemic, the OECD is promoting an expansive and holistic understanding of open government that explicitly recognises that transparency, accountability, integrity and participation are only possible when the broader environment is conducive (Table 1.1). To take concrete examples, open data do not lead to transparency if citizens are unable to access, use and critique them; similarly, access to information yields little accountability if journalists are threatened or arrested for using it; and participation in public decision making is hindered if CSOs are struggling to operate, arbitrarily dissolved or drowning in red tape.

Table 1.1. Links between the OECD's open government principles and civic space

Civic space as an enabler of open government reforms			
Transparency	**Accountability**	**Integrity**	**Participation**
Targeted transparency initiatives,[1] proactive disclosure of information and data, and two-way communication to gather feedback and encourage dialogue facilitated by a free and open Internet, a healthy media ecosystem, a safe environment for journalists and bloggers, and an enabling environment for CSO and citizen participation are preconditions for government transparency.	Legal protections and functioning oversight mechanisms, as well as rule of law, are essential to ensure equal access to information and relevant policy discussions and decision making for CSOs and citizens, in addition to (hard) accountability[2] for violations of the right to participate and other civic freedoms.	Targeted transparency initiatives, and proactive disclosure of information and data facilitated by a healthy media ecosystem, protection for human rights defenders, activists and whistleblowers, and informed civil society and citizens are preconditions for the prevention of policy capture wherein public decision making is directed away from the public interest.	Protected civic freedoms (e.g. freedom of expression, association, assembly, privacy), non-discrimination, an enabling environment for CSOs, security and protection for activists and rights defenders, robust information ecosystems and inclusive and accessible opportunities are preconditions for effective CSO and citizen participation in governance and decision making.

1. Targeted transparency initiatives "have the fundamental characteristic of using information disclosure as a way of achieving a concrete public policy goal, such as improving public service delivery in healthcare, education and transportation, among other sectors" (Dassen and Cruz Vieyra, 2012[25]).

2. Hard accountability refers to measures that "explicitly name a means of enforcing or brokering compliance". In other words, there are consequences for failure to comply and the means to achieve relevant aims (Foti, 2021[26]).

Source: Based on Dassen, N. and J. Cruz Vieyra (eds.) (2012[25]), *Open Government and Targeted Transparency: Trends and Challenges for Latin America and the Caribbean*, https://publications.iadb.org/en/open-government-and-targeted-transparency-trends-and-challenges-latin-america-and-caribbean; Foti, J. (2021[26]), "Past due: Leveraging justice for 'hard accountability' in OGP", https://opengovpart.medium.com/past-due-leveraging-justice-for-hard-accountability-in-ogp-f3a66b913997; and unpublished OECD documents.

1.4. Aims and overview of this report

This first OECD comparative report on civic space is a central part of the work of the OECD Observatory of Civic Space. It aims to offer a baseline on the protection and promotion of civic space drawn from verified data collected through a survey of 33 OECD Members and 19 non-Members (Box 1.3) and complemented by a review of key trends and recent developments in government policies and practices in addition to international legal frameworks and standards (UN, 1966[27]; 2016[5]; 2021[6]; 2011[28]; 2020[29]).

The recommendations and suggested measures that are included in the report are drawn from a variety of sources, both descriptive (e.g. government data provided by respondents to the OECD Survey, analysis from CSOs and academia, good practices) and prescriptive (e.g. existing OECD standards, international standards). Sources are clearly identified throughout the text.

Data provided by governments include national laws, regulations, policies, strategies as well as good practices in the four areas assessed in the report. OECD standards cover a wide range of issues, including open government, policy coherence, gender equality, artificial intelligence and broadband connectivity, among others. The report draws on existing international guidance related to civic space to underpin related recommendations and associated measures, including UN standards, as well as guidance from regional human rights bodies and courts, such as the European Court of Human Rights or the Inter-American Court of Human Rights. Analyses from CSOs and academic institutions are considered where relevant, along with their insights into how they see civic space is protected in practice (Figure 1.2).

Figure 1.2. Data, standards and sources used in this report
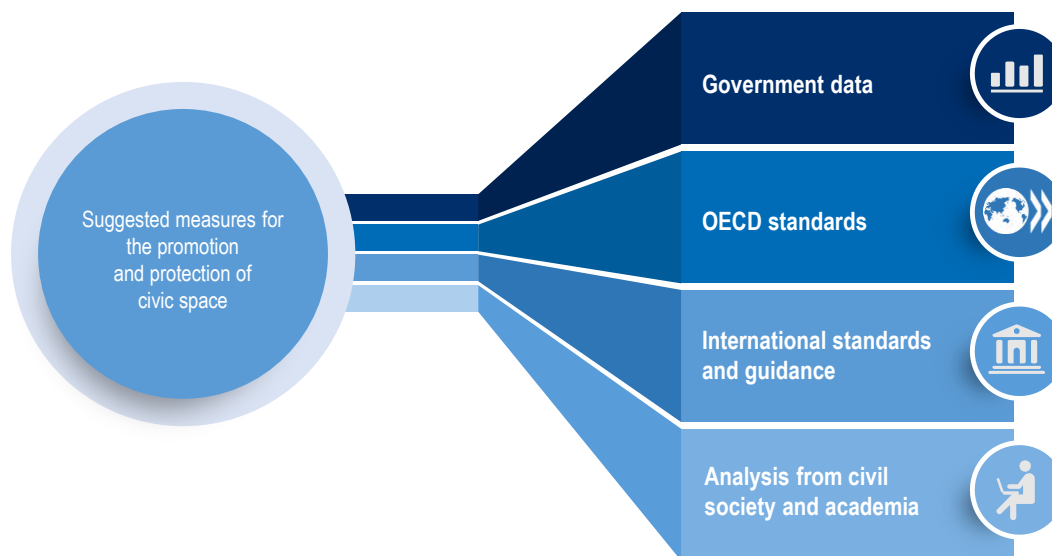
The main aim of the report is to support OECD Members and non-Members to protect civic space by giving a full overview of the different dimensions of civic space and current practices and suggesting measures that could be considered to promote and safeguard civic space.

To do so, the report provides:

- **Comparative government data**, including on national legal frameworks, policies, strategies, institutional arrangements and actual practices on the promotion and protection of civic space.
- An overview of **existing OECD standards** on a variety of issues relevant to the protection of civic space.
- An overview of **existing guidance provided by international and regional human rights bodies** on issues relevant to the protection of civic space.
- An overview of **trends and patterns in OECD Members and selected non-Members**, in addition to regional analyses on Europe, Latin America and the Caribbean (LAC) and Africa.
- Highlights of **good and innovative practices**.
- An **evidence base** for any future OECD standards on civic space.

The report's added value is that it brings a government and a public sector implementation and reform perspective into ongoing debates on the promotion and protection of civic space, which are currently largely dominated by perception surveys, analyses from civil society and guidance from international organisations, such as the UN and other regional human rights bodies. This focus provides insights on key legislation, policies and public sector practices that help to foster and promote civic space. Furthermore, the report brings together government data (validated by the OECD) and compares them with non-governmental data, in addition to existing and agreed upon OECD and international standards, to provide guidance on strengthening alignment with these standards.

Countries that participated in the Survey were explicitly requested to provide data based on national legal frameworks that are applicable in normal circumstances, not emergency or temporary measures due to the onset of the pandemic. This is because, when the survey instrument was drafted in mid-2020, any emergency measures that negatively affected civic space were presumed to be of a short-term nature. Recognising that the medium- and long-term impact of COVID-19 on civic space has yet to be fully understood, the pandemic is discussed in a number of sections.

The report captures the evolving reality of the legal, policy and institutional frameworks and practices that surveyed governments have put in place in the four key areas detailed in Figure 1.1:

- **Chapter 2: Facilitating citizen and stakeholder participation through the protection of civic freedoms.** This chapter provides an overview of the status of freedom of expression, peaceful assembly, association and the right to privacy as cornerstones of democratic life. It discusses related legal protections and exceptions to the full enjoyment of these rights, followed by a review of implementation trends, challenges and opportunities, including in the context of COVID-19. It examines discrimination as an obstacle to equal participation in public policy making and reviews legal frameworks and practices protecting human rights defenders. Finally, it examines the types of mechanisms that exist to counter violations of civic freedoms, including oversight and complaints bodies and the role of public communication in promoting civic space.

- **Chapter 3: Protecting and promoting the right to access information as a core component of civic space.** This chapter provides an overview of the fundamental right to access information (ATI) as a key element of civic space and open government. It firstly outlines the role of access to information as a right, its intersection with other civic freedoms and how the right is protected and promoted through international treaties and conventions. The chapter then focuses on the legal framework for ATI, including constitutional recognition and ATI laws and how their various provisions can be more effectively implemented to foster civic space. Finally, it outlines trends, challenges and opportunities for strengthening the right to access information.

- **Chapter 4: Media freedoms and civic space in the digital age for transparency, accountability and citizen participation.** This chapter provides an overview of the status of press freedom and civic space in a digitalised world, including relevant legal frameworks. It discusses harassment and attacks targeting journalists and makes suggestions on building the necessary enabling environment for reliable, fact-based journalism. It considers the protection of online civic space for citizens and related challenges such as hate speech, mis- and disinformation. Finally, the chapter reflects on the importance of personal data protection for civic space and safeguarding civic freedoms in the context of increased use of artificial intelligence.

- **Chapter 5: Fostering an enabling environment for civil society to operate, flourish and participate in public life.** This chapter explores the measures OECD Members and non-Members can take to foster an enabling environment for civil society. It examines legal and regulatory frameworks governing the establishment and operations of 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 support recovery in the aftermath of COVID-19. It then discusses key challenges such as Strategic Lawsuits Against Public Participation (SLAPPs) and examines support for civic space as part of development co-operation. It also assesses key regional challenges and opportunities within the EU, the LAC region and Africa, providing proposals for consideration.

Chapters 2-4 address issues that are pertinent for citizens and CSOs, whereas Chapter 5 focuses largely on the conditions that are specific to organised civil society (see also Box 1.3). The themes of equality, inclusion, non-discrimination and democratic participation are addressed as cross-cutting issues throughout the report.

Box 1.3. Introduction to the methodology

The OECD Survey, on which this report is based, was primarily aimed at monitoring the implementation of the 2017 *OECD Recommendation of the Council on Open Government*. The Survey was sent to 67 OECD Members and non-Members in November 2020 (43 Adherents to the Recommendation and 24 non-Adherents). The data in this report are based on Section 3 ("Civic space as an enabler of open

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government") of the Survey and complemented with data from Section 4 ("The open government principle of transparency").[1] Section 3 included 33 questions (and sub-questions yielding approximately 300 data points for the graphs and charts) for national governments, divided into 3 sections on civic freedoms, media freedoms and civic space in the digital age, and the CSO enabling environment, based on the OECD's analytical framework for civic space. Section 4 included 29 questions, divided into 3 sections on legal frameworks on ATI, implementation of ATI laws and institutionalisation and governance of ATI laws. Before launching the Survey, both sections were reviewed and commented on by a range of subject matter experts, both within the OECD and externally.[2]

A total of 52 central governments (of which 33 are OECD Members)[3] responded to the Survey between February 2021 and May 2022 (together referred to as "respondents"), and an OECD team validated the data over the same period. The main content for the report was developed between January 2021 and March 2022, followed by an extensive internal OECD review process. The report refers extensively to data from external sources such as CSOs and academia. Four CSOs – the Mo Ibrahim Foundation (MIH), Reporters Without Borders (RSF), the International Center for Not-for-Profit Law (ICNL) and the European Center for Not-for-Profit Law (ECNL) – contributed content, in addition to the EU Agency for Fundamental Rights (FRA).

Based on the Survey, the report conducts an exploratory analysis across a wide variety of themes, while acknowledging that complex implementation challenges cannot be grasped through a limited number of survey questions. Given these limitations, the Survey focused on *de jure* aspects of civic space and the responses provided by governments are complemented with data and desk research on implementation from independent sources such as CSOs, research institutions and UN bodies.

The recommendations and associated measures in the report are based on the Survey data in addition to OECD standards, relevant literature and international and regional human rights law and standards. The report draws on specific OECD legal instruments including the OECD Recommendations on: Open Government [OECD/LEGAL/0438]; Gender Equality in Public Life [OECD/LEGAL/0418]; Policy Coherence for Sustainable Development [OECD/LEGAL/0381]; Artificial Intelligence [OECD/LEGAL/0449]; Principles for Internet Policy Making [OECD/LEGAL/0387]; Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data [OECD/LEGAL/0188]; Enhancing Access to and Sharing of Data [OECD/LEGAL/0463]; Broadband Connectivity [OECD/LEGAL/0322]; on Creating Better Opportunities for Young People [OECD/LEGAL/0474] as well as the DAC Recommendation on Enabling Civil Society in Development Cooperation and Humanitarian Assistance [OECD/LEGAL/5021]. The report also draws on other OECD standards such as the OECD Policy Framework on Sound Public Governance (OECD, 2020[30]), the Good Practice Principles for Data Ethics in the Public Sector (OECD, 2021[31]), and the Principles of Good Practice for Public Communication Responses to Mis and Disinformation (OECD, 2022[32]).

The report provides a compendium of data and analysis on civic space. The majority of the respondents hail from Europe (23 respondents) and LAC (13 respondents), with a number of others located elsewhere, namely in Africa (3), Asia and the Pacific (6), Central Asia (2), the Middle East (3) and North America (2).

See Annex A for a more detailed overview of the methodology.

1. The four sections of the Survey on Open Government focus on: The governance of open government (Section 1); The open government principle of citizen and stakeholder participation (Section 2); Civic space as an enabler of open government reforms (Section 3); and The open government principle of transparency (Section 4).
2. The Observatory of Civic Space is guided by an advisory group comprising experts, funders and world-renowned leaders on the protection of civic space who provide substantive input to its work.
3. A total of 51 OECD Members and non-Members (of which 32 are OECD Members) responded to Section 3 and 51 OECD Members and non-Members to Section 4 (of which 33 are OECD Members) of the Survey, giving a total of 52 respondents overall.
Source: Authors.

## 1.5. The state of civic space in OECD Members: Selected key findings

Within OECD Members, the protection of civic space is complex and evolving. In some respects, the picture is mixed: while many OECD Members consistently occupy top rankings in related international indices, others score lower in particular areas or across a range of indicators.[5] Nevertheless, in many OECD Members, aspects of civic space have been strengthened in recent years by progressive government initiatives, laws and institutions, coupled with powerful and dynamic civic activism, social movements and public pressure. Grassroot social movements, mass protest movements, deliberative assemblies and local referenda are just some manifestations of a democratic revival in some countries (Youngs, 2021[33]).

The legal bases for protecting civic space are generally strong in OECD Members. Relevant legal frameworks are for the most part far-reaching and applicable to anyone physically present in a country, even if irregularly (Section 2.1 in Chapter 2). Selected key findings of the report, based on the Survey, include the following:

- **Recognition of freedoms of expression, peaceful assembly and association:** All (100%) respondent OECD Members protect the freedom of expression of anyone on their territory and 91% protect peaceful assembly and freedom of association for anyone.

- **Development of protective institutional mechanisms:** Some 84% of respondent OECD Members have established independent public institutions that address human rights complaints, and many of these have set out the main elements of such institutions in their national constitutions.

- **Transparency and open data:** The right to access information has been enshrined in the constitutions of 70% of OECD respondents.

- **Proactive strategies in place:** 68% of respondent OECD Members have strategies in place to protect and promote the enabling environment for civil society on their territories and 48% as part of development co-operation (Figure 1.3).

Figure 1.3. Country strategies to protect and promote an enabling environment for civil society in OECD Members, 2020

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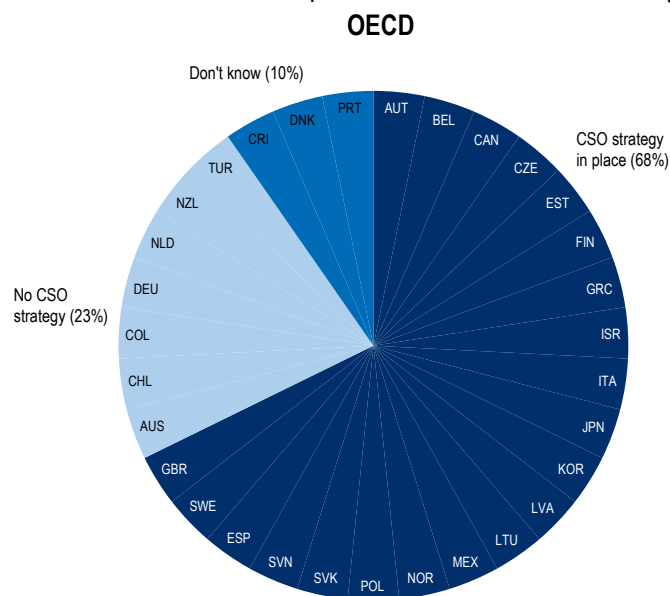

Note: The graph consists of 31 OECD Members. Data on Türkiye are based on OECD desk research and were shared with them for validation.
Source: 2020 OECD Survey on Open Government.

- **Existence and enforcement of anti-discrimination legislation:** Almost all respondents (91%) have laws protecting anyone from discrimination and 47% have established institutions that specialise in discrimination cases and in promoting equality. Protection against discrimination on the basis of ethnicity, gender, sex and sexual orientation is well established and a total of 94% have legislation protecting people from hate speech and 78% criminalise it, while at least 44% of OECD respondents have explicit measures in place to address online hate that targets women.

Despite these legal foundations, there are exceptions, gaps and implementation challenges. Non-governmental actors use a variety of methodologies to assess and rank the various dimensions of civic space. While these assessments generally suggest a strong performance among most OECD Members, they also point to challenges in different areas. Data from CIVICUS, for example, show a decline in 8 OECD Members with regard to freedoms of expression, peaceful assembly and association: in 2022, the organisation reported that civic space was "open" in 42% of all 38 OECD Members and "repressed", "obstructed" or "narrowed" in the remaining 58% (CIVICUS, 2022[34]) (Figure 1.4). In 2018 (the earliest year for which relevant data are available), these proportions were 53% and 47% respectively.[6]

Figure 1.4. CIVICUS Monitor of civic space, 2018 compared to 2022

Percentage of all OECD Members by CIVICUS category
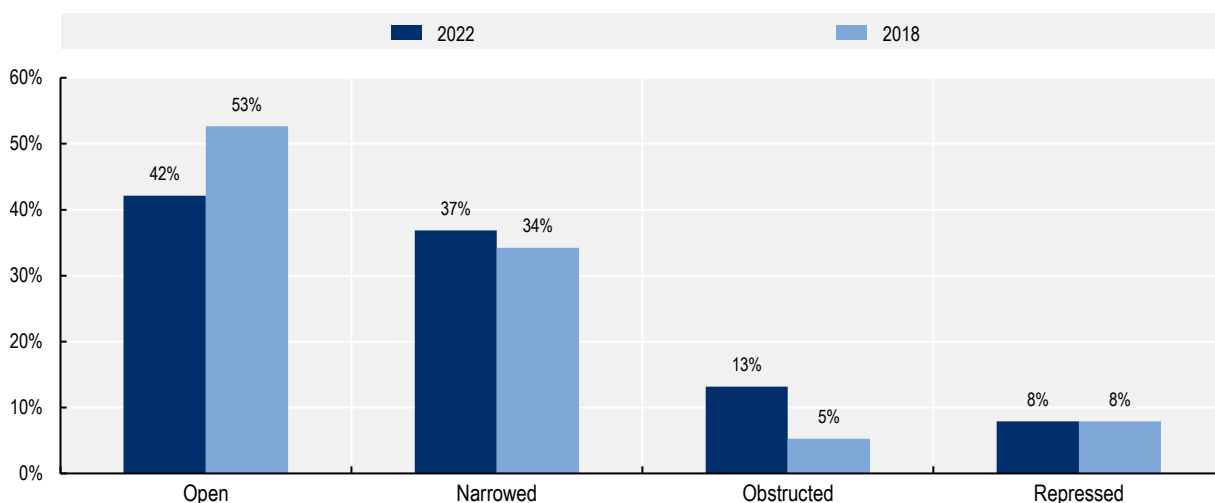
Note: The CIVICUS Monitor assesses civic space within countries and over time, looking at the respect in policy, law and practice for freedoms of association, peaceful assembly and expression and the extent to which the state protects these fundamental rights. Several independent sources are combined and analysed resulting in a country rating. Each country's civic space is rated in one of five categories: open, narrowed, obstructed, repressed or closed. All 38 OECD Members are included in this graph. No OECD member was rated as closed.
Source: CIVICUS (2022[34]), CIVICUS Monitor Tracking Civic Space, https://monitor.civicus.org/ (accessed on 18 May 2022).

Echoing this broad trend of approximately 20% of OECD Members experiencing a decline in different areas, the V-Dem Institute's Liberal Democracy Index scores for OECD Members – measuring the overall health of democracy in the world – show a decrease "substantively and at a statistically significant level" in seven OECD Members between 2011 and 2021 (Boese et al., 2022[11]).[7] Drilling down, according to V-Dem's Civil Liberties Index, which is a component of the above index and includes a range of relevant indicators, including on media, freedom of expression and CSOs, there has been a statistically significant decline in eight OECD Members when the scores of 2021 are compared to 2011. Three OECD Members have noticeably improved their index ratings over the past decade.

One area of civic space where civil society has reported a significant decline is media freedom. The proportion of OECD Members where the situation is regarded as favourable for journalism has halved in

the space of six years (Section 4.3 in Chapter 4). This period covers the beginning of the COVID-19 pandemic and hence some of the impacts of the emergency measures are reflected in the results. It also coincides with increased vilification of and targeted violence against journalists, coupled with a rise in polarisation in many OECD Members (V-Dem Institute, 2021[35]). The year 2021 saw two journalists killed in European cities: Amsterdam and Athens.[8] In other areas, OECD research points to an emerging decline in the enabling environment for CSOs working with specific groups such as migrants or on specific issues such as climate change, in individual OECD Members (Box 1.1). However, these challenges can be observed in a very small number of Members and do not appear in global rankings and indices (Section 5.2.3 in Chapter 5).

1.6. Conclusion and recommendations

The foundations for the protection of civic space in OECD Members are strong. However, data indicate that there is backsliding in certain areas in some OECD Members alongside progress in others. Within countries, existing legislation and practices may have different impacts on some sections of the population (e.g. minorities or particular demographic groups), given systemic marginalisation and exclusion. Respect for civic space may vary across a country and across sectors, ministries and other public institutions. In many OECD Members and non-Members where parts of civic space are restricted, this may be the result of a backlog of needed reforms to adapt legal frameworks and practices to modern-day challenges, rather than deliberate attempts to impose limits. At the same time, OECD research indicates that it is necessary to go beyond international rankings to understand and protect civic space at the national level. Furthermore, research shows that all OECD Members and non-Members face at least some challenges in protecting their civic space, particularly for minorities and marginalised groups, and that ongoing monitoring using disaggregated data is essential (OECD, 2021[36]). For example, the recent OECD Civic Space Scans of Finland and Portugal show that even in OECD Members with a strong commitment to civic participation and an impressive international standing in relation to freedom of the press, rule of law and respect for civic freedoms, a sustained effort is needed to maintain high standards.

The report recognises the need to adopt a comprehensive and systematic approach to protecting civic space that is co-ordinated across public institutions as a cross-cutting policy challenge. In view of this, it suggests a whole-of-state and whole-of-society approach, providing recommendations and associated measures for the many different actors involved in protecting the fundamental rights that form the bedrock of societies in OECD Members, as a community of like-minded nations committed to "the preservation of individual liberty, the values of democracy, the rule of law and the defence of human rights" (OECD, 2021[37]). Furthermore, it should be noted that the subject of civic space is vast and this report aims to provide an accessible, but not exhaustive, baseline of data on its current status. Forthcoming publications from the OECD Observatory of Civic Space will continue to explore other emerging civic space issues in depth, with a focus on regional, national and local levels.

Key areas that require further attention in OECD Members, all discussed in this report, include:

- **Restrictions on freedom of expression, both on and off line**, including due to the criminalisation of defamation, insufficient freedom of expression safeguards in the context of countering terrorism, the prevalence of misinformation and disinformation as well as hate speech, and violence and harassment targeting journalists and human rights defenders.
- **Restrictions on freedom of peaceful assembly**, due to insufficient protection of protestors by law enforcement actors, as well as police violence used against protestors in a few OECD Members.
- A **lack of protection in practice for minorities** in some OECD Members.
- **Disruptive new digital technologies**, such as artificial intelligence, posing new risks to equal participation and non-discrimination.

- **Challenges for the CSO enabling environment**, including the use of SLAPPs, smear campaigns and restricted space for those that engage on particular issues such as the environment and migration, constraints on access to funding and onerous registration, reporting and accounting obligations, and restrictions on the activities that they are allowed to engage in.

Box 1.4 provides an overview of the OECD's ten high-level recommendations on the protection of civic space.

Box 1.4. High-level recommendations on the protection of civic space

- Protect and facilitate **freedom of expression.**
- Protect and facilitate **freedom of peaceful assembly** and the right to protest.
- Counter the **discrimination**, **exclusion and marginalisation** that disproportionately affect certain groups and hinder equal participation in public life.
- Safeguard and protect **human rights defenders, journalists, whistle blowers**, and other at-risk groups.
- Foster a **public interest information ecosystem** that protects independent media and promotes access to information.
- Protect **online civic space**, including by countering hate speech and mis- and disinformation.
- Respect **privacy** and ensure **personal data protection** to avoid arbitrary intrusion and interference in public life.
- Foster an **enabling environment for civil society organisations** that facilitates their positive contribution to society.
- Protect civic space both domestically as well as through development co-operation as part of a **coherent policy approach.**
- Systematically protect and promote civic space as a precondition for **citizens and stakeholders to engage** in public decision-making to foster more open, transparent and accountable governance.

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Notes

[1] For the purposes of this chapter and in line with the OECD Survey on Open Government, the term citizen is meant as an inhabitant of a particular place and not a legally recognised national of a state.

[2] The OECD defines misinformation as false or inaccurate information not disseminated with the intention of deceiving the public and disinformation as false, inaccurate, or misleading information deliberately created, presented and disseminated to deceive the public (OECD, n.d.[39]).

[3] See https://www.v-dem.net/ for more information.

[4] In 2012, the OECD produced a guide on partnering with civil society as part of development co-operation (2012[38]).

[5] All but one of the top 31 countries in V-Dem's Liberal Democracy Index are OECD Members (Boese et al., 2022[11]). At the same time, the bottom 3 OECD performers rank 87th, 91st and 147th respectively.

[6] One OECD Member improved its score over this period.

[7] V-Dem's Liberal Democracy Index draws on 71 indicators on liberal and electoral democracy including 44 indicators that are broadly related to civic space: 6 on freedom of assembly, 9 on freedom of expression and alternative sources of information, 20 on equality before the law and individual liberty index, 5 on judicial constraints on the executive and 4 on legislative constraints on the executive. One country improved its ranking over the same period.

[8] Content provided by RSF for the report.