

# Report on practices of enhanced trust in governance

## Deliverable 7.1

**EnTrust: Enlightened Trust: An Examination of Trust and Distrust in Governance – Conditions, Effects and Remedies**

WP7: Civilising trust/distrust: role models and recommendations

Work Package Leader: Civil Society Europe

Due date: 31 July 2023

Submission date: 30 September 2023

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### Project Information

Project Type: Collaborative Project  
Call: H2020 SC6 GOVERNANCE-01-2019: Trust in Governance  
Start date: February 2020  
Duration: 48 months  
Coordinator: Prof. Dr. Christian Lahusen, University of Siegen  
Grant Agreement No: 870572  
EU-funded Project Budget: € 2,978,151.25



This project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 870572. The contents of this publication are the sole responsibility of the authors and do not necessarily reflect the opinion of the European Union.

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# Glossary

## **Non-profit Organisation (NPO)**

NPOs are all those organisations that are neither profit-making companies nor public authorities of the state or local government. They are dedicated to pursuing objectives for the common good, with no primary aim of generating financial gains. Any secondary economic activities can only be undertaken in order to achieve the social or altruistic mission of the organisation and profits cannot be distributed among its members.

## **Civil Society Organisation (CSO)**

CSOs are a type of NPO covering diverse and independent organisations, networks, associations, public benefit foundations, groups, and movements that collaborate to advance shared goals through collective efforts. This report does not include social partners (employer organisations and trade unions) in the CSO definition.

## **Non-governmental Organisation (NGO)**

NGOs, as part of CSOs, operate independently from public authorities. They serve as a bridge between citizens and politics. NGOs inform citizens about political developments and empower or facilitate their political participation. In parallel, they point out central societal concerns to politicians.

## **Foundations**

Public Benefit Foundations, a type of CSO, facilitate charitable activities by providing grants to organisations, institutions, or individuals for purposes such as science, education, culture, religion, and other causes. While grant-making is their primary focus, some foundations also directly participate in charitable initiatives or programmes.

## **Citizen**

The term “citizen” is used in this report to refer to all inhabitants irrespective of their legal status, including those in possession of a country’s citizenship, temporary or permanent residents, as well as the undocumented population.

## **Civil dialogue**

Civil dialogue involves the exchange of views and information between civil society (organisations) and public authorities as part of the decision-making process. It can be initiated by either party and is characterised by regular, transparent, structured, and collaborative interactions.

## **Civic space**

“Civic space is the environment that enables people and groups – or ‘civic space actors’ – to participate meaningfully in the political, economic, social and cultural life in their societies. Vibrant civic space requires an open, secure and safe environment that is free

from all acts of intimidation, harassment and reprisals, whether online or offline” (UN Guidance Note on Protection and Promotion of Civic Space).

## Acknowledgments

This report was only made possible through the time participants invested in the survey, focus groups, and interviews. We are grateful for their availability, honesty, and support. The focus group and interview participants are listed in the methodology chapter while survey participants remain anonymous.

We are also very thankful to (in alphabetical order) Alexandrina Najmowicz (European Civic Forum) – *chapter “Trustworthy civil dialogue on EU affairs”*; Álvaro González Pérez and Kristóf Papp (European Youth Forum) – *section “Youth participation at EU level”*; Clémentine Richer Delforge (European Public Health Alliance) – *sections “The relevance of (dis)trust for the work of CSOs” and “Conditions of (dis)trust”*; the European Environmental Bureau – *sections “The relevance of (dis)trust for the work of CSOs” and “Conditions of (dis)trust”*; Gabriella Civico and Rita Marques (Centre for European Volunteering) – *full report*; and SOLIDAR – *recommendations* for their review of, and contributions to, an earlier version of the report.

# 1. Introduction

Anne Esser and Carlotta Besozzi

Civil society organisations (CSOs) represent the interests and rights of people and the planet, particularly those interests and rights that often lack consideration in political decision-making or are sidelined by louder and more influential voices. Civil society activists and organisations advocate at all governance levels for a more democratic and socially and environmentally just world for everyone. At the European Union (EU) level, advocacy is carried out by CSOs that represent citizens and organisations from across the EU. They engage with EU decision makers on sectoral and horizontal matters to ensure that legislation works in favour of fundamental rights, social equity, and life on the planet. CSOs' trust in the EU institutions is essential for this engagement to be perceived as meaningful and impactful, and to be empowered to express a certain distrust on specific topics and legislative initiatives.

This report aims to provide a comprehensive analysis of the role, current state, and opportunities surrounding trust and distrust in the interaction between CSOs and EU governance. It explores the evolution of civil society's involvement in EU governance from a constitutional, legislative, and regulatory perspective, analyses the origins and conditions of (dis)trust in EU institutions, and examines the status of trustworthy civil dialogue at both EU and national levels. By analysing these aspects, the report seeks to shed light on the complex dynamics between trust, civil society, and EU governance. It offers evidence-based recommendations to strengthen trust and foster meaningful civil society engagement within EU governance structures, providing a valuable resource for policy makers, researchers, and other stakeholders involved in EU governance and civil society activities.

The report begins by providing a detailed overview of the research methodology employed. It outlines the data collection through desk research, a survey, focus groups and interviews with CSOs, and presents the profiles of the organisations that have participated. The limitations of the study are also acknowledged to ensure an informed interpretation of the findings.

The subsequent chapter focuses on the evolution of civil society engagement in EU governance through a legal lens. It begins with an introduction to set the context and proceeds by examining the historical development of EU legal frameworks. The consequences of the 'democratic deficit' are explored, alongside the subsequent 'participatory turn' and the implications of Article 11 TEU. Recent and current developments are also discussed. The report then debates the development of the better regulation agenda and its relevance for civil society engagement.

The next chapter contains an exploration of the origins and underlying conditions that shape trust and distrust in EU institutions. It commences by describing the perspectives of CSOs on the definition of trust and distrust within the context of EU institutions. It also examines the factors that contribute to the formation of trust and distrust.



Furthermore, the chapter explores the significance of trust and distrust in the EU for CSOs engaged in advocacy at the EU level. It focuses on the dynamics, encompassing trust and distrust in these institutions, as well as being trusted by them.. Additionally, the chapter summarises various conditions that influence (dis)trust, such as maladministration and corruption, the influence of corporate and economic interests, civil society empowerment, funding of CSOs, (access to) information and documentation, public participation, civil dialogue, and institutional affairs.

Trustworthy civil dialogue, at both the EU and national levels, is discussed in the next chapter. It highlights the importance of civil dialogue throughout the full policy cycle and outlines its implementation within the European Commission (EC), the European Parliament (EP), the Council of the EU ('Council'), and the European Council. It also deliberates on the 'citizen turn' and the Conference on the Future of Europe (CoFoE), as well as on youth participation. The report then shifts its focus to both civil dialogue and communication on EU affairs at the national level, providing insights into current practices. The report concludes by summarising the key findings and insights obtained from the research.

At the end of the report, two case studies illustrate the research findings by focusing on determinants and the impact of civil society mobilisation in support of, or in opposition to, EU policies and EU institutions, and the effects of such mobilisation on trust and distrust in European governance in the short- and long-term. The case studies concentrate on the EU Nature Restoration Law and EU trade agreements.

## 2. Methodology

Anne Esser

A mixed-methods approach was used: 1) to analyse the evolution of civil participation in EU governance, 2) to explore the origins and conditions of CSOs' trust in EU institutions, and 3) to assess (trustworthy) practices of civil dialogue at EU and Member States levels. The research activities started with a systematic desk research on key EU legislative developments as regards CSOs and indicators of trust towards civil society in EU constitutional documents and official communication, reaching back to the formal establishment of the EU. A narrative desk research of publications of pan-European CSOs<sup>1</sup> from various policy fields provided insights into the conditions of trust in EU institutions. The preparatory work fed into the development of a survey questionnaire and a focus group discussion guide targeted at pan-European CSOs (non-governmental organisations (NGOs), non-profit social enterprises, foundations). Individual interviews with CSOs were conducted for two case studies. The participation in conferences and events related to civic space and civil dialogue, organised by CSOs and EU consultative bodies or agencies, provided an additional source to understand conditions of trust and issues and practices of civil dialogue. As regards communication and civil dialogue on EU affairs at national level, the research team contacted the Permanent Representations to the EU of Member States and national umbrella NGOs in the EnTrust project countries,<sup>2</sup> in addition to doing desk research. Permanent Representations from six countries responded to the request: Czech Republic, Croatia, Denmark, Estonia, Latvia, and Sweden.

### 2.1 Survey design and data collection

The survey included 28 required closed-ended questions. The full questionnaire is attached in Annex 1. Open-ended questions as a follow-up to closed-ended questions gave respondents the opportunity to explain their answers, or to provide further information. The survey addressed a variety of topics, including: the relevance of trust in the EU for the daily work of CSOs and changes over time; an assessment of EU governance, administration, accountability and decision-making; CSO recognition and meaningful participation; EU funding; and civic space. The project's theoretical considerations of, firstly, trust and distrust being two distinct constructs and, secondly, each being dynamic and contingent on receiving trust and distrust respectively, were not explained at the beginning of the survey to avoid any bias in the answers. Some questions and items were removed after three weeks of fieldwork because high item non-response and answer patterns suggested that the questions were not fully

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<sup>1</sup> CSOs that operate as membership or network/umbrella organisations at the European (not national) level.

<sup>2</sup> Czech Republic, Denmark, Germany, Greece, Italy, Poland and Serbia

understood. It also served to reduce the length of the questionnaire and consequently the dropout rate.

The questions specifically asked for the perspective of the responding CSO and not the individual perspective. In fact, as different points of views and experiences exist in each organisation, the wording was intended to encourage respondents to answer as a representative of their organisation and based on their professional experience.

A convenience sampling approach was used for the survey. The research team developed a database with contact details of pan-European CSOs based on the contact database of Civil Society Europe (CSE), the Transparency Register, CSE member organisations and their constituents, and a web search of NGO inventories and advocacy documents, such as joint letters. Given that participants of public consultations have to be registered in the Transparency Register, we assume that this approach yielded good coverage in combination with the other methods. The final database contained contact details of individuals from 437 different CSOs who were invited by e-mail to participate in the survey. Different approaches were taken to stimulate their motivation, including receiving up to three personalised reminders to take part. In addition to the personalised invitations, CSE used their newsletter and their members' social media channels to raise awareness of the survey. CSE team members also mentioned the survey at meetings and conferences and developed a flyer for distribution.

The survey was hosted on the European server of a survey-builder application, allowing for advanced features such as conditional branching and item order randomisation. The survey was only available in English because it was assumed that respondents would be able to read and answer in English without any issues since this is the main working language of the targeted organisations. Indeed, no complaints or problems were observed or raised regarding this.

Before its launch, the survey was piloted with two CSOs whose representatives provided qualitative feedback on the questionnaire. The survey finally ran from 20 January to 16 March 2023. It was started 137 times and resulted in 48 valid, completed forms from 47 CSOs.<sup>3</sup> The duration to complete the survey was a median of 28 minutes and an average of 63 minutes, assuming that there were interruptions among those who took significantly longer than the median to complete the survey. The shortest duration was 10 minutes. It was possible to save the progress and continue the survey at a later point.

Three respondents who had completed the form were removed because they did not fit the target group. A check for straightliners<sup>4</sup> did not reveal any deceitful responses. Respondents with a high item non-response (that is, "don't know" and refused answers) were not excluded from the dataset because they explained why they could not answer a particular question. Often, these non-responses occurred in questions related to

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<sup>3</sup> Two respondents were from the same organisation.

<sup>4</sup> I.e., survey respondents giving (nearly) identical answers to items in a set of statements with the same response scale.

elements of trust (e.g., as regards transparency) where respondents found large differences between and within EU institutions while the question did not allow for a differentiation between EU institutions. Respondents were not required to indicate their name or the name of their organisation and all were assured that names would not be shared outside the EnTrust consortium. Out of all valid responses (48), ten respondents preferred to stay anonymous. Their responses were especially scrutinised to ensure that they matched the target group.

The survey data were exported to Excel. SPSS was used to weigh the data by organisation and to create frequency and cross-tables. No significance testing was applied because of the small sample size. The answers to open questions were examined using thematic coding and analysis.

## 2.2 Profile of survey organisations

All participating organisations are non-profits, with NGOs (43), other non-profit organisations (2), a foundation (1) and an association (1)<sup>5</sup>. As regards the geographic reach, 33 of the survey organisations operate at the European level and 14 at a global level. Most of the organisations carry out their main activities from Belgium (33). The others are located in other EU countries (14). Several of the organisations had volunteers (31). The size of the team ranged from one to 1,000:<sup>6</sup>

*Table 1: Team size of survey organisations*

Size of the team (including interns and part-time employees, but excluding volunteers)	Count
1 to 4	4
5 to 9	13
10 to 19	13
20 to 49	7
50 to 100	5
More than 100	2

The respondents represented CSOs active in 23 different policy fields (Table 2). It was only possible to select one main area of activity in the survey. The research team

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<sup>5</sup> “Association” was indicated as “other” option in the question about the legal status of the CSO.

<sup>6</sup> Some respondents indicated the size of the team in their office/at the site where they worked and others indicated the global staff number.

monitored the variety of participating organisations during the data collection and made an effort to contact those from under- or not represented fields.<sup>7</sup>

*Table 2: Main fields of activity of survey organisations*

Main field of activity	No. of responses
Agriculture, forestry and fishing	1
Anti-racism and anti-ethnic discrimination	2
Arts and culture	1
Child rights and welfare	1
Civic space	2
Consumer rights	1
Democracy and governance	4
Economy and trade	1
Education and training	5
Employment and labour markets	2
Environment and climate action	3
Food safety	1
Foreign affairs and security policy	2
Health	1
Humanitarian aid and civil protection	1
International cooperation and development	3
Justice and fundamental rights	3
Migration and asylum	1
Persons with disabilities	1
Poverty alleviation and social affairs	1
Sports	1
Volunteering	1

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<sup>7</sup> The following fields of activity were not selected: ageing and older people, animal welfare and wildlife, banking and financial services, digitalisation and information technology, energy, housing, LGBTQIA+ rights and advocacy, media and journalism, and regional and minority movements.

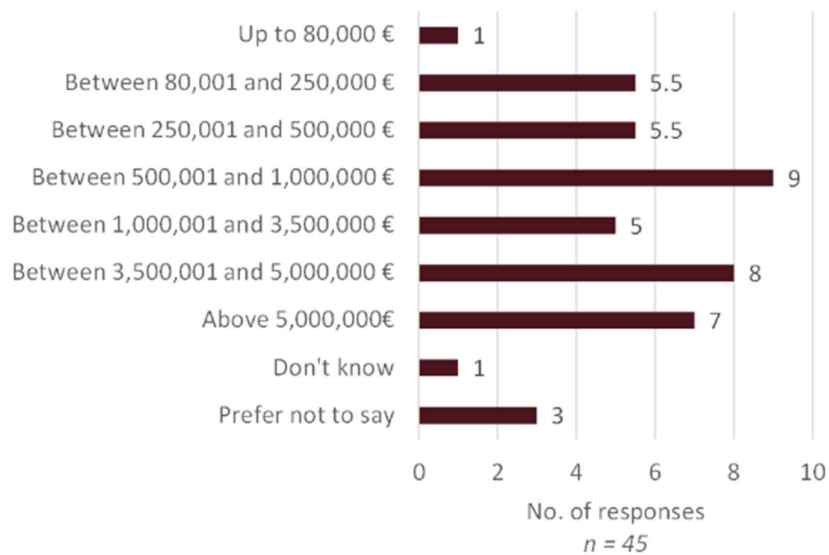
Women's rights and gender issues	1
Youth rights and empowerment	5
Other	3

Four "other" answers were recoded into available categories. The three remaining "other" main areas include:

1. Social policies, migration, development, humanitarian aid
2. Just transition, social affairs, education and lifelong learning, international cooperation, civic space and dialogue
3. Food waste, food insecurity

The annual turnover of the survey organisations was quite diverse, reflecting also the differences in size:

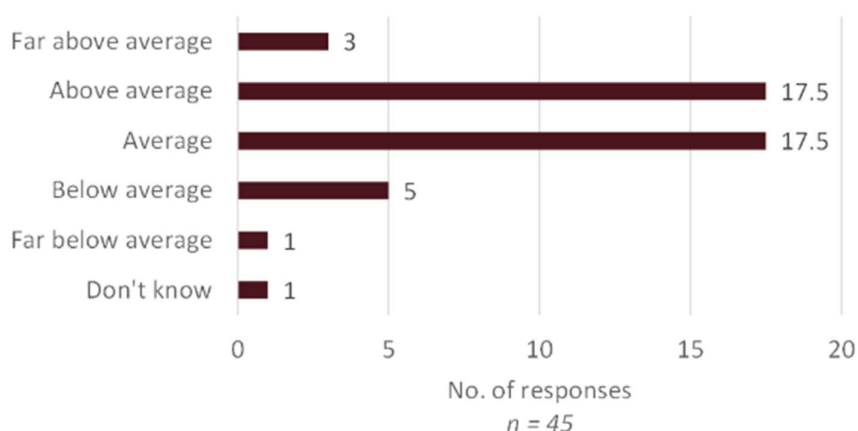
*Figure 1: Annual turnover of survey organisations*



*Note: all organisations have the same weight (1), therefore, two respondents from the same organisation only count as half (0.5).*

When asked to assess the participation opportunities at EU level compared to similar organisations, respondents mostly found that their organisation had average and above average opportunities:

*Figure 2: Rating of participation opportunities at EU level by survey organisations*



*Note: all organisations have the same weight (1), therefore, two respondents from the same organisation only count as half (0.5).*

Putting the answers illustrated in Figure 2 into context: based on data from Integrity Watch EU, 65 percent of NGOs that are registered with the Transparency Register have not participated in a high level meeting with the EC (status: 20 July 2023).

The survey did not indicate obvious differences in responses based on the location of the organisation, their annual turnover, the size of their team, or whether they had volunteers. But the small sample size does not allow us to draw any definite conclusions in this regard.

## 2.3 Focus groups and interviews

The focus groups (FG) were conducted after the survey had been closed. They aimed to complement the survey by following up on some intriguing observations and to discuss (good) practices of civil dialogue and related recommendations (see Annex 2). To accommodate availabilities, some individual interviews took place next to the FGs (but they are still referred to as FG participants in this report). FG participants were encouraged to provide examples of work-related situations that contributed to trust or distrust in EU institutions. One major topic was trust in institutions and trust in individuals in the institutions, and whether there was a difference.

The recruitment of FG participants took place via the survey, e-mails to CSE member organisations and partners (including organisations taking part in CSE-led working groups or coalitions), and CSE's social media channels and newsletters. At the end of the survey, respondents were asked whether they agreed to be re-contacted to participate in the focus group. Those who gave a positive response were contacted by e-mail. Anyone who was interested in taking part was invited to indicate their availability among several choices via a GDPR-compliant online form. The choices covered different days and points of time from mid-March to the end of April, both online or in-person in Brussels. Each group was scheduled to last for 90 minutes.

In total, four focus groups and two individual interviews took place online between 28 March and 8 May 2023, including representatives from 15 organisations. The number of participants per focus group varied from two to five. Participants were asked to indicate whether they agreed to have their full name or only their organisation's name published in connection to the research, or whether they wanted to stay anonymous, in which case only the policy field is indicated in this report. Table 3 provides an overview of the focus groups, participants, and covered policy fields as indicated in the survey (where available - when anonymity was requested, and when possible, the position of the interviewed person within the organisation and the type of organisation were indicated).

*Table 3: Overview of focus groups and participants in the main research activities*

Month (2023)	Participant	Organisation	Policy field	Geographic reach
March	Amana Ferro	European Roma Grassroots Organisations (ERGO) Network	Anti-racism and anti-ethnic discrimination	Europe
	Giulia Bordin	Centre for European Volunteering	Volunteering	Europe
	Guenther Carl	Europa Uomo	Health	Europe
April	Adrien Licha	ALDA – European Association for Local Democracy	Democracy and governance	Global
	Csaba Kiss	Justice and Environment	Environment and climate action	Europe
	<i>Omissis</i>	Lifelong Learning Platform	Education and training	Europe
	Jan Robert Suesser	European Civic Forum	Civic space	Europe
	Chairman of the Board	<i>Foundation</i>	Civic space	Europe
April	Álvaro González Pérez	European Youth Forum	Youth rights and empowerment	Europe
	Tanguy Guibert	European Students' Union	Education and training; youth	Europe



			rights and empowerment	
April	Hilmi Tekoglu	SOLIDAR	Various <sup>8</sup>	Europe
	<i>Omissis</i>	European Network on Religion and Belief (ENORB)	Anti-racism and anti-ethnic discrimination	Europe
	Advocacy Director	<i>Omissis</i>	Justice and fundamental rights	Global
April	Secretary General	<i>Omissis</i>	Poverty alleviation and social affairs	Europe
May	Ivana Davidovska	European Association of Service providers for Persons with Disabilities (EASPD)	Persons with disabilities	Europe

Notable policy fields that were not represented in the focus groups include: consumers, culture, media and journalism, digitalisation, humanitarian aid, and transparency.

The focus groups and interviews were transcribed by a professional transcription service located in the Netherlands. They were created and quality-checked by professional transcribers. They did not include speech errors, false starts, repetitions, slang words, stutters, filler words, etc. The transcripts were used for a thematic analysis of the focus groups and for the inclusion of quotes in the report. Before publication, the draft report was shared with FG participants so they had the opportunity to review and validate their quotes and to intervene in case their statements were taken out of context.

In total, seven unstructured interviews took place (online and in person) between 21 August and 15 September 2023 to inform two case studies focused on: 1) trade agreements and 2) the Nature Restoration Law (NRL), and how both cases, and the success of civil society mobilisation efforts, contributed to short- and long-term trust and distrust in EU governance. The informants were identified by reviewing documents and finding the main CSOs and people involved in campaigns on the topics of the case studies. Organisations with different foci in their policy work were contacted for an interview. Table 4 shows who the research team has talked to. Note that, for the Nature Restoration Law, since the legislative process was still ongoing at the time of writing, the

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<sup>8</sup> Just transition, social affairs, education and lifelong learning, international cooperation, civic space and dialogue

interviewees have been anonymised in order to allow them to talk freely. Instead of the name of the informant, the position within the organisation has been indicated.

*Table 4: Overview of informants in the case studies*

Month (2023)	Informant	Organisation	Policy field
EU Nature Restoration Law			
September	Policy Officer & Strategic Area Leader	Nature NGO 1	Environment and climate action
September	Policy Manager	Nature NGO 2	Environment and climate action
September	Junior Policy Officer	Nature NGO 3	Environment and climate action
EU trade agreements			
August	Diego Naranjo	European Digital Rights (EDRi)	Digital rights
September	Researcher	<i>Investigative Media and Watchdog</i>	Economy and trade
September	Léa Auffret	European Consumer Organisation (BEUC)	Consumer rights
September	Stephanie Ghislain	Eurogroup for Animals	Animal protection

All informants received the final case studies, combining information obtained through desk research and the interviews, for validation and feedback.

## 2.4 Limitations

Since no representatives of the four EU institutions (European Commission, European Parliament, Council of the EU, European Council) were interviewed for the study, the report only provides the perspective of CSOs. The authors of the report are from Civil Society Europe, a CSO itself, and therefore cannot claim neutrality or objectivity in the matters discussed in the report. However, an explorative approach and a narrative, thematic analysis was chosen to avoid a bias in writing and interpreting as far as possible. Our status as CSO allowed us to understand and interpret the research findings in the specific context due to a high familiarity with the work and the environment of CSOs. But in general, the activities leading to this report can be understood as advocacy research.

CSOs are very diverse and, as will be presented in this report, experiences and points of view vary considerably between organisations, as well as between individuals within. Therefore, this report does not claim to be representative of all pan-European CSOs but rather presents perspectives, experiences, and issues that exist within the group. That is not to say that there are no agreements on certain issues, which certainly exist and are discussed in the report as well. Before publication, the full report, or parts of it, were reviewed by six CSOs (partly from organisations active in policy fields that were underrepresented in the data collection) in an attempt to ensure that no perspectives were omitted.

Although the total number of pan-European CSOs is not known and the response rate was overall satisfactory, it cannot be concluded with certainty that the survey was representative. Additionally, not all sectors or policy fields were represented. The graphs and quantitative data in this report should therefore be interpreted with caution and only be understood as a tendency and indicative of patterns. In any use of this report, we encourage reporting on the count and not the percentage. Still, the inclusion of closed-ended questions in the survey stimulated reflection on the subjects and was considered as being complementary to qualitative data.

Survey invitations targeted senior positions in organisations, such as secretary generals, directors, or heads of policy or advocacy. Based on the cases where the name of the respondent was indicated in the survey, we can confirm that the survey was answered by individuals who have been engaged in the field and/or in their organisation for several years. However, for others we cannot be certain and there is therefore a risk that the survey was completed by someone with little experience. One respondent indicated explicitly that they had been in their position in the organisation for only one year. Respondents with little experience might not have been well informed about the experiences and positions of their organisation, though we did not observe any apparent unawareness of the context among the answers.

### 3. The Evolution of Civil Society Engagement in EU Governance from a Constitutional, Legislative and Regulatory Perspective

Carlotta Besozzi and Anne Esser

#### 3.1 Introduction

Since the establishment of the European Union in 1992, the Treaties include principles of democratic participation. With the publication of the White Paper on EU Governance in 2001, the EC made the definition of participation more inclusive and broader, while at the same time supporting the professionalisation of CSOs to better facilitate their involvement (Heidbreder, 2012). An important motivational factor for such developments was the enhancement of legitimacy in response to concerns about a democratic deficit that emerged with the transition from an economic European community to a political EU (Heidbreder, 2012; Yiğit, 2009).

The EU glossary defines civil society as “all forms of social action carried out by individuals or groups who are neither connected to, nor managed by, the State”. In contrast, *organised* civil society (CSOs) has an “organisational structure” and “members serve the general interest through a democratic process”. Such organisations play “the role of mediator between public authorities and citizens” and include (with some exceptions) “social partners (trades unions and employers’ groups); non-governmental organisations (e.g. for environmental and consumer protection); grassroots organisations (e.g. youth and family groupings)” (Eur-Lex, n.d.-a). The EC indeed acknowledges that “there is no commonly accepted - let alone legal – definition” (p. 6) of CSOs (Communication COM(2002) 704 final). The European Court of Auditors emphasises that a uniform definition of NGO was needed, for instance, to make EU funding through such organisations more transparent. Currently, some Member States define an NGO based on its legal status, while other Member States classify an organisation as an NGO based on its activities. This variation in definition would make it difficult to understand the data and flows of EU funding (ECA, 2018).

This chapter presents a review and limited analysis of EU Treaties and significant legislative milestones pertaining to organised civil society. It begins by taking stock of legislation created since the establishment of the EU in 1992 that has advanced public participation and civil dialogue. This legislation has had a notable impact on the operations and governance of pan-European CSOs. The chapter then looks into persistent issues surrounding the recognition of CSOs as relevant stakeholders in the decision-making process, highlighting initiatives aimed at formalising their status at the EU level. However, it also acknowledges recent setbacks in this regard, particularly since

the 'Qatargate' scandal.<sup>9</sup> Additionally, the chapter examines the evolution and limitations of the Better Regulation agenda<sup>10</sup> and its relevance for evidence-based decision-making that includes all stakeholders. Finally, the chapter concludes with a discussion of selected points.

## 3.2 EU constitutional and legislative evolution

### 3.2.1 The democratic deficit

The opportunity for European institutions to develop structured relations with civil society started in the eighties at the initiative of the European Parliament (EP). In 1987, the EP adopted a resolution on non-profit making associations in the European Communities in which the non-profit sector was defined as an opportunity for the construction of Europe (Resolution OJ C 99). It called on the European Commission to present a proposal for a 'community statute for associations' to be used by those wishing to operate together at community level. In 1988, the EP's Committee on Legal Affairs proposed a draft regulation.

The establishment of the EU in 1992 marked the transition from a primarily economic European community to a political EU. The Treaty of Maastricht (1992) introduced the notion of citizens' rights which included not only the right to vote and to be elected, but also the right for citizens to petition the EP, to make complaints to the European Ombudsman, and to address the European institutions (in their own languages) (Articles 20 to 25). The recognition of citizens' right to access EU institutions was a response to rising concerns about a democratic deficit<sup>11</sup> resulting from European integration. This deficit was meant to be addressed and counteracted by the adoption of 'good governance' practices (Heidbreder, 2012) and cooperation with civil society (Saurugger, 2007) that would sustain trust in democratic processes and legitimacy at EU level.

The Treaty of Amsterdam (1997) initiated more transparency at EU level. It included provisions for EU institutions to meet in public and instated the right to the public's right to access their documents, although with several limitations (Articles 151 and 191a). Transparency appeared to take precedence over participation, indicating a preference

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<sup>9</sup> 'Qatargate' refers to a corruption scandal that unfolded in Brussels in December 2022. It led to the arrest of several individuals, including both former and current MEPs, on corruption charges. The scandal earned its name because it became evident that the source of the money involved was linked notably to Qatar, a country that the implicated MEPs had previously praised for its human rights record. Besides these MEPs, the scandal also implicated individuals linked to the NGO and trade union sector.

<sup>10</sup> [https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better\\_regulation\\_en](https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better_regulation_en)

<sup>11</sup> The term 'democratic deficit' appears for the first time in the Young Federalists Manifesto adopted by the JEF Congress in Berlin in 1977. 'Democratic deficit' describes a situation where institutions and their decision-making lack accountability and democracy. In the EU, it signifies a perceived gap between citizens and EU institutions, where citizens feel they have limited influence over decisions made by these institutions.

for an informed but passive public, rather than active involvement in decision-making processes. The principle of non-discrimination, encompassing factors such as sex, ethnic origin, religion or belief, disability, age, and sexual orientation, was firmly established in the Treaty. This principle aimed to bolster European citizenship and to send a clear message that participation was accessible to all citizens, thereby fostering trust among diverse segments of society who sought assurance that their rights were safeguarded.

The Charter of Fundamental Rights was drafted in 2000 (and came into force in 2009 as a binding act with the Treaty of Lisbon). It introduced the right to 'good' administration, including the notions of equal treatment, fairness and impartiality, thereby building on the principle of non-discrimination enshrined in the Treaty of Amsterdam. The Charter further aggravated transparency by affirming citizens' right to petition and to access documents, as well as the right to challenge maladministration. It also introduced processes to ensure accountability, such as the obligation of the administration to give reasons for its decisions and to deal with matters in a reasonable time frame. Moreover, the Charter also established fundamental rights, such as freedom of association, assembly, and expression - often referred to as civic rights - and ensured the right to privacy and protection of personal data. Notably, the Charter reinforced the authority of the European Ombudsman, primarily through the inclusion of the right to good administration in Article 41. The Ombudsman's role involves monitoring activities to prevent and address instances of maladministration, while promoting and safeguarding human rights (Avtonomov, 2021).

The Charter served as a significant milestone in assuming responsibility towards citizens and further shaping the concept of European citizenship. It offered provisions for the public to engage with EU institutions and join forces to assert their rights and protect their interests. Consequently, the Charter played a crucial role in enabling civil society to formally organise and exercise their rights, effectively signalling that the political arena was no longer confined to governmental institutions alone.

### **3.2.2 The 'participatory turn'**

During the 1990s and 2000s, there was a significant shift towards participatory approaches, which eventually became a normative strategy (Saurugger, 2009). Various definitions began to emerge without undergoing thorough and explicit debates (Saurugger, 2009). The term civil society - without being further defined - was used for the first time in the Treaty of Nice (2001, in force since 2003) within the 'declaration of the future of the Union' which launched a wide debate on the future of the EU to take place during the Swedish and the Belgian Presidency of the EU in 2001-2002. The same declaration stressed the need "to improve and to monitor the democratic legitimacy and transparency of the Union and its institutions, in order to bring them closer to the citizens of the Member States" (Article 6). Issues surrounding democratic legitimacy and processes aimed at gaining trust from citizens were still a challenge for the EU, even ten years after its establishment.

In 2000, the EC published a discussion paper called "The Commission and NGOs: Building a Stronger Partnership" (Discussion Paper COM/2000/11 final), which included

proposals for improving the dialogue with organised civil society (Vidačak, 2020). In July 2001, the EC released a White Paper on 'Governance in the European Union', which laid the foundation for reforming European governance within the existing Treaties in collaboration with various EU institutions. The White Paper outlined five principles of good governance (openness, participation, accountability, effectiveness, and coherence) that aimed to ensure the legitimacy of the EU. The White Paper specifically presented participatory democracy (where citizens are involved in political decision-making, either directly or indirectly) as an alternative to representative democracy (where citizens elect individuals to represent their interests in political decision-making) (Saurugger, 2007). Both concepts were promoted by the Constitutional Treaty (Articles I-47 and I-46, respectively) and the debate about which model should be pursued continues until today. Furthermore, the White Paper called for transparent consultations and impact assessments regarding social and environmental consequences. As a result of the White Paper, existing citizen services, such as Europe Direct and Solvit, were reinforced and developed to ensure information dissemination and the application of citizens' rights in the implementation of EU law and the internal market.

The White Paper introduced the concept of participatory governance to EU practices and initiated the replacement of the term 'interest group' with a broad definition of 'civil society'. Respondents to the consultation on the White Paper highlighted the importance of involving organised civil society and citizens in shaping EU decisions beyond voting, prioritising their inclusion over mere improvements in the efficiency of the decision-making system. Since then, "involving civil society in decision-making" is a key principle of EU administration (Eur-Lex, n.d.-b) and the recognition of civil society for good governance at EU level is enshrined in Article 15 TFEU (FRA, 2017). Civil society was not only able to ensure that citizens got "more actively involved in achieving the Union's objectives", but the EU could offer them a channel for "feedback, criticism, protest" (Communication COM(2002) 704 final, p. 6). CSOs were seen as mediators of trust, addressing the democratic deficit by bridging the gap between EU institutions and citizens (Deth, 2008; Heidbreder, 2012; Oleart, 2023). Their consultation alone was considered as enhancing democratic quality (Heidbreder, 2012). Trust in CSOs - expressed in opportunities for participation - was crucial to assert claims on procedural legitimacy in light of deficiencies in parliamentary legitimacy (Yiğit, 2009). That said, the White Paper did not fundamentally question the power of legislative initiative of the EC and the imbalances of power between the EP and Council, nor introduced groundbreaking changes to institutional decision-making processes (Heidbreder, 2012).

The White Paper resulted in the adoption of the *General principles and minimum standards for consultation of interested parties by the Commission* (Communication COM(2002) 704 final) with guidelines and minimum standards on how to consult CSOs and other stakeholders (see Figure 3). The Communication did not provide a definition of civil society, rather an overview of various groups (including employers' and workers' organisations (social partners) and organisations representing social and economic players) that are sometimes subsumed under the term. A second Communication in 2002 set out core principles and guidelines to Commission departments on the

collection and use of expert advice at all stages of policy-making (Communication COM(2002) 713 final). Who counts as an 'expert' or what constitutes 'expertise' was not defined. The purpose of these documents was to achieve "a more transparent consultation process [to] enhance the Commission's accountability" (Communication COM(2002) 704 final, p. 3). CSOs were identified as "the principal structures of society outside of government and public administration"; a critical part of "modern democracies [...] closely linked to the fundamental right of citizens to form associations in order to pursue a common purpose" (Communication COM(2002) 704 final, pp. 5-6).

*Figure 3: European Commission minimum standards of public consultations (Vidačak, 2020)*

TABLE 1: EUROPEAN COMMISSION MINIMUM STANDARDS OF PUBLIC CONSULTATIONS <sup>32</sup>	
<b>Clarity of the content of the consultation process</b>	All consultations should be clear and concise and should include all necessary information to facilitate responses.
<b>Consultation of target groups</b>	When defining the target group(s) in a consultation process, the EC should ensure that relevant parties have an opportunity to express their opinions.
<b>Publication</b>	Adequate awareness-raising publicity should be ensured and communication channels to meet the needs of all target audiences should be adapted; open public consultations should be published and announced on the websites linked to the "single access point" on the Internet.
<b>Time limits for participation</b>	Sufficient time for planning and responses to invitations and written contributions - at least 8 weeks for reception of responses to written public consultations and 20 working days' notice for meetings should be provided
<b>Acknowledgement of receipt</b>	Receipt of contributions should be acknowledged. Results of open public consultation should be displayed on websites linked to the single access point on the Internet.

CSOs quickly underwent a process of professionalisation (and, according to some perspectives, depoliticisation) in which they aligned their participatory features and their internal structures to effectively advocate and participate in EU governance (Heidbreder, 2012; Saurugger & Eberwein, 2009). While networks of CSOs already existed at the European level (e.g. BEUC for consumers' rights, founded in 1962, see *Who we are*, n.d.), it was at this time that many national and European organisations established networks (such as Social Platform, the European Disability Forum, or the European Anti-Poverty Network) among themselves to support and collaborate with each other and to participate at the EU level more effectively and efficiently. It has been argued, however, that this professionalisation carries the risk of alienating these organisations from citizens and undermining their democratic watchdog role for prestige (e.g., Heidbreder, 2012; Johansson & Uhlin, 2020). Such a risk can be explained through the tensions between the so called 'logic of membership' and the so-called 'logic of influence', i.e. between the values, agendas and organisational structures required by the membership, and the structures and methods of actions required to best influence the policy makers, as theorised by Schmitter & Streeck (1999) for business interest associations and then applied for other types of organisations (such as the student unions, see Klemenčič, 2012). However, Schmitter & Streeck consider that a possible compromise between the two logics can be seen "at an advanced stage of



organizational development [...] the formation of a pyramid of associations and “*associations of associations*” with a high number of hierarchical levels” (Schmitter & Streeck, 1999, p. 52, emphasis in the original text), where “a multitude of narrow, small, highly interest-specific and specialized “direct membership associations” (ibid.) are combined and coordinated by a number of “higher order” associations of associations, which themselves are then combined and coordinated by a smaller number of higher level organisations, until “at the top of the pyramid, only one encompassing association of associations is left” (ibid.). According to the authors, such a structure allows both logics to be satisfied to the same extent, with the lower level organisations satisfying the needs of the logic of membership, and those at the higher levels responding to the imperatives of the logic of influence, with the organisations in between allowing the “stepwise transformation of more special into more general interests and gives special interests an opportunity to express themselves separately inside an encompassing structure representing and embracing the general interests of all participants” (ibid.). Such an analysis is especially useful for those CSOs which emerged to respond to the integration of the European Communities, as most of them are of the type ‘association of associations’.

The EC's adoption of technocratic expertise, instead of political judgement, is seen as a suitable approach to enhance efficiency, effectiveness, and foster unity within the EU community. The EC derives its legitimacy from a combination of expertise and political neutrality (Russack, 2018). This depoliticisation and emphasis on expertise stem from a consensus-oriented notion of democratic legitimacy, which in turn has led to the exclusion of potential opposing positions. CSOs learned to adapt to this technical rather than politicised approach (Oleart, 2023). That said, Cengiz (2016) argues that seemingly “technical and scientific choices often conceal underlying political choices”, posing a threat to democracy. Technical and scientific choices, while assuming neutrality, are not free from political biases, as they are embedded in socio-economic orders, social constructs, and norms.

### **3.2.3 Article 11 TEU**

Following the negative outcome of the French and Dutch Referendum in 2005, the ‘Convention for the preparation of the EU Constitutional Treaty’ (2003) (which led to the Lisbon Treaty, 2007) resulted in an unprecedented involvement of organised civil society in such a process, among other ‘main stakeholders’. The Laeken Declaration (2001), inaugurating the Convention and the Inter-governmental Conference to finalise the new Treaty, stated that “citizens are calling for a clear, open, effective, democratically controlled community approach”. A Forum composed of organised civil society was established to be informed and consulted by the Convention. Additionally, several contact groups with organised civil society took place on various themes discussed during the conference. Finally, the outcomes presented during the dedicated civil society session in June 2002 prompted amendments to the Treaty.

There was a noticeable disconnect between the Convention's rhetoric, which emphasised the importance of civil society, and the actual level of engagement it

offered. The Convention often appeared to listen without making concrete commitments in response, leading to a lack of genuine dialogue with civil society. The Forum has been criticised for its lack of regular face-to-face consultations with civil society and feedback on contributions. In the contact groups, civil society had a very limited timeframe (3 to 10 minutes) to present their demands, which included topics such as the right to information, regular civil dialogue, joint evaluations of political outcomes, and consultations as part of a partnership. This failure to provide feedback, and the limited attention given to structured dialogue, resulted in the marginalisation of civil society's perspectives, especially on social policy matters (Lombardo, 2003; Saurugger, 2007).

The Treaty of Lisbon (2007) reinforced an EU governance system based on representative democracy and incorporated a dedicated chapter that outlined the principles of democracy. According to the Treaty, the EU institutional framework was designed to serve the interests of its citizens, as well as those of the overall Union and the Member States (Article 9). The definition of citizenship encompassed rights such as voting and free movement, along with the right to participate in the democratic life of the Union (Article 8A). The Treaty also recognised the right of citizens to be consulted on EU policies and called for an open, transparent, and regular dialogue with representative associations and NGOs (Article 8B). This underlined the significance of participation in ensuring coherence and transparency in EU actions. However, the Treaty did not provide a specific definition of the term 'representative association' (Cooper et al., 2020).

The Treaty on European Union (TEU) (put into force by the Lisbon Treaty) enshrined in Article 11 the rights of EU citizens and civil society to participate in democratic processes and access transparent information on EU decision-making. The concept of participatory democracy in Article 11 built upon the principles outlined in Article 47 of the Constitutional Treaty. The TEU stipulates that "institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society". The EC is required to conduct broad consultations with relevant stakeholders to ensure coherence and transparency in the actions of the Union. However, it should be noted that EU institutions are still not obligated to involve civil society in decision-making, and NGOs continue to lack a formal stakeholder status.

The EU has also ratified two international Conventions that have had an impact on consultation and dialogue with civil society: in 2010, the EU acceded to the Convention on the Rights of Persons with Disabilities, which includes obligations as regards close consultation and active involvement of persons with disabilities through their representative organisations in all matters regarding the implementation of the Convention, and on all decision-making processes on issues regarding persons with disabilities. Since 2006, the EU has been party to the Aarhus Convention on access to information, public participation in decision-making, and access to justice in environmental matters. In 2021, the Aarhus Convention Compliance Committee ruled that individual persons and NGOs must be able to challenge EU State Aid decisions related to environmental concerns before the European Court of Justice in response to

a breach of the Convention by the EU that had undermined its “leadership in environmental protection” and its legitimacy to “deliver the objectives of the European Green Deal” (ClientEarth, 2021). Accordingly, the EU adopted amendments to the Regulation in 2021 to enforce the right of the public to request internal reviews of EU administrative acts concerning the environment (Regulation (EU) 2021/1767).

### 3.2.4 Recent and current developments

Overall, since the publication of the White Paper in 2001, there has been a noticeable shift in the discourse of institutional actors regarding CSOs. They now place greater emphasis on the normative aspect, which Pichler et al. (2015) referred to as "moral" (p. 65), stressing the obligation to involve civil society in discussions due to their significant role in representing citizens and upholding European values. This indicates a widespread recognition and appreciation of CSOs. However, a study conducted by Pichler and colleagues (2015) on behalf of the EESC concluded that there was widespread distrust across EU institutions regarding the function of participatory democracy and civil dialogue, along with a certain reluctance to proactively implement them. The study also highlighted confusion surrounding the definition, role, and function of participatory democracy and civil dialogue, which further raised doubts about their effective implementation. Consequently, CSOs continue to be regarded as consultative partners rather than an integral part of EU governance (ECF & CSE, 2021).

#### **Example:**

In 2020, the EC launched a consultation for “a new European Democracy Action Plan to help improve the resilience of our democracies and address the threats of external interference in European elections” (EC, 2020-a). The main issues covered in the consultation were the integrity of elections and political advertising, strengthening media freedom and media pluralism, and tackling disinformation in the EU. As a result of discussions with civil society in advance of the consultation, some questions on enhancing support to civil society and active citizenship were included. This followed increasing concerns over restrictions to civic freedoms as highlighted in a report published by the Fundamental Rights Agency (2017).

#### **Example:**

The Council’s conclusions from November 2020 on the EU Action Plan on Human Rights and Democracy 2020-2024 (Outcome of Proceedings 18/11/2020) included the recognition that (EU-based) CSOs were important partners in the implementation of the Action Plan and should be consulted throughout the process. Action points included the reaction to violations of the right to freedom of peaceful assembly and association, and the support of CSOs in their watchdog function and the promotion of reliable and independent information, among others.

### 3.2.4.1 Formal recognition of CSOs as stakeholders

In the European Commission's 2022 Annual Report on the Application of the Charter of Fundamental Rights, it was acknowledged that CSOs and rights defenders are vital for safeguarding and promoting fundamental rights under the Charter at both national and EU levels. The EU has developed tools such as Rule of Law reports, and proposed an anti-SLAPP Directive and Recommendation to contribute to the creation of a safe environment for CSOs and individual citizens against the backdrop of shrinking civic space. The report states that CSOs and human rights defenders (activists) should be closely involved in decision-making processes, participating in consultations and dialogues, and helping public authorities in the EU Member States implement EU-funded programmes in line with Charter provisions. In the recent Council Conclusions 6675/23 on the application of the EU Charter of Fundamental Rights, the Council referred to Article 11 TEU and underlined that "the institutions shall maintain an open, transparent and regular dialogue with representative associations". The document continued by inviting Member States to ensure "meaningful participation of a wide range of CSOs" in the drafting and implementation of policy. The Council Conclusions provided a tentative formalisation of participation at the EU level: the Council would build on mechanisms that allow CSOs and human rights defenders to "contribute at relevant steps of decision-making processes, including in initiatives impacting them or fundamental rights" and mainstream participation opportunities.

In 1993, the EC presented an "amended proposal for a Council regulation (EEC) on the statute for a European association" (Proposal OJ C 236, 31.8.93), which was part of a series of measures including the Statutes of European company and European cooperative society,<sup>12</sup> which were both adopted in 2001 and 2002, respectively. The proposal for associations was withdrawn in 2005 after failing to meet support of the Council of the EU. In 2009 and 2011, the EP again called for a new proposal covering associations and foundations which would: contribute to building a European citizenship; bring political recognition of the legitimacy and the relevance of the European Association's collective voice within European civil dialogue; ensure administrative simplification for transnational activities; create a common framework for democratic functioning; and guarantee equal treatment of social economy enterprises in the internal market (Roirant, n.d.).

In 2022, the EP adopted a resolution with recommendations for the EC on a statute for European cross-border associations and non-profit organisations (NPOs) (Legislative Initiative Procedure 2020/2026). The resolution acknowledged that NPOs did not have a legal form at EU level that would put their interests at the same level as those of economic interest groups. It further set out that cross-border activities were hampered by the different administrative procedures and fiscal policies in Member States which restrict fundamental rights and the effective operation of NPOs. The EP called for the

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<sup>12</sup> See also: Communication COM(97) 241 final. *Communication from the Commission on the promoting the role of voluntary associations and foundations in Europe*. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:51997DC0241&from=EN>

establishment of a legal form of European Association “to establish and support a strong pan-European civil society, the existence of which is necessary for democracy” (Article 3). The proposal stated that NPOs would be essential in policy-making because they were key for mutual control necessary for the rule of law. The recommendations went on calling for a participatory status of ‘public benefit organisations’ at EU level to formalise “measures to support a regular, meaningful and structured dialogue with civil society and representative organisations” (Article 27) as initiated by Article 11 TEU. On 5 September 2023, the EC adopted a proposal to facilitate cross-border activities of non-profit associations in the EU (COM/2023/516 final), through the creation of a new legal form for associations operating across the EU.

### **3.2.4.2 ‘Qatargate’: a regressive turning point**

In the 2022 State of the Union address, the EC President, Ursula von der Leyen announced the proposal of a Defense of Democracy (DoD) package aimed at enhancing the measures outlined in the European Democracy Action Plan. Following the ‘Qatargate’ corruption scandal, some MEPs assigned blame to CSOs for enabling corruption within the EP, trying to raise scepticism about CSOs’ intentions. Particularly noteworthy is Monika Hohlmeier, the chair of the EP Budgetary Control committee, who advocated for an EU equivalent of the US Foreign Agents Registration Act to enhance control and transparency regarding CSOs. The subsequently adopted 2023 work programme specified that the Package would promote “developing civic space and citizen participation to strengthen democratic resilience from within.” Initially scheduled for adoption in early June 2023, the proposal's approval was postponed to the autumn of the same year. This delay was partly due to the concerns raised by 230 NGOs<sup>13</sup> at both EU and national levels, who emphasised the necessity for clarity in defining the legislation's scope and the responsibility to uphold fundamental rights, particularly freedom of association and access to resources for civil society, and called for an assessment of the Package's potential impact on fundamental rights, especially in light of plans for a Directive to establish a Foreign Funding Register. They stressed the need for caution in moving forward with the proposal and called for a transparent discussion involving civil society stakeholders. The delay was also caused by a re-thinking on the issue prompted by the European Parliament resolution adopted in 2023 specifying that “strengthening the transparency requirements for interest representatives and entities [...] could serve the purpose of tracing foreign interference” but “the requirements should not stigmatise legitimate foreign funding” (Resolution 2023/2034(INI)).

Demands within the EP for stricter regulations on EU funding for NGOs are not a new development. A 2015 own-initiative draft report proposed that NGOs should be “eligible for funding only if they argue by means of verifiable facts” and “any funding of organisations which demonstrably disseminate untruths and/or whose objectives are contrary to the fundamental values of the EU, democracy, human rights and/or strategic, commercial and security-policy objectives of the EU Institutions” should be rejected

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<sup>13</sup> <https://civilsocietyeurope.eu/wp-content/uploads/2023/07/230-Civil-Society-Organisations-Statement-on-EU-Foreign-Interference-Law-7-2.pdf>

(Draft Report 2015/2345(INI)). Parallel to the draft report, concerns arose among interest groups and corporations about NGO transparency, provoked by civil society campaigns against planned trade agreements with the United States and Canada that were perceived as serving business rather than public interests, as well as issues like pesticide usage, such as glyphosate. Although the draft report sparked controversy and was never adopted, it prompted a special report from the European Court of Auditors (ECA, 2018). The Court made several recommendations to the EC, including the improvement of NGO funding publication and the establishment of a unified definition for NGOs. At present, the EP Committee on Budgetary Control is in the process of preparing a new own-initiative report on the same topic, led by the rapporteur of the 2015 draft report. This committee has succeeded in opposing the additional involvement as co-drafter of the EP Committee on Civil Liberties, Justice and Home Affairs, arguing against their competence on matters related to access to funding as a part of the right to association and data protection issues. Concurrent to the decision to initiate an own initiative report, the EU Nature Restoration Law was up for vote in the EP (ultimately with 336 votes in favour, 300 against, and 13 abstentions), which was strongly supported by environmental NGOs, but opposed by some voices in the EP (notably the European People's Party) and agribusinesses.

### 3.3 Better regulation

The EC employs regulatory instruments, such as evaluations/fitness checks, impact assessments, and stakeholder consultations that contribute to the establishment of an effective regulatory environment. Evaluations and fitness checks are supposed to analyse the performance and added value of existing legislation and funding programmes, while impact assessments examine the issues to be addressed, objectives to be achieved, trade-offs to be considered, options for action, and potential impacts. They are required if legislative or regulatory initiatives are likely to have significant economic, environmental, or social impacts. Assessment results are reviewed by the Regulatory Scrutiny Board (RSB) (OECD, 2019). The RSB is mostly composed of EC staff based on an arguably opaque selection process. The Board has been repeatedly accused of corporate-friendly deregulation, triggering an inquiry by the European Ombudsman on the composition of the RSB and how it interacts with interest representatives (Case 439/2023/KR).

In 2015, the EC proposed a new inter-institutional agreement on 'Better Regulation' with the goal of simplifying and improving the regulatory environment (Communication COM(2015) 216 final). It aimed to reduce excessive regulation and administrative burdens for administrations, businesses, particularly small- and medium-sized enterprises (SMEs), and citizens. This led to the development of updated standards and guidelines for stakeholder consultations, replacing the previous 2003 inter-institutional agreement on Better Law-making. Notably, the focus shifted from "governance and participation" in the earlier agreement to prioritising the "strengthening of the competitiveness and sustainability of the Union economy" (paragraph 2). This suggests that the consultations primarily aimed to benefit economic processes rather than democratic ones.

In 2016, an updated inter-institutional agreement (OJ L 123) was adopted, which reflected a heightened acknowledgement of the importance of public and stakeholder consultation in informed/evidence-based decision-making and the enhancement of legislative quality (Article 19). The agreement highlighted the necessity of organising open and transparent public consultations before proposing legislation, with specified timeframes to ensure the broadest possible participation, and the publication of the consultation results. Moreover, the agreement recognised the value of stakeholders' meetings alongside internet-based consultations. It placed particular emphasis on direct involvement of SMEs and other end-users.

The 2017 Better Regulation Roadmap, later revised in 2019, established consultation standards that encompassed the entire proposal life cycle and provided clear timelines. To ensure oversight, a regulatory scrutiny board and a REFIT (regulatory fitness and performance programme) Platform, comprising independent experts and organisations, including NGOs, were tasked with monitoring the process. However, CSOs expressed concerns, particularly regarding the objectives of the process. They feared that, following persistent industry pressure (see, for example, CEO, 2020b), the emphasis on meeting objectives at a minimum cost and administrative burden could result in deregulation, specifically in areas such as consumer and environmental protection, as well as health and safety, following persistent industry pressure (see, for example, CEO, 2020b). In 2015, an informal NGO network, known as the 'Better Regulation Watchdog,' was established to oversee the implementation of the process.

There was also disappointment from civil society about the lack of a clear follow-up and connection between the published consultation results and the subsequent actions to be taken. There was a perceived need for improved and tailored design of consultations based on the target audience, whether it be citizens, businesses, or NGOs, while ensuring maximum openness. Additionally, the Better Regulation Roadmap lacked a cohesive approach and guidelines for other forms of consultation, such as stakeholders' meetings (see, for example, BEUC, 2022).

All Member States have regulatory bodies responsible for promoting and monitoring regulatory initiatives. However, there is clearly room for improvement in terms of processes and quality. The OECD's 2019 review of better regulation practices in EU countries revealed that while stakeholder engagements and Regulatory Impact Assessments (RIAs) had seen commitment and improvement, the effective implementation of regulatory tools still lagged behind. Stakeholder engagement had often occurred late in the policy development process, or only for the implementation of an EU Directive. It was frequently not clear how stakeholder feedback had been used, and only a few countries had evaluated the practice. Additionally, policy makers in only a minority of Member States were actually obligated to provide feedback on comments. Furthermore, the assessment of whether policy goals were achieved through RIAs, through ex-post evaluations, was rarely conducted.

The Better Regulation Guidelines from 2021 (Document SWD(2021) 305 final), which were drafted based on the final Better Regulation Communication COM/2021/219,



reiterate the importance of “evidence-informed policy-making, a stronger approach to stakeholder consultation, burden reduction and the analysis of key impacts, and the integration of strategic foresight” (p. 3). These guidelines serve as internal instructions for EC staff to achieve better regulation goals. That said, it is important to note that while these guidelines may outline ‘requirements’ or ‘mandatory’ instructions, they should not be considered legally binding rules or commitments towards external actors and stakeholders.

### 3.4 Discussion

The EU constitutional, legislative, and regulatory frameworks have undergone a transformation since the establishment of the EU in 1992 until today. Initially, they prioritised keeping the public informed but passive, and then shifted towards promoting participation and formalising relationships with intermediary bodies, such as social partners and NGOs. More recently, there have been developments indicating a greater recognition of the vital role that CSOs play in democratic governance and a move towards formalising their participation and support at the EU level. However, ongoing debates and tensions persist regarding the role and regulation of CSOs within EU institutions, particularly within the EP following the ‘Qatargate’ scandal, which has once again triggered a shift in focus towards prioritising the so-called transparency of CSOs over their participation.

Since the establishment of the EU, there has been ongoing competition within EU institutions between the participation of CSOs in decision-making processes and the pursuit of efficiency, often resulting in a disadvantage for the former. This situation begs the question of whether the disregard for, and limited access granted to, CSOs is due to a lack of trust in such organisations or a deliberate avoidance of perceived complexity caused by their involvement. Unfortunately, the analysis does not yield any definitive conclusions. A recent example highlighting this dilemma is the wide exclusion of CSOs in the policy-making process of the regulation establishing the Recovery and Resilience Facility, as well as their limited inclusion in the preparation, implementation and monitoring of National Recovery and Resilience Plans, where a perceived short-term ‘efficiency’ took precedence over participation and longer-term efficiency and effectiveness. This situation once again raised the question of whether it was a lack of trust that hindered civil dialogue or the perception that CSO involvement would result in inefficiencies.

The analysis suggests that EU institutions strategically employ trust as a means to attain democratic legitimacy. They utilise principles of good governance, as demonstrated by the White Paper on governance published in 2001, to address persistent concerns over a democratic deficit, and to gain the trust of citizens and civil society. This strategy is based on the recognition that trust must be reciprocated in order to be earned. In fact, empirical studies have established a connection between the normative principles of good governance and trust in governments and governance (for instance, Spiteri and Briguglio, 2018). Indicators of democracy and trust reinforce one another (Brezzi et al., 2021). The demands of CSOs to be included in decision-making processes underline the



interdependency between the legitimacy and trust given to EU institutions and the trust placed in civil society and citizens, respectively. This underlines again the reciprocal nature of trust, wherein trust can be earned by extending trust. The legal frameworks provide though limited insight into the levels of actual trust or distrust placed in CSOs.

Good governance encompasses not only trust, but also a certain level of distrust. An example is the Council's conclusions from November 2020 regarding the EU Action Plan on Human Rights and Democracy, which acknowledged the necessity of an independent entity functioning as a 'watchdog' to scrutinise the actions of the EU. This watchdog serves as a critical eye, fostering a healthy level of distrust towards EU actions and ensuring adherence to the rule of law and principles of good governance. This arrangement demonstrates a certain degree of trust in CSOs to monitor EU institutions' compliance with European values. The EC also indicated to be considering organising an annual Rule of Law Event with CSOs including at national level and stakeholders (Communication COM(2019) 343 final). Elements of both trust and distrust can be found in the European Parliament resolutions 2022/2075(INI) and 2023/2034(INI). The former underlines the importance of supporting and involving NGOs in the fight against disinformation and foreign interference, while the latter emphasises the need for transparency of NGOs, their funding, in particular.

## 4. Origins and conditions of (dis)trust in EU institutions

Anne Esser and Carlotta Besozzi

### 4.1 Introduction

This chapter addresses key questions related to CSOs' (dis)trust in EU institutions through a comprehensive approach combining desk research, a survey, focus groups (FGs), and interviews with pan-European CSOs, which in our study encompass NGOs and foundations (as defined in the Glossary on p.4), as well as social enterprises (i.e. whose primary purpose is the common good and non profit). It begins by presenting the definition of trust and distrust in EU institutions and proceeds by examining the development of trust. The chapter explores the distinction between institutional and interpersonal trust, and assesses the significance of trust and distrust for CSO activities. Furthermore, it examines the importance of being trusted by EU institutions and the significance of mutual trust. The chapter also reflects on changes over time and identifies the conditions that influence trust and distrust. To provide a structured understanding, the chapter first presents the findings and then the discussion.

### 4.2 What is (dis)trust and where it comes from

This section presents the definition of trust and distrust in EU institutions from the perspective of survey respondents and FG participants. It discusses the origins of trust in the EU among those working for CSOs and what the perceived difference is between trusting an institution and trusting a person in an institution.

#### 4.2.1 Definition of trust

At the beginning of the survey, respondents were asked how they would describe trust in the EU from the perspective of their organisation. The answers included various action verbs that highlighted the relevance of democratic values and public engagement for trust in the EU:

- |                   |                                      |                            |
|-------------------|--------------------------------------|----------------------------|
| - <i>Act</i>      | - <i>Engage</i>                      | - <i>Represent</i>         |
| - <i>Answer</i>   | - <i>Explain</i>                     | - <i>Serve</i>             |
| - <i>Be aware</i> | - <i>Have (got) (someone's) back</i> | - <i>Support</i>           |
| - <i>Defend</i>   | - <i>Listen</i>                      | - <i>Take into account</i> |
| - <i>Deliver</i>  | - <i>Promote</i>                     | - <i>Work together</i>     |

Respondents used different terms and adjectives for the description of trust, including expectations on the EU, in general, and in reference to CSOs, in specific. Good governance principles (like transparency) and ways of interaction with CSOs were often mentioned.

- |   |   |  |
|---|---|--|
| - Accessibility                                       | - Equal representation  | - Protection   |
| - Accountability, accountable                         | - EU law and policy   | - (Public) participation, dialogue, debates, consultations, input      |
| - Action  | - Evidence-driven, in-depth studies, data-based information, impact assessments | - Receptive  |
| - Ambition  | - Funding   | - Reliability, reliable  |
| - Belief  | - Hope, hopeful   | - Responsiveness, answers  |
| - Citizens' interests                                 | - Independence  | - Results  |
| - Commitment  | - Involvement, engagement   | - Support  |
| - Communication                                       | - Knowledge sharing   | - Top-down   |
| - Complementarity                                     | - Mutual benefit  | - Transparency, transparent  |
| - Confidence  | - Mutual respect  | - Values, value-driven, EU principles, human rights, democratic values |
| - Consistency   | - Necessary   | - Willing  |
| - Cooperation, collaboration, collaborative, together | - Openness, open  |  |
| - Corruption  | - Ownership   |  |
| - Critical  | - Partner(ship), co-decision  |  |
| - Democratic  | - People  |  |
| - Dependency  | - Proactive   |  |
|   | - Progress  |  |

Some respondents described the state of their trust in the EU using the words “widespread”; “strong”; “relevant”; “fluent”; “low”; “mixed”; “varied”; and “variable”.

#### **4.2.1.1 Good governance principles**

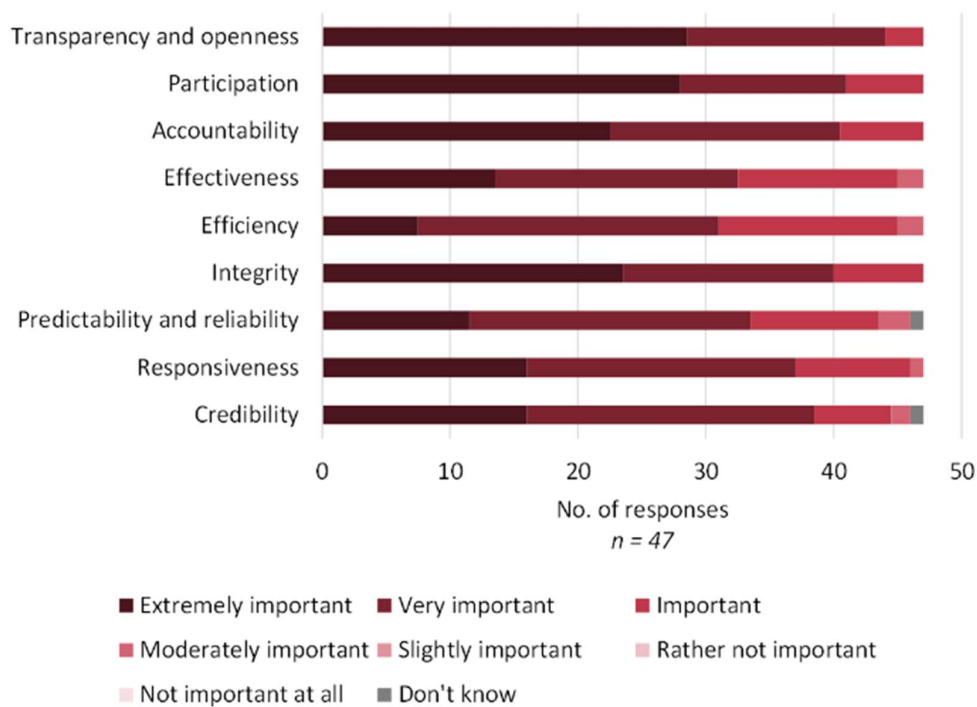
The desk research indicated different determinants of CSOs’ trust in EU institutions that were closely related to the principles of good governance, as defined by the EC’s White Paper on Governance.<sup>14</sup> Indeed, trust in governments and principles of good governance (such as openness and transparency, participation, and accountability) have been empirically linked (for example, Brezzi et al., 2021; Coen & Richardson, 2009; Murtin et al., 2018; Schmidhuber et al. 2020; Spiteri & Briguglio, 2018). Survey respondents were

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<sup>14</sup> openness, participation, accountability, effectiveness, and coherence.

asked to indicate the importance of different good governance principles<sup>15</sup> for their confidence in EU institutions. Although all principles were considered important, transparency, accountability, participation, and integrity stood out (see Figure 4).

*Figure 4: Importance of good governance principles for confidence in EU institutions*



Among the good governance principles identified in the desk research, efficiency was considered desirable, but other principles, such as participation and accountability, were seen as more important. One respondent found that predictability and reliability were dissimilar concepts; institutions should always be reliable but not predictable. In our understanding, reliability refers to whether an institution's ability to perform in a certain way can be relied upon. Predictability means whether the performance of an institution is predictable (in both a positive or negative way). The definitions were not provided in the survey and we appreciate that, depending on the definition, both concepts can be understood as dissimilar.

That said, it was added that a perfect performance on all principles was not needed to have trust in the institutions. Some principles were easier to realise than others, and the perception of whether one principle was fulfilled could be highly subjective contingent

<sup>15</sup> The principles "coherence and consensus orientation" and "rule of law" were removed after three weeks of fieldwork in order to reduce the number of items (because there was a high drop-out rate at this question) and because the answers suggested that it was not clear what was concretely meant by these two items.

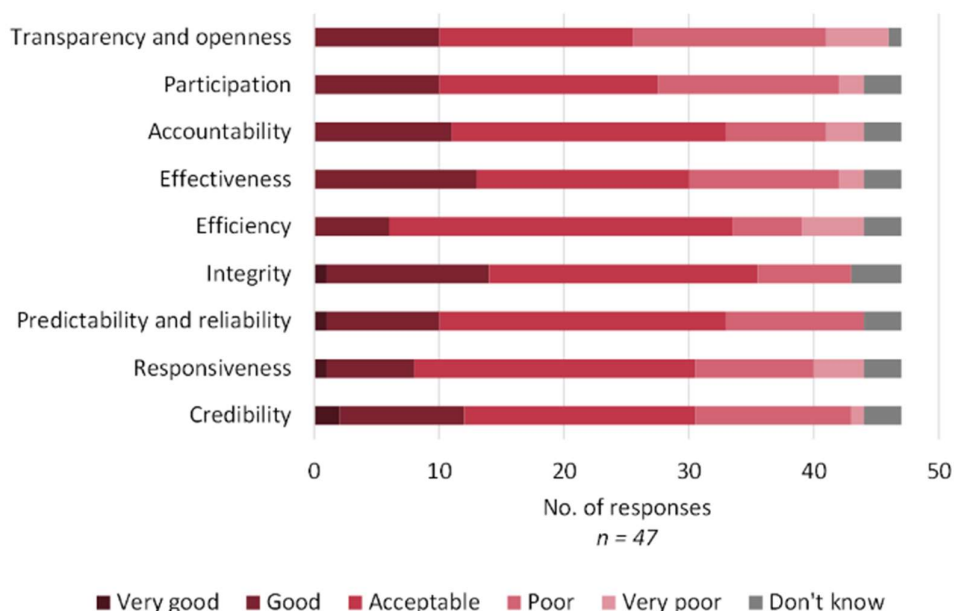
on one own's expectations. From the responses, it was also apparent that these principles could not be considered in a vacuum as they are highly intertwined.

Survey respondents proposed to add other principles that were important for their organisations:

- *Diversity and plurality*
- *Human and civil rights*
- *Inclusiveness*
- *Informative*
- *Internal and external coherence*
- *Non-discrimination*
- *Partnership*
- *Proactivity*
- *Solidarity*
- *Subsidiarity*
- *Trustworthy*

The implementation of the different principles of good governance was rarely rated as “very good”; an “acceptable” assessment was prominent and especially with respect to transparency, the indication is that there was still room for improvement (see Figure 5).

*Figure 5: Rating of the implementation of good governance principles at EU level*



A contingency table analysis suggested that a poor rating of a principle was associated with a decreased level of trust in the EU over time. The survey data also suggested that organisations with a global geographical reach rated some principles more poorly than those with a European scope only.

There was largely consensus among survey respondents that the European Parliament was the best performer on the good governance principles identified above, followed by the European Commission, and ahead of the Council of the EU and the European Council. It was much easier to receive information from and engage with some institutions (Parliament and Commission) than others (Council and European Council).

Practices differed greatly. However, that is not to say that principles were not upheld at all in the Councils.

One respondent pointed out that the institutions had different functions and responsibilities given by the founding Treaties, and that this would need to be taken into account in the demands on the different entities. For instance, it was easier for members of the European Parliament (MEPs) to support a cause without having to deliver on the backing. By construction, the Council and the European Council are less of a partner and less accessible for pan-European CSOs because they represent Member States.

#### 4.2.2 Definition of distrust

At the beginning of the survey, respondents were also asked how they would describe distrust in the EU from the perspective of their organisation. As for trust, the answers included various action verbs that highlighted the relevance of the quality of interaction and (not) meeting expectations for distrust in the EU:

- *Act*
- *Distract*
- *Meet expectations (lack)*
- *Address (lack)*
- *Engage (lack)*
- *(Mis)understand*
- *Be aware (lack)*
- *Give in*
- *Serve (lack)*
- *Behave*
- *Inform (lack)*
- *Suspect*
- *Block*
- *Listen (lack)*

Respondents used different terms and adjectives for the description of distrust. The terms were similar to those used to describe trust, for example, including governance principles and behaviour towards civil society, but defined “a lack of” those qualities. For the description of distrust, respondents referred more often to unethical behaviour, the salience of national political agendas over common interests, and the prioritisation of economic over general interests. Distrust emerged also from the perception that the EU was not able, or willing, to tackle challenges that were important for civil society organisations (e.g., shrinking civic space or risks for vulnerable groups).

- *Abuse*
- *Documentation (lack)*
- *Opaque*
- *Access (difficult)*
- *Disconnection, impersonal, distance*
- *Participation (lack)*
- *Accountability (lack)*
- *Disinformation*
- *Partner*
- *Action (lack)*
- *Economic interests*
- *Path dependency*
- *Agenda*
- *Engagement (lack)*
- *Political agenda*
- *Budget*
- *Ethically (lack)*
- *Political parties*
- *Bureaucracy*
- *Feedback (lack)*
- *Power*
- *Challenges*
- *Pressure*

- |   |   |  |
|---|---|--|
| - <i>Closed doors</i>   | - <i>Fundamental and human rights</i>               | - <i>Priorities (unclear)</i>                    |
| - <i>Commitment (unclear)</i>                                   | - <i>Good faith (lack)</i>                          | - <i>Proof (lack)</i>                            |
| - <i>Communication (lack)</i>                                   | - <i>Hierarchy</i>                                  | - <i>Recognition (lack)</i>                      |
| - <i>Complexity</i>   | - <i>Incompetence, incapacity, clueless, unable</i> | - <i>Responsibilities, functioning (unclear)</i> |
| - <i>Contempt for or distrust of civil society, NGO bashing</i> | - <i>Instructions, guidelines (unclear)</i>         | - <i>Short-term</i>                              |
| - <i>Corporate influence</i>                                    | - <i>Involvement (lack)</i>                         | - <i>Shrinking civic space</i>                   |
| - <i>Corruption, bribery, revolving doors</i>                   | - <i>Knowledge (lack)</i>                           | - <i>Transparency (lack)</i>                     |
| - <i>Decision- and policy-making</i>                            | - <i>Legislation</i>                                | - <i>Unanimity rule</i>                          |
| - <i>Democracy (lack)</i>                                       | - <i>Member States, national agendas</i>            | - <i>Uncertainty</i>                             |
| - <i>Dialogue (lack), fake consultations</i>                    | - <i>Mismatch, gap</i>                              | - <i>Understaffed, overworked</i>                |
|   |   | - <i>Understanding (lack)</i>                    |
|   |   | - <i>Unreliability</i>                           |
|   |   | - <i>Youthwashing</i>                            |

A few respondents described the state of their distrust in the EU using the words “diverse”, “growing/increasing”, and “shared”.

### 4.2.3 Origins of trust

The survey and the focus groups allowed us to understand where participants’ trust in the EU originated from: firstly, from a belief in the aims and values of the Union and the need to address pressing issues or respond to crises through EU-wide solutions, and secondly, from individual experiences over time.

In some cases, their belief in the ‘European project’ had been the very reason why respondents and FG participants had started engaging with CSOs or why organisations had been established in the first place. As discussed later in the report, the reason for the establishment of EU-level organisations had often stemmed rather from pragmatism than trust. CSOs had come to the realisation that decisions made at the EU level had significant implications in Member States. They had recognised that addressing EU-wide issues required a pan-European collaborative approach, rather than acting in isolation as a national NGOs (see also Warleigh, 2001). Additionally, they had acknowledged the potential for the EU to offer more effective and efficient solutions to certain challenges. For instance, the European Accessibility Act<sup>16</sup> (first proposed in 2011) demonstrated how the EU could tackle the issue of accessibility for people with disabilities more

<sup>16</sup> <https://ec.europa.eu/social/main.jsp?catId=1202&intPageId=5581&langId=en>

comprehensively and in a timely fashion. Furthermore, CSOs wanted to contribute to strengthening the Rule of Law and fundamental, democratic values, which were progressively defined with the establishment of the political EU and the founding treaties, but continuously require monitoring and defence by civil society. As the EU expanded in significance and influence at the national level, the demand for ensuring its accountability, along with the respect for fundamental rights, became increasingly apparent.

The relevance of experience for trust building was apparent in descriptions of trust in the survey referring to: “over the years”, “developed over several years”, “due to experience” and “more familiarity”. Trust was not always newly defined at every interaction, but it was influenced by previous experiences and encounters, as was also highlighted in the focus groups: “Any processes that you have been involved in in the past will necessarily influence future processes [...] if they are managed by the same people. It just generates a connection with those people”. The relevance of the experience over time for trust was further ascribed to individuals in EU institutions. Through public participation and civil dialogue, individuals from the institutions would “begin to trust [CSOs] on [their] mandate, on [their] expertise, on what [they] do and the way [they] can help them [the institutions]”.

The two ways in which trust developed hinted at a difference between the EU as a group of institutions itself and individuals in EU institutions. The focus groups were used to better understand how both contributed to trust in EU governance. Indeed, there was a common agreement that “there [was] a difference between trusting people who [worked] for the institutions and the institutions themselves”.

#### **4.2.3.1 Trust in institutions through legal and institutional frameworks**

The focus groups specified that trust in political institutions developed (or did not develop) contingent on the political context and social environment in which Europeans grew up. Many Europeans who were raised in democracies would have a basic trust in political institutions. It was theorised that trust in (political) institutions did not mean a feeling, but a legitimate *expectation* on institutions to deliver on their promises and to be reliable:

*[...] in the context of political science and governance, we don't mean a feeling when we talk about trust [...] I would say that if we give two meanings to trust, [in reference to] the second meaning - which is a legitimate expectation in a governance context - you can trust in institutions, and rightly so.*

In a democratic society, it was “your right, actually, as a citizen” to have these expectations and to trust that they were met. Trust meant “that when an economic decision has a social consequence, this consequence has to be dealt with by the institution, at least [be] considered [...] If this [dealing with consequences] does not exist, we cannot trust institutions”.

Legal frameworks within and across the institutions provided a basis for trust. As regards CSOs, institutional arrangements and mandatory protocols to engage with civil society,



and guidelines on how they should be involved, made institutions trustworthy because it meant that “regardless of the people who come and go [...] the people are bound by those existing protocols”. For example, under the Aarhus Convention, public participation in decision-making in environmental matters, along with access to environmental information and justice, is a requirement. Both the EU and all Member States are signatories, making it legally binding.

The level of trust was dependent on the extent to which “institutions [were] transparent and accountable [to] civil society, and how [...] accessible they [were] for civil society organisations”. That is, how they implemented laws and guidelines. A political institution was “trustworthy if you know what they're doing, how they're doing it, when you can engage with them, and how the decisions are being taken”. If these demands were not fulfilled, it was difficult to develop (a feeling of) trust in institutions:

*At the beginning you asked, where do we see more of the trust? Is it with the specific people and units, or is it with the institution itself? My understanding is that it's never with the institution itself. I think that this is where the lack of trust exists. [...] We always see the institution as something that is bureaucratic, big, inaccessible, and really not [...] very easy to have [...] communication with.*

#### **4.2.3.2 Trust in individuals through experience**

Legal frameworks decided whether persons in the institutions could be *relied on* to follow the rules. However, they did not automatically build trust in individuals. This trust building was based on experience. Persons followed institutional rules to the extent that they had to, but the quality of how the rules were followed and what happened with civil dialogue output beyond what was required by the institutional framework decided the level of trust:

*You rely a lot on individuals. The problem is that I have to rely on them, but I don't always trust them [...] I probably believe they're going to do their job [...] but I don't always have a sense of trust that my communication is actually channelled in the right way, in the way that I'm trying to deliver it and the full meaning behind what I am saying.*

This discretion given to individuals or departments contributed to variations in the quality of the relationship between individuals from civil society and EU institutions, and the trust that was established over time. If individuals in the institutions “are backing [CSOs] up”, it “generates a sense of trust”, which is “maybe not necessarily in those institutions, but in the people”. It was with “specific units, with specific people, with specific programmes [...] where you [started] to build the trust” and where CSOs' message was taken on board:

*[...] it does make a difference in the EU institutions who you are in contact with and who is the contact person. It does make quite a difference in terms of delivering certain messages, or getting certain things done. It somehow affects the feeling [...] which is very subjective.*

Individuals shape institutions to the extent made possible by the legal framework and institutional rules. This means that their discretion is also limited. The hands of individuals are sometimes tied by the frameworks and rules they are subject to, which do not necessarily promote a culture of civil dialogue. The rules may limit their ability to (re)act and initiate changes. For instance, the focus groups discussed that internal rules prohibiting the sharing of draft documents with civil society (or other stakeholders) had detrimental effects on the relationship between Commission staff and civil society actors because distrustful attitudes of the institution were imposed on the individual (staff). Moreover, institutional narratives and attitudes also influenced the persons that worked inside and imparted “a certain point of view”:

*I've personally met great people who understand a lot. Most of them have come from the sector and moved to the institutions. They are doing amazing work, but I also think that their impact is very limited because there really is no organisational culture of openness within the institutions.*

It was noted that “you need to have trust in this institution” to engage with individuals in the first place because “obviously they represent that institution”. This statement links back to the very origins of trust in the EU based on shared values and visions, and suggests that trust in institutions (even when understood as a legitimate expectation) and in individuals inside are not fully independent constructs. Trust in individuals “can or cannot correlate [with trust in] the institution”. That said, it was remarked in the focus groups that trust in individuals could contribute to trust in institutions, especially over a long period of time with recurrent encounters in which interpersonal trust was strengthened or weakened. But this mediated (dis)trust in institutions required a strong foundation of (dis)trust in individuals:

*This is because of the network that we build with individuals in the institutions rather than the institution itself, because [...] civil society organisation engagement [...] is not strong enough to build this trust towards the institution rather than persons.*

*It's difficult to completely separate the trust in the persons and the trust in the institutions because the institutions are built by persons. If we have problems of trust with the institution, it's because at some point we had problems of trust with some persons inside the institutions. [...] in the end, it's just humans who have contact with [other] human[s]. It's human relations that create some difficulties of trust.*

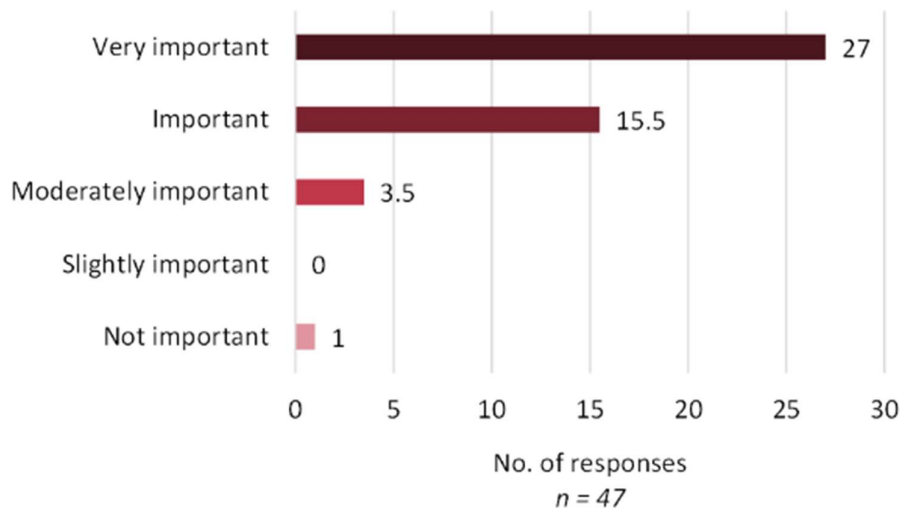
### **4.3 The relevance of (dis)trust for the work of CSOs**

One of the main questions of the research project was whether trust and distrust were important for the activities of CSOs and if yes, why they were important. These enquiries did not only help to identify determinants of trust and distrust, but also to put the overall relevance of the EnTrust project into context. This section combines responses from the survey and the focus groups to answer these questions.

### 4.3.1 Having trust in EU institutions

There is a clear response to the question of whether trust in the EU is important for the work and activities of CSOs: “For all the civil society organisations, it [trust] is important and relevant [...]”, as also illustrated in the graph below. The one respondent who answered “not important” explained that they “neither trust nor distrust the EU”.

Figure 6: Importance of trust in the EU and its institutions for activities



Note: all organisations have the same weight (1), therefore, two respondents from the same organisation only count as half (0.5).

Trust in the EU was considered a necessity for the surveyed organisations, because their advocacy work and other activities were based on the expectation (or hope) that CSOs could contribute to EU policy-making, and that institutions had the will to listen and the power to make the changes that civil society asked for. This necessity was underlined in the survey with expressions such as “we have to trust”, “we have to be able to trust” and “we have to be able to rely on”, and was also mentioned in the focus groups:

*I want to have trust because if you work in political advocacy or you aim to be able to reach the institutions and make a change in any level [trust is needed]. [...] I think that I have to have this trust.*

Trust was perceived as the basis for collaboration and as giving access to the institutions. Without trust in democratic institutions and in sharing common goals and values with them, the work of CSOs would lose in effectiveness and meaning. Trust was consequently existential for organisations to carry out and believe in their work.

Umbrella organisations perceived trust in the EU as necessary to fulfil responsibilities and expectations of national, local, and grassroots organisations. As Hilmi Tekoglu, from SOLIDAR, put it: “We, as member-based organisations [...] bridge that trust between national level organisations and EU-level policy makers [...] In that regard, [...] trust is a key element for our work”. Two respondents noted that trust was important because of

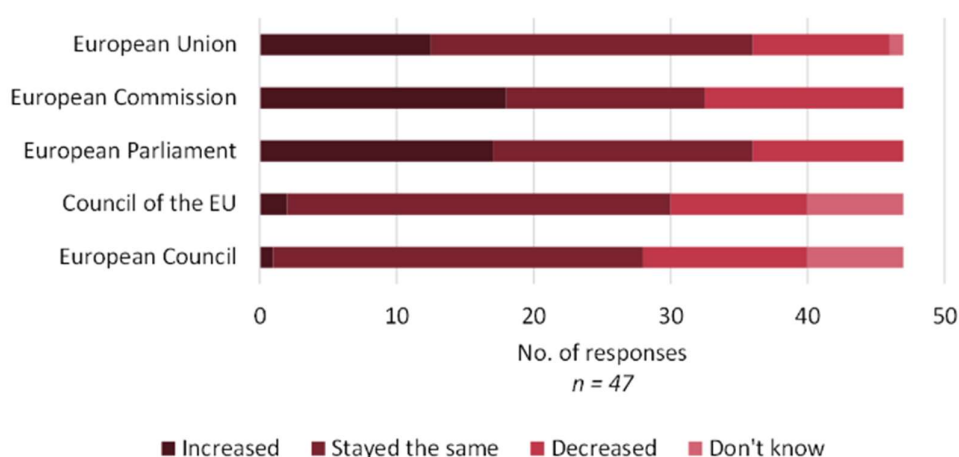
the nature of their work: they provided and discussed sensitive and potentially life-threatening information with the EU and they needed to trust that this information was treated confidentially, minimising harm to anyone. One survey respondent found that trust in EU institutions was moderately important because their organisation was mainly funded by the EU. It was not further explained in which way receiving funding was related to trust.

#### 4.3.1.1 Changes over time

The necessity of trusting did not mean that the level of trust did not change over time. However, the developments did not follow a clear positive nor negative trend (but the time frame was also not specified in the survey). As illustrated in Figure 7, about the same number of respondents indicated that their level of trust in the EU had increased and decreased, respectively, with a large number for whom there had not been a change. The large differences in opinion can be attributed to experiences specific to organisations or policy fields. CSO representatives emphasised that they did not trust all institutions and individuals equally. The relationship was closer and more direct with some institutions, and more mediated and irregular with others.

That said, there were more cases of increased trust in the EC and the EP than in the Council of the EU and the European Council, whereas all four institutions had observed similar levels of decreased trust, ranging from 10 out of 47 respondents in the Council, and 15 out of 47 respondents in the EC (see Figure 7). The level of trust at the time of the survey was not assessed. However, the answers to the survey suggested that trust was lower in the Council of the EU and the European Council compared to the EC and the EP. The reasons for changes are discussed in the following sections and chapters.

*Figure 7: Change of level of trust in the EU and its institutions over time*



*Note: 'increased' and 'rather increased', and 'decreased' and 'rather decreased', respectively, have been merged in the figure.*

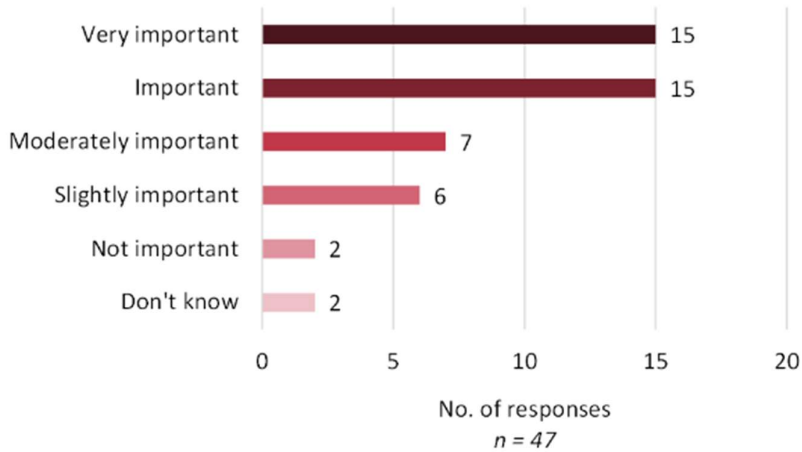
One question of the EnTrust project was whether there was a difference between the concepts *trust* and *trustworthiness*. Hence, survey respondents were also asked whether EU institutions had become more or less trustworthy over time. Many pointed out that the question about trustworthiness was the same as the previous question related to trust (see Figure 7), indicating that there was no perceived difference between the two concepts. Also, FG participants used trust and trustworthiness as synonyms. Indeed, the majority (three-fifths) of the survey respondents, who said that their trust in the EU and its institutions had increased, also found that the EU and its institutions had become more trustworthy. The same correlation can be observed for decreased trust and reduced trustworthiness (almost three-quarters). The reasons given to explain why trustworthiness had decreased or increased overlapped between both questions.

### 4.3.2 Having distrust in EU institutions

Similar to trust, distrust was mostly considered to be important for CSOs’ activities (see Figure 8), though the answers to the question why distrust was important showed that it was differently interpreted by respondents. Hence, the numbers in Figure 8 should be understood with caution. The two respondents who did not find distrust important explained that they “mainly [could] assume that [they could] trust the institutions, [they] [did] not work in an environment of distrust” and they “[focused] on the parts of the institutions and individuals where [they had] relationships of trust”. The same arguments were given once as a reason why distrust was important, as discussed in the next paragraph.

Figure 8: Importance of distrust in the EU and its institutions for activities

Figure 8: Importance of distrust in the EU and its institutions for activities



Some respondents indicated “important” because they found it imperative that there was no distrust. For instance, they perceived that it would undermine the legitimacy and unity of the EU which would be counterproductive for the benefits it could bring. Consequently, the organisation itself or members would disengage from EU-level activities. Various CSOs worked precisely to build trust and reduce distrust in the EU by

advocating for their constituencies. Because of the necessity to have trust in institutions – as described above: to carry out activities including dialogue and representing members – respondents tended to focus on aspects in the relationship that contributed to trust rather than distrust. They wanted to avoid a hostile, negative work environment and relationship. Also, in the focus groups, it was mentioned that “not having distrust [was] also important to continue building the engagement, our involvement, in the institutions or the decision-making mechanisms”. This perspective suggests that trust and distrust were perceived as two opposing ends of the same continuum. Indeed, one respondent described distrust as a lack of trust.

Other respondents answered “important” because of benefits for democracy that a certain level of distrust could bring. It was noted that distrust was “not always something that [had] to be considered as a bad thing” (comment in survey) and “mistrust and trust should not be considered exactly as opposite” to each other. For instance, it was helpful in pushing the EU to do its best and reconsider opinions and decisions. Distrust would drive change and motivate political decision makers to behave accordingly and make an effort to gain trust, resulting in a positive outcome for society. This interpretation of distrust was also put in context with public participation and the importance of being critical and active because political institutions could not and should not be blindly trusted to always put citizens first, partly because of the influence of economic interest groups and individual Member States at EU level, to give one example. Political institutions and public authorities should provide a platform to express and address distrust. It was important to have opportunities to exercise distrust and find a constructive-critical position towards the EU and its institutions.

#### **4.3.3 Being trusted by in EU institutions**

Not only was trust *in* the EU important for the work of CSOs, but also *to be* trusted by its institutions (see Figure 9). The inclusion of CSOs in political decision-making might be stipulated by regulations, but for it to be effective and meaningful and not just a formality, organisations needed to be trusted, recognised, and respected (see Figure 9). As one respondent put it: “The right to participation in political affairs is a right, but for it to be efficiently enjoyed, a level of trust is needed.” However, that was not always the case (see Figure 10).

Figure 9: Importance of being trusted, respected and recognised

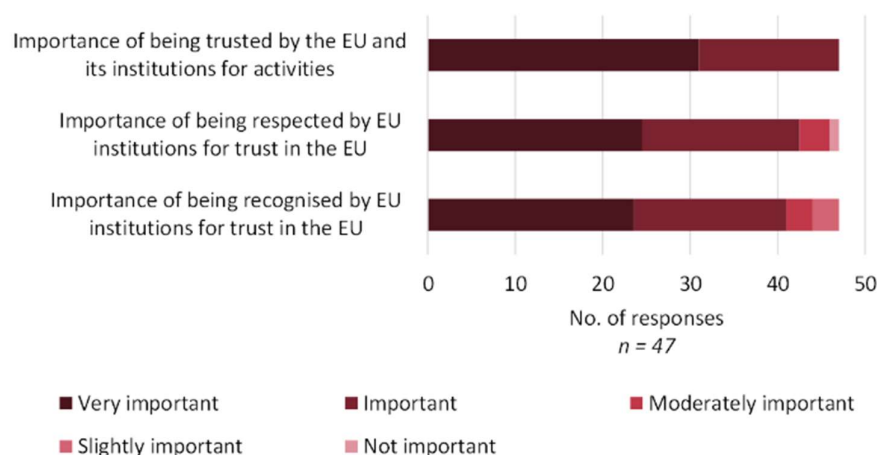
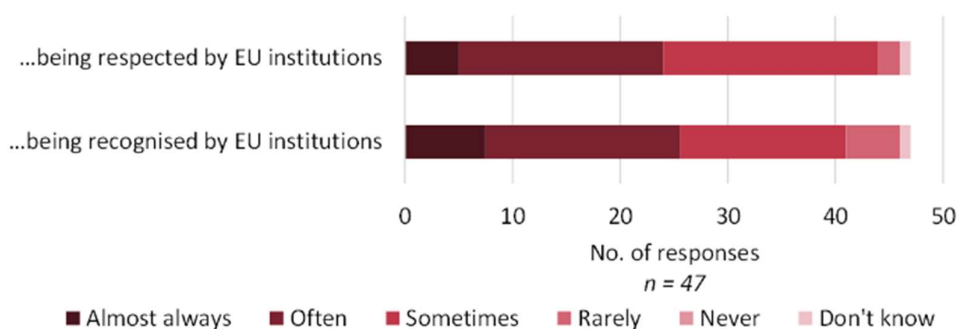


Figure 10: Extent to which the organisation is perceived to be respected and recognised



Being trusted meant receiving information and being involved, valued, and listened to in decision-making processes, beyond tokenism and even if not required by law or regulation. These conditions were essential for contributing to a positive impact on constituencies:

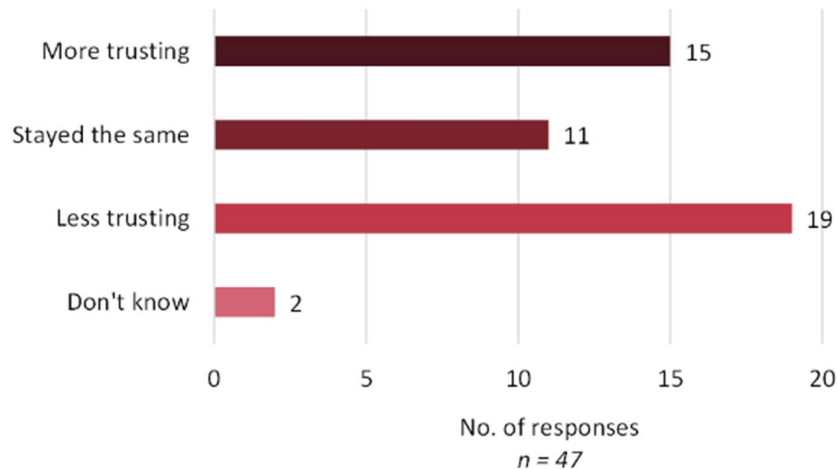
*To what extent do you trust us and to what extent can we have [...] access [to] and impact on the decisions that you are making? I think for us as civil society organisations, often, this is really the most important aspect. It is to what extent we actually impact the decisions that you are making [...]*

Being perceived as trustworthy and important was a precondition for a constructive partnership and collaboration – vital elements of democracies. It was “about the institutions trusting us rather than the opposite” and reaching a point where “we are seen as trustworthy, as crucial, as important in order to be involved”. Being trusted was also a precondition for receiving funding and being able to carry out activities and representing member organisations.

#### 4.3.3.1 Changes over time

The opinions of survey respondents varied when asked whether EU institutions had become more or less trusting of CSOs over time (see Figure 11).

*Figure 11: Perception of whether EU institutions had become more or less trusting of CSOs over time*



*Note: 'more trusting' and 'rather more trusting', and 'less trusting' and 'rather less trusting', respectively, have been merged in the figure.*

The reasons for a perceived increase of trust were:

- *recognition of expertise, being listened to, having an impact*
- *more opportunities for participation, including consultation*
- *one respondent mentioned more flexibility for organisations that receive EU funding (concretely, under the Creative Europe programme) in using the grant*

In contrast to the three indicators of growing trust, survey respondents who found that EU institutions had become less trusting of CSOs explained their choice based on:

- *more complicated and stricter funding and reporting rules across all programmes, high level of bureaucracy*
- *no recognition of the value and the legitimacy of CSOs, no meaningful cooperation, no impact*
- *less involvement/consultation in policy-making, less or more difficult access to decision makers, less transparency, avoidance of contact with CSOs (especially since 'Qatargate')*
- *anti-NGO narrative in the aftermath of 'Qatargate'*



- *a priori mistrust towards CSOs expressed in more controls, mandatory inclusion in the Transparency Register*
- *shrinking civic space, criminalisation of migrant and refugee rescue missions at sea*
- *other stakeholders being more valued and no distinction being made between CSOs as representing the interests of people/citizens and other stakeholders acting on behalf of commercial or corporate interests.*

One participant was disappointed that “in the last ten years, there has really been movement backwards, in terms of the trust [...] coming from the Commission, and access [...] to the institutions”.

The apparent contradictions between indicators of increased and decreased trust in CSOs illustrate the large differences between EU institutions, departments and individuals when it comes to the question of trust.

One very relevant incident for (perceived) decreased trust on both sides (EU and CSOs) was the ‘Qatargate’ corruption scandal at the European Parliament, which involved the bribery of MEPs and assistants to influence the vote on human rights, notably around the 2022 FIFA Men's World Cup in Qatar. The attacks on, and questioning of, the legitimacy of CSOs - mostly driven by far-right voices in the EP - had reduced trust in the EU. Some MEPs/political parties used NGOs as a scapegoat, rather than blaming the structures and people in the EP for the corruption. Some respondents felt rather betrayed because they had invested a great deal of time and effort in establishing a dialogue, and then the same people who had opened a door to them had closed the door again after the corruption scandal. Only one respondent explicitly reported having had increased trust in the EP because it had taken action on corruption in its own ranks.

#### **4.3.4 Mutual trust**

Respondents and FG participants viewed mutual trust and respect as essential. Institutions could be trusted “if institutions trust [CSOs]. It's an exchange of trust and it can't go only in one direction. It always has to go in both”. Interactions “wouldn't have any meaning or impact if we don't have this trust between the institutions and the civil society”, referring back to why it was important to be trusted by EU institutions.

The survey data suggested an association between increased (decreased) trust in the EU and its institutions over time, and the perception of EU institutions having become more (less) trusting of CSOs throughout the years. Indeed, the reasons given for both questions were very similar, as exemplified by quotes from survey responses:

Reasons for less or more trust in the EU	Reasons for less or more trust in CSOs (perceived)
[more] “We are probably given more attention than before and are taken seriously. This increased our trust.”	[more] “More engagement. Evidence of cooperation.”
[less] “[...] they are less open to meeting with, engaging with, and consulting with civil society.”	[less] “The EU institutions consult CSOs less, they avoid contacts with CSOs and true cooperation”
[less] “Less trusting because of recent developments that they are attacked and blame us for not doing our job right.”	

One aspect that facilitated mutual trust and allegiances was the perception of having a joint mission:

*[...] when you have somebody who works in a field that you also work on and who shares a personal commitment to those values that you are trying to put forward, that’s where you can connect much more meaningfully on the actual substance of what you are talking about, and that is much more important.*

A growing interest and commitment and more efforts made in a specific policy field had increased trust in EC staff and MEPs among survey respondents. Allies had been found in the different Directorates-General (DGs) and positive relations had been built based on similar interests and objectives. Trust in the EP had increased because some MEPs had become more proactive in promoting reports, and had shown an interest in the impact of EU policies, sometimes acting as a counterpart to the more technocratic, factual decision-making of the EC. MEPs that had become allies of civil society were perceived as being much more mission-driven. The EP or MEPs gave “more political support” and CSOs achieved “very good results, a very good conversation”. However, it was acknowledged that this was in fact “the nature of the institution”, and MEPs clearly wanted to be re-elected in the European elections, in 2024, and some perhaps only showed an interest for this reason.

In an analysis of career trajectories of directors and presidents of recognised EU-based CSOs, Lindellee and Scaramuzzino (2020) found that expert knowledge was more prevalent in the environmental policy field, while an activist background was more common in the social policy area. Civil society actors who considered themselves activists “work for certain civil society organisations because [they] believe in what [they]’re doing. [They] have a commitment to what [they]’re doing”. They were not politically neutral. This commitment would sometimes clash with the technocratic approach of the EC. One respondent found that the EC had become more driven by legal concerns and risk aversion than by a meaningful mission, which had reduced their trust. That said, there were noticeable differences between and within DGs as regards finding a common ground. For instance, with respect to DG INTPA, it was positively remarked

that “these technical workers, you can trust them because they [...] have the same fight for these topics.”

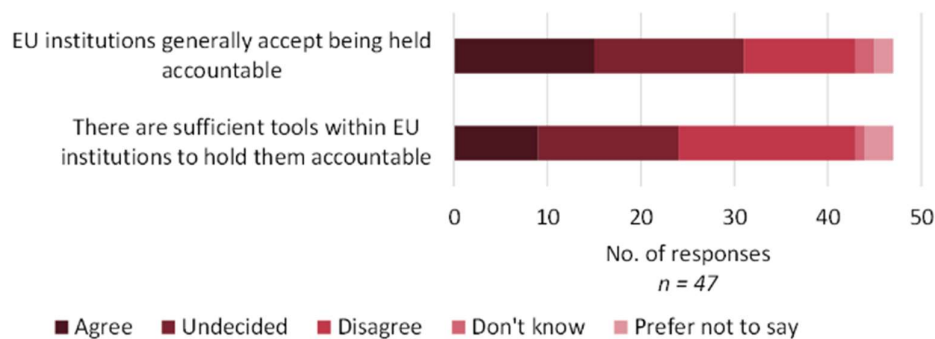
## 4.4 Conditions of (dis)trust

This section draws on the desk research, the survey, and the focus groups to discuss the conditions that were identified as being relevant for, and determinant of, trust and distrust in EU institutions. However, we do not claim the list of conditions to be exhaustive; there might be others that were not identified in the data collection and there might be different ways to group the topics. The conditions are not ordered and presented based on importance, but on thematic affiliation.

### 4.4.1 Maladministration and corruption in EU governance

Unethical behaviour, corruption, no accountability in spending money, and no scrutiny of corruption-enabling structures were scenarios used to describe trust and distrust. However, there were too many variations at institutional and personal levels to claim that EU governance was full or free of corruption and maladministration. Therefore, several respondents were “undecided” when asked whether EU institutions accepted being held accountable, and whether there were sufficient tools to hold them accountable (see Figure 12).

*Figure 12: Agreement or disagreement with statements related to accountability*



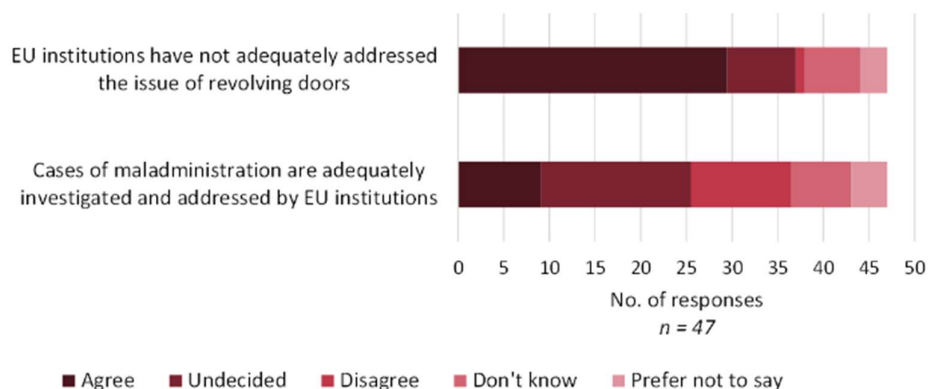
*Note: ‘agree’ and ‘rather agree’, and ‘disagree’ and ‘rather disagree’, respectively, have been merged in the figure.*

Respondents were divided about whether maladministration was adequately addressed by EU institutions, but mostly disagreed with the statement (see Figure 13). One major issue that raised concerns about corruption was the revolving door<sup>17</sup> phenomenon, which was mentioned as an indicator of distrust. According to the European Ombudsman, it can “damage public trust if not adequately managed. Even a small number of high-profile moves can generate significant public disquiet and cause

<sup>17</sup> The phrase “revolving door” describes the practice of public officials or employees transitioning from public service to lobbyist positions.

reputational damage” (Case OI/1/2021/KR, p. 1). Rules to inhibit revolving doors have been largely ineffective (see Figure 13; Kergueno, 2021).

*Figure 13: Agreement or disagreement with statements related to maladministration and corruption*



Note: ‘agree’ and ‘rather agree’, and ‘disagree’ and ‘rather disagree’, respectively, have been merged in the figure

#### **Example:**

On different occasions, EU institutions have been accused of maladministration. Next to ‘Qatargate’ (discussed on pages 29-30) there was, for instance, the process of how the EP allocated top job appointments in 2022, which was condemned by CSOs. They spoke of “institutional corruption” and “maladministration” without “any form of internal or public scrutiny” (van Hulten, 2022). The process went against expectations on transparency and accountability.

#### **Example:**

The European Ombudsman conducted a strategic inquiry in 2017 and found that the Council's current practices in the legislative process constitute maladministration. The Council was criticised for not recording the identity of Member States taking positions in preparatory bodies and restricting access to legislative documents during the decision-making process. Despite related recommendations and a Parliament resolution following the Ombudsman's request, the Council did not respond effectively, and significant changes were not observed (Case OI/2/2017/TE).

#### 4.4.1.1 Lobby rules and practices in the institutions

Based on statements of survey respondents, trust in the EC had eroded due to decision-making still taking place behind closed doors. The Integrity Watch EU database,<sup>18</sup> run by Transparency International, provides an overview of lobby meetings of the EC. During the von der Leyen Commission (2019-2024), 30 percent of meetings were with companies and company groups, 26 percent with trade and business associations, and 24 percent with NGOs (status 9 February 2023). For meetings concerning policy-making and implementation in the EU, including public consultations, interest representatives must be registered in the EU Transparency Register. While Commissioners, their cabinet members, and Directors-General are required to disclose information about their meetings with organisations or self-employed individuals, this obligation does not extend to lower-ranking Commission personnel, including Directors and Heads of Units.<sup>19</sup>

One respondent found that accountability was largely missing in the EP, except for electoral accountability. As a response to the 2017 resolution on Transparency, Accountability and Integrity in the EU institutions, the EP has implemented several measures to enhance the transparency of its meetings. These measures aim to tackle conflicts of interest within EU institutions and agencies, including the revolving door issue (Own-initiative Procedure 2015/2041). Since 2019, MEPs that hold an institutional role, such as Committee Chairpersons or (shadow) rapporteurs, are obliged to disclose their lobby contacts, but this rule is not thoroughly implemented (Giménez Bofarull et al., 2021b). Research by Transparency International EU showed that most MEPs in the EP do not publish their meetings. There are differences between political groups: Greens/EFA MEPs publish the most meetings, and Identity and Democracy MEPs, the least (Teixeira et al., 2022).

The Council of the EU made some efforts to increase lobby transparency, but its decision-making process remains opaque, despite calls by the Ombudsman, national parliaments, and CSOs for more transparency (TI EU, n.d.). One justification for withholding information on meetings and decisions is that informal meetings cannot decide legislative measures and therefore do not have to be made public. Another strategy to withhold documents from the public is to mark them as 'limité', even though the content may not justify this categorisation (Hoffmann-Axthelm, 2021). Even if made public, official Council of the EU documents do not contain the name of the Member State that made a statement or proposal on legislative files, so citizens do not know the position of their own government, which might be different to what they communicate to the public (Case OI/2/2017/TE). This behaviour is possible because the Council is in fact not accountable at the European level, being composed of national governments

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<sup>18</sup> <https://www.integritywatch.eu/ecmeetings.php>

<sup>19</sup> [https://commission.europa.eu/about-european-commission/service-standards-and-principles/transparency/transparency-register\\_en](https://commission.europa.eu/about-european-commission/service-standards-and-principles/transparency/transparency-register_en)

elected by voters (Hoffmann-Axthelm, 2021). To increase accountability, changes would have to reach as far as amendments of the founding Treaties (TI EU, n.d.).

Within the framework of the 'Interinstitutional Agreement on a mandatory Transparency Register', the Council of the EU approved a decision regarding the regulation of interactions between the General Secretariat of the Council and interest representatives. This decision introduced new rules that mandate interest representatives to be registered beforehand in the Transparency Register to be able to have meetings with senior staff of the Secretariat of the Council, attend thematic briefings and public events organised by the General Secretariat, and access the Council premises (Agreement OJ L 207, 11.6.2021). The Council becoming a formal party to the agreement was certainly welcomed, but the scope of activities affected by the agreement was rather limited (Klosidis, 2021). Within Permanent Representations, only the two top officials (the permanent representative and their deputy) have to publish their lobby meetings and that only every 13 years, when they head the Council Presidency (Hoffmann-Axthelm, 2021). The rules are startling given that Council Presidencies are still sponsored by corporations such as Coca-Cola or car manufacturers.

#### **4.4.1.2 Transparency Register**

In June 2002, the EC established the database CONECCS (European Commission and Civil Society) to gather information on CSOs operating at the European level. The database also documented the committees and other consultative bodies employed by the EC for formal or structured engagement with organised civil society. CONECCS aimed to foster trust in EU policy-making and bolster its credibility (Coen & Richardson, 2009). The majority of organisations included in this database consisted of professional or industrial associations. This prevalence can be attributed to the European integration process primarily focusing on market-related aspects, which led to the emergence of professional federations in the 1950s, followed by consumer associations in the early 1960s, and subsequently environmental NGOs in the 1970s. European networks of CSOs largely emerged in the 1990s in response to the evolution of the Treaties. To ensure a balanced representation of interests, the EC and the EP established funding programmes to support and facilitate the establishment of such networks, aiming to counterbalance industrial and commercial concerns.

In 2008, CONECCS was replaced by the Transparency Register, which currently encompasses over 11,000 entities, including approximately 3,000 NGOs as of May 2020. However, the primary objective of the Transparency Register has shifted away from facilitating interaction between CSOs and EU institutions. Its current purpose serves to demonstrate the commitment of the EP and the EC to transparency regarding their interactions and decision-making processes. Năstase and Muurmans (2020) discovered that interest groups primarily register for the Transparency Register due to normative and instrumental motives, as well as to enhance their reputation. Lobbyists may actually perceive the regulation of their profession as advantageous.

Being registered in the Transparency Register offers certain privileges (incentives). These privileges include obtaining an annual pass for access to the EP, receiving timely

notifications of new consultations, and participating in stakeholders' meetings. However, registration also entails obligations, such as providing detailed information about the organisation, its funding sources, and the resources dedicated to advocating for interests. It also requires adherence to a code of conduct that specifies prohibited behaviours, such as obtaining information or decisions dishonestly, or inducing officials to violate rules.

The establishment of the Transparency Register corresponded to demands from CSOs seeking to address lobbying practices by industry, business groups, legal firms, and their consultants, and to rectify the unequal access to EU institutions whereby business interests were more represented than citizens' concerns through CSOs. However, unintended consequences of the register have adversely impacted the access of CSOs registered as NGOs to EU governance. For instance, CSOs that are not registered face greater difficulties, or are unable to access consultations and stakeholder meetings due to their limited activities at the EU level. Consequently, the stricter regulations have resulted in the exclusion of those who are less privileged and who have limited access to the EU level. Additionally, CSOs face more stringent requirements compared to other interest groups. The obligation to disclose their entire budget and funding sources, while other groups only need to provide an estimate of their lobbying budget, is an example of this. This discrepancy creates a distorted perception of CSOs' influence in comparison to for-profit companies and other interest groups defending specific economic interests of certain groups, rather than the Common Good, as is the case of NGOs/ CSOs.

According to Năstase and Muurmans (2020), the voluntary nature of the Transparency Register created a symbolic policy, where important aspects remained hidden within a 'black box' and lobbying issues were not really addressed. Indeed, Pichler et al. (2015) spoke of a lack of morality of the register. It would not make a differentiation in its categorisation between the values (interests) represented by the registered entities. In this context, a noteworthy bibliometric analysis of academic publications conducted by Schoenefeld (2021) revealed that scholars employ the terms 'interest groups,' 'NGOs,' and 'civil society organisations' in both normative and strategic contexts to define their roles in EU policy-making. 'Interest groups' were primarily connected with the idea of 'influence,' while 'NGOs' were associated with environmental and social issues. On the other hand, the term 'civil society organisation' was used to refer to concepts like 'democracy,' 'participation,' 'accountability,' and 'legitimacy.'

**Recommendations:**

- Ensure transparency across all EU institutions regarding the individuals and groups with whom staff and decision makers meet, at all ranks. All work-related meetings, encompassing all types of gatherings, including those conducted online or via phone, should be monitored and documented, and reports should be regularly published.
- Effective preventative measures, following a comprehensive assessment of structures that allow corruption, should be developed and carried out together with independent civil society and experts. Robust tools should be put in place to

ensure accountability and prevent maladministration, corruption, and revolving doors, including the implementation of a comprehensive code of conduct that applies across all ranks of EU staff.

- Strengthen the role of the European Ombudsman.

#### 4.4.2 Reign of corporate and economic interests

According to survey respondents, trust in the EU meant delivering on promises and the declared aims and principles of the EU, including respecting human rights and acting to improve the situation of disadvantaged groups. Distrust developed if expectations were not met, or if there was uncertainty, unreliability and weak democracy, for example, if no actions followed on pledges. This behaviour raised questions over the credibility and sincerity of the EU. More than half of the survey respondents indicated that they were often disappointed by the decisions of EU institutions (see statement one in Figure 14).

Trust in EU institutions had partly decreased and distrust had increased over time because corporate and economic interests had been prioritised over EU values and international conventions (see statement two in Figure 14). The absence of a weak lobby regulation facilitates the reign of corporate and economic interests (Ammann, 2021). Additionally, corporate capture of public consultations is a significant concern for NGOs, especially in environmental matters like chemicals or hazardous substances.<sup>20</sup> Often, industry representatives make up a disproportionately large percentage of respondents, exceeding 50% - 80%.

Particularly organisations operating on a global scale largely found that the EU put economic interests above European values (12 out of 14 agreed with the statement). It was also noted that the EU only spoke up against attacks on civic space and fundamental rights outside of the EU if it served their interests in the country. There would be double standards and inconsistencies depending on their own interests. It was also perceived that demands on partners in international cooperation (in terms of accountability) were often higher than what was practised internally in institutions.

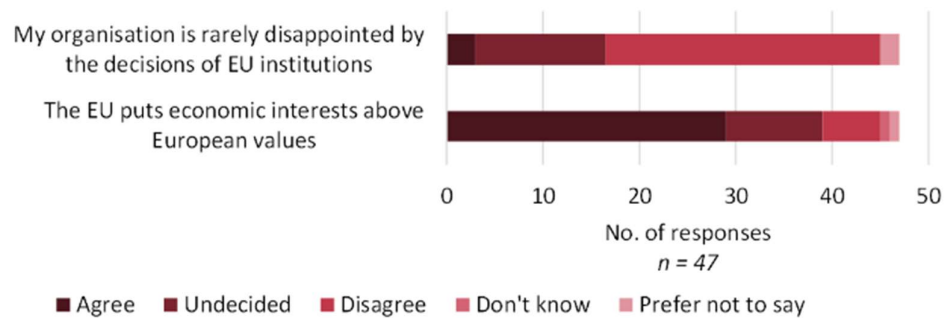
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<sup>20</sup> See, for example:

[https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12057-Chemical-pollutants-restrictions-on-perfluorooctanoic-acid-PFOA-/feedback\\_en?p\\_id=6059574&page=2](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12057-Chemical-pollutants-restrictions-on-perfluorooctanoic-acid-PFOA-/feedback_en?p_id=6059574&page=2)



Figure 14: Agreement or disagreement with statements related to expectations and economic interests



Note: 'agree' and 'rather agree', and 'disagree' and 'rather disagree', respectively, have been merged in the figure.

#### **Example:**

One example of a situation in which expectations on the integrity of the EU were not met because of a prioritisation of corporate and economic interests is the call for strong laws to hold companies accountable if they violate human rights and cause environmental degradation outside of the EU. Citizens and civil society expect the EU to be resistant to the influence of business lobbies, and put European values above economic interests (Friends of the Earth Europe, 2021). In 2022, the EC submitted a proposal of a draft law that would require EU companies to prevent violations of human rights and environmental abuses along the full supply chain. The proposal was, in principle, very welcome, but it applied only to large companies (500+ employees) with a high turnover (150€ million), so less than 0.2% of EU companies. In addition, the proposal suggested that responsibility could be shifted to the supplier by adding certain clauses to the contracts. Again, business lobbies and economic interests were perceived as having a large influence, while citizens, CSOs and trade unions were heard "but only with one ear" (ECCJ, 2022).

#### **Example:**

Another example provides the European Union Emergency Trust Fund for Africa (EUTF). NGOs were highly critical of the narrative, objectives, and implementation of the EUTF, and largely abstained from the most controversial projects within the Fund that were not aligned with their mission and moral stance (Szent-Ivanyi, 2021). The EUTF presents an example of the criticism of the EU over its assumed role as normative power founded on fundamental rights and its disregard of these rights in representing its self-interests outside of the EU (Fine & Megerisi, 2019).

**Example:**

In 2018, the Alliance for Lobbying Transparency and Ethics Regulation published a report on *corporate capture* in Europe (ALTER-EU, 2018). The report presented compelling case studies of corporate capture across various sectors, including banking, trade negotiations, pharmaceuticals, tax policies, the gas industry, 'Dieselgate', the arms industry, and privacy/data protection. These case studies highlighted the undue influence of major corporations on decision-making processes within the EU and Member States. The concept of corporate capture was used to illustrate the deeply rooted and intertwined relationship between EU policy makers and business interests. The report pointed out that there was a prevailing belief among policy circles that whatever benefitted industry was inherently beneficial for Europe as a whole. In 2019, the Alliance addressed a letter<sup>21</sup> to the President of the European Council, Charles Michel, urging him to prioritise citizens' interests over corporate interests on the agenda and in the decision-making of the European Council.

**Recommendations:**

- The EU should uphold EU values and principles as the guiding force in all decisions and actions taken by EU policy makers, prioritising them over economic benefits for specific groups. To be trusted by CSOs, it is essential for the governance and practices at the EU level to demonstrate and deliver on a shared commitment to common goals aligned with EU values and principles.
- EU policy makers should follow through on promises and commitments and be accountable for them. When this is not the case, the reasons why should be identified and made public.

#### 4.4.3 Civil society empowerment: advocacy work and civic space

A vibrant civic space is one of the most important safeguards against anti-democratic tendencies, but it is more and more abridged and managed, also in countries that have traditionally advocated for civic space. In addition, harassment and physical and verbal attacks on human rights and environmental defenders by non-state actors are rising, and activists are subject to defamation and stigmatisation by political actors (A/HRC/RES/40/11; FRA, 2018). CSOs and activists have been confronted with growing challenges due to the restriction of civic space, as evidenced in various reports, such as the rule of law reports and the 2022 report on the application of the Charter of

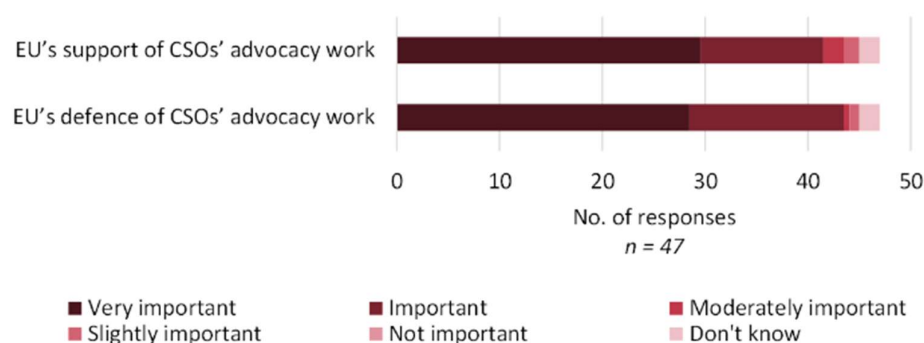
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<sup>21</sup> <https://www.alter-eu.org/sites/default/files/documents/Open%20letter%20to%20Charles%20Michel%20FINAL%2027.1.2019.pdf>

Fundamental Rights in the EU. The conclusions on the role of civic space in safeguarding and promoting fundamental rights in the EU have also highlighted these issues.

In a CSE 2017 survey of CSOs, more than half of the participants (56%) indicated an overall deterioration of conditions for civil society in their country in the past year (CSE, 2017). Half of the participants (49%) found that EU institutions were not doing enough to protect civic space in Member States (CSE, 2017). One year later, the European Union Fundamental Rights Agency (FRA) came to the same results in a survey with organisations working on human rights (FRA, 2018). In another survey in 2020, half of the responding organisations reiterated that their situation had deteriorated in the last years (FRA, 2022). According to respondents, support was perceived as having been unstable in recent years, which caused uncertainty and difficulties for the activities of organisations.

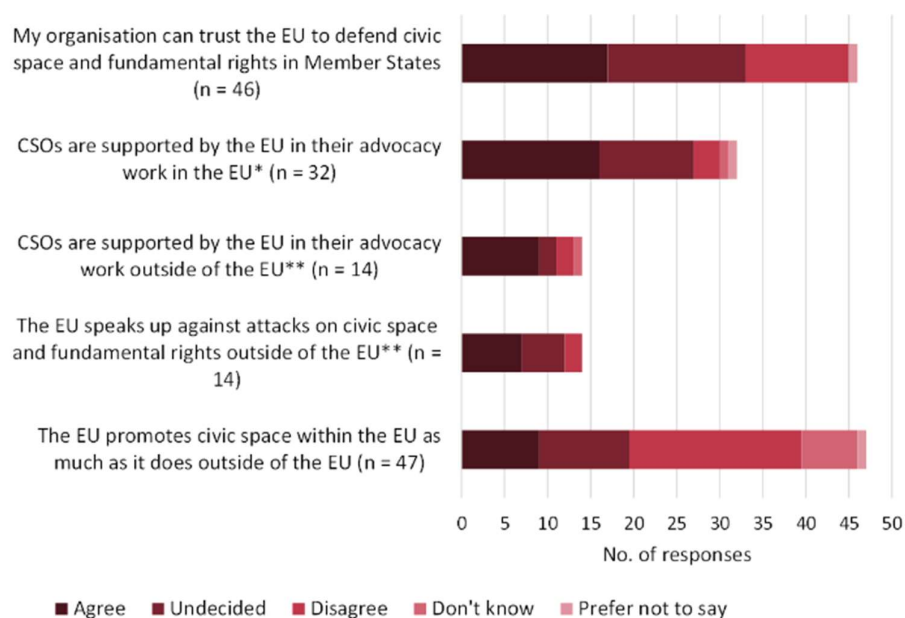
*Figure 15: Importance of support and defence of CSOs' advocacy work for trust in EU institutions*



Support and the defence of CSOs' advocacy work was important for trust in the EU (see Figure 15). While the desk research gave a mostly negative picture of the EU support of CSOs' advocacy work, the survey suggested that a considerable number of organisations did consider themselves supported (see Figure 16). The main points of criticism related to a weak position or effort to reverse shrinking civic space, and no common approach across EU institutions (which may explain the large number of "undecided" answers in Figure 16). Words were not always followed by actions. In the eyes of some respondents, the reaction to rule of law violations in Poland and Hungary had been insufficient, came too late, and raised concerns over the willingness of the EU to support CSOs (see statement one in Figure 16). Civil society demanded that the EU spoke up against attacks on democracy around the world and took a clear stance in protecting civic space. Governments should be held accountable if they fail to respect and defend human rights (see, for example, YFJ, 2022). However, in a Union that holds mutual trust between Member States as a fundamental constitutional principle (Pech & Scheppele, 2017), reactions and actions in response to the rule of law crisis have been quite slow. That said, the EC also had gained trust from a few respondents *because* of its integrity expressed in reactions to rule of law violations in Poland and Hungary, and Russia's war of aggression against Ukraine.

The support of civil society appeared to be different in candidate countries, where EU-level networks and the scrutiny of open civic space were perceived as positively influencing and helping the work of CSOs at national level. But past experiences had shown that monitoring of civic space decreased after the EU accession (CSE, 2017). In general, there was an alleged discrepancy between support in and outside the EU, with the latter being more favourable for CSOs (see statement five in Figure 16; FRA, 2017).

*Figure 16: Agreement or disagreement with statements related to empowering support*



*\*the question was only asked to organisations that were active on a European scale*

*\*\*the question was only asked to organisations that were active on a global scale*

*Note: 'agree' and 'rather agree', and 'disagree' and 'rather disagree' respectively, have been merged in the figure.*

Trust in EU institutions has dwindled over time due to challenges posed by regulatory measures, such as restrictions to Articles 11 and 12 of the Charter of Fundamental Rights of the European Union, transparency requirements, tax laws, counter terrorism laws, or obstacles in the registration of the organisation (see also FRA, 2018). Transparency is increasingly used as a pretext to overstrain and control CSOs with administrative requirements. A few respondents interpreted the expectation to register with the Transparency Register, and strong compliance regulations in general, as indicators of decreased trust in CSOs.

### **Recommendations:**

- The EU should demonstrate a proactive approach in addressing inequalities and inequities while safeguarding fundamental rights.
- Ensure prompt and appropriate action by the EU Institutions in response to violations of the rule of law and European and international conventions by Member States, as well as consistency by having all EU institutions condemn instances of shrinking civic space in Member States.
- Support initiatives that monitor anti-democratic actions and measures restricting civic space, while collecting data on attacks against human rights defenders.
- Establish effective redress mechanisms or early warning systems at the EU level to address violations of fundamental rights by local or national authorities, providing accessible recourse for civil society.
- Conduct a comprehensive evaluation of existing and proposed EU legislation that have an impact on civic space and fundamental rights to ensure their protection. This assessment should be a distinct component of the Rule of Law report, employing specific benchmarks and adopting an intersectional approach.
- Conduct an assessment of the Defence of Democracy Package's impact on fundamental rights
- Avoid new and reverse existing excessive regulation of NGOs at both EU and Member State levels, as these can pose significant obstacles to their work and shrink civic space.

#### **4.4.4 Funding of CSOs**

In addition to leading to CSO empowerment, financial support was also perceived as relevant for trust and distrust in the EU. Funding ensures the right to freedom of association, the autonomy of organisations, and resources to access EU institutions. Many CSOs are dependent on funding in one way or another. Receiving financial support can be interpreted as a recognition of CSOs' work and as having the same values and goals.

Forty of the forty-seven survey organisations declared they had received EU funding.<sup>22</sup> Two applied for but did not receive EU funding, and four organisations did not apply for EU funding. Reasons given by respondents for not applying was the complexity of the procedures, the administrative burden, especially for short-term grants, and the lack of internal capacity (see also FRA, 2018; FRA, 2022). It was frustrating to invest a great deal of time and effort on applications and then not be awarded the grant and/or tender. The majority (three-fifths) of the survey organisations had often or sometimes

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<sup>22</sup> The survey did not specify whether this included grants and/or tenders.

experienced obstacles in accessing EU resources/funding in the previous three years. This included restrictive application criteria such as financial independence criteria. This situation raised the question why (information on) funding was sometimes difficult to access:

*[...] the applications are not made very eas[y]. The access to information is not so easily done [...] There were times when things were much easier [...] That is, of course, decreasing the trust [in] the institutions because it always opens this question [of] why this is made so difficult for certain organisations to access funding [...] For most of the civil society organisations, this access to funding is an issue, and they're all experiencing the same things. [...] certain things have been made easier in terms of the audit on funding, definitely since the release of the new programme, the Erasmus+ [...] there has been more trust on that level. That has been a bit of an improvement, but I would say the difficulties of accessing the grant are still there.*

Another reason for respondents not to apply for funding was to maintain independence. That is, being able to develop work programmes independent of the donor, and not worrying about being too critical of the donor. Being able to maintain this independence was also mentioned in the context of trust in the EU. One (hypothetical) scenario used by respondents to describe distrust in the EU was the abuse of funding for putting pressure on CSOs to take a position that did not align with their values. Indeed, research by Kroeger (2008) indicated a halt of, or decrease in, politicisation strategies of CSOs that were in close contact with the EC. Bloodgood and Tremblay-Boire (2016) observed similar clues at Member State but not at EU level. In more recent research, Crepaz and Hanegraaff (2022) found that NGOs' attitudes towards EU institutions generally did not matter for receiving funding – as long as European values were not violated – though, grant receivers themselves believed that this was at least somewhat the case. Certainly, some way of influence – positive or negative – cannot be denied. For instance, one survey response indicated that the dependency on EU funding bore the risk of having an adverse impact on the effectiveness and reputation of organisations (as 'subcontractors of the EU') because they were associated with the narrative and actions of the EU, also when these were not in line with the organisation's values.

The transparent and fair evaluation of applications for funding and tenders was relevant for CSOs' trust in the EU. Some survey respondents were satisfied with the available information on EU funding allocation, while others expected to have more information (see statement one in Figure 17). There was little consensus among respondents as to whether the process of awarding EU funding to CSOs was transparent (see statement two in Figure 17). One negative example was the budget of the Operating Grants in the field of youth 2022 within the Erasmus+ Programme, which had remained the same while the grant amount per applicant had increased. Consequently, the number of beneficiaries receiving structural funding in the field of youth sharply decreased (from about 90 to 30) compared to previous years. "There were organisations that were receiving this grant for years and then they stopped receiving it, which meant that they had to let staff members go or even cancel key events and processes". Due to a lack of

mechanisms of civil dialogue as regards EACEA grants,<sup>23</sup> the “only way that you can enter into a conversation with them” was to “reach out to them directly” either by initiating an official meeting, or by having a more informal one-to-one meeting and information exchange .

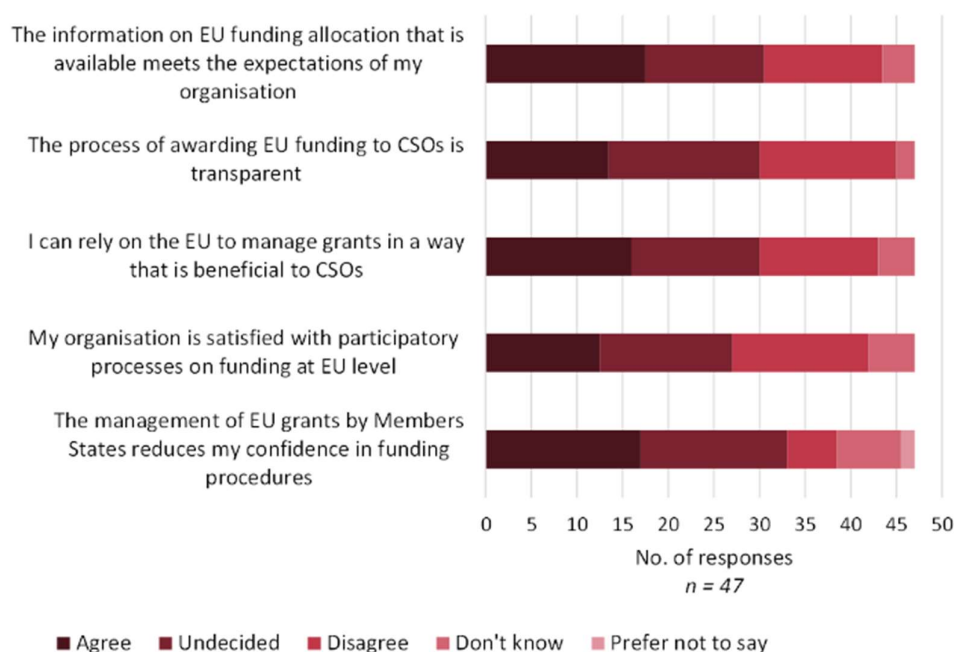
Survey respondents disagreed on the question of whether they could rely on the EU to manage grants in a way that was beneficial to CSOs (see statement three in Figure 17). Notably, they mentioned rigid and cumbersome reporting requirements for grants as a reason for the perception that the EU (Commission) had become less trusting of CSOs. The funding itself did not take into account the amount of time spent on reporting and therefore, small organisations without adequate internal capacity decided not to apply for funding in the first place. There were differences in opinion among survey respondents as to their satisfaction with participatory processes on funding at EU level (see statement four in Figure 17). The desk research suggested a preference for a more participatory budgeting process and the co-management of grant schemes for CSOs (CSE, 2019; YFJ, 2022). Largely, there was a perceived lack of opportunity to give feedback on procedures and the grants themselves:

*[...] there is an info day where they present the call, where they basically read everything that is written [in the] call already. Most of them are closed and are not open for any questions. They are afraid to answer any specific question. We come with zillions of questions and then we send those questions via e-mail. Then they respond three days after. Why do you organise an info session when you don't provide me with any additional information?*

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<sup>23</sup> As an executive agency, EACEA is responsible for the implementation of the grants and the communication with beneficiaries, but does not make the decisions on funding programmes. This makes it even more difficult to discuss questions and issues with decision makers.

Figure 17: Agreement or disagreement with statements related to funding



Note: 'agree' and 'rather agree', and 'disagree' and 'rather disagree', respectively, have been merged in the figure.

The majority of survey respondents had a lower level of confidence in funding procedures if EU grants were to be managed by Member States (see statement five in Figure 17). There were large differences as regards the management and allocation of funding at Member State level, with problems related to a lack of transparency and discrimination. For instance, certain national governments withheld financial resources because they claimed partisanship of the organisation (YFJ, 2022).

The main funding-related complaint referred, though, to a perceived shortage of EU structural funding of medium- and long-term core activities (which would also reduce the administrative burden) (see also YFJ, 2022; FRA, 2018; ILGA-Europe, 2020; Social Platform, 2016). There was a general perception that funding had shifted from the support of advocacy work to using CSOs for service delivery, along with a trend of viewing organisations rather as service providers than advocacy bodies (CSE, 2017; FRA, 2018). However, this trend was not in line with CSOs' self-perception as a watchdog and partner to the EU (CSE, 2022a; ILGA-Europe, 2020; PICUM & ECRE, 2020).

#### **Example:**

In 2021, health NGOs faced the removal of their Operating Grants, leading to concerns about their ability to sustain their vital work. Following an advocacy campaign, launched by health CSOs and supported by MEPs and several Member States, these grants were reinstated the subsequent year, but they were allocated on an annual



basis, causing uncertainty and an administrative burden, with no guarantee that the programme would be maintained in the future. Health NGOs call for the reintroduction of multi-year Operating Grants to address the current imbalance they face in comparison to other sectors (EU4Health Civil Society Alliance, 2022).

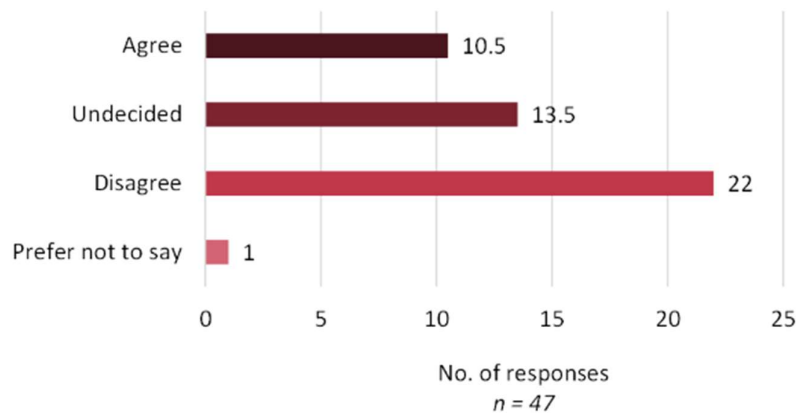
**Recommendations:**

- Make the application process for funding more user-friendly, taking into consideration the limited resources of CSOs. Ensure transparency throughout the process, providing clear guidelines and criteria for eligibility and evaluation.
- Improve the exchange of information between the European Commission and CSOs regarding funding requirements and reporting procedures.
- Foster a more participatory budgeting process and establish easier ways for CSOs to initiate contact and engage in meaningful discussions with the EC.
- Review and streamline reporting requirements, making them more useful and less burdensome, while still ensuring accountability and transparency.
- Introduce greater flexibility of structural funding to accommodate the unique needs and circumstances of CSOs.
- Allocate more resources to core funding for CSOs to support their sustained operations and long-term planning.
- Continue and strengthen efforts to make funding available to a diverse group of CSOs through various instruments and programmes.

#### **4.4.5 Information and documentation**

Transparency was the minimum requirement that CSOs had for EU institutions. Research participants acknowledged that participation was easier to realise in some institutions than others, but at least they should all be transparent and accountable. Trust was conditional on consistent and appropriate communication to the public and the documentation of processes and decisions and access thereto. “Building a mutual trust” was contingent on “access and openness”. Distrust was fuelled by opaque agenda setting, closed communication and engagement channels, and unclarity of the responsibilities of and within institutions: “Sometimes it is difficult to understand who is doing what”. Figure 18 shows that several respondents did not find it easy to get information about the decision-making process. Information was often obtained “through other CSO networks more than from the institution itself.”

Figure 18: Agreement or disagreement that it is easy to get information about the decision-making process



Note: 'agree' and 'rather agree', and 'disagree' and 'rather disagree', respectively, have been merged in the figure.

Note: all organisations have the same weight (1), therefore, two respondents from the same organisation only count as half (0.5).

Trust in EU institutions had decreased over time because of a lack of transparency and accountability. The fact that there was no organisational culture of openness was “the biggest issue with trust” because “if you are so closed, there is probably a reason why you are so closed” and “then there is misbelief on both sides”. Transparency was particularly lacking in times of crisis (e.g., the COVID-19 pandemic). Decisions were too often made behind closed doors. Transparency and communication with the public were not considered essential if time was pressing or no resources wanted to be spared (see also CEO, 2018). Indeed, Leino (2017) found that EU institutions often adopted the view that secrecy made better decisions because it was more efficient and therefore preferred by EU institutions, but it came at the cost of participation and openness and thus democratic accountability. Particularly secretive and opaque processes are Trilogues (informal tripartite meetings on legislative proposals between representatives of the EP, the Council and the EC), which can prove highly advantageous to well-connected and well-funded lobbyists.

The right to access EU institutional documents is firmly established in the EU Treaties (Treaty on the Functioning of the European Union (TFEU) Article 15) and the Charter of Fundamental Rights (Article 42). It is crucial for citizens, CSOs, and all legal entities to have the ability to obtain information on the EU decision-making process, as it enables public scrutiny of EU governance. Regulation 1049/2001 that grants this access was adopted in 2001, and stipulates that documents should either be accessible through a public registry or provided within 15 days upon request. However, there are various vaguely defined exceptions that apply, which encompass the protection of public security, defence, commercial and economic interests of a Member State or entity, both physical and moral. Furthermore, the European Central Bank, the European Court of

Justice, and the European Investment Bank are obliged to disclose only administrative documents. Additionally, the provision allowing EU institutions to reject initial requests prolongs the procedure significantly, making it cumbersome. This complication has led a group of NGOs to create an online tool to facilitate such requests and appeals, and to give guidelines to avoid requests being easily turned down ([www.asktheeu.org](http://www.asktheeu.org)). A survey of 95 users of the request platform, AsktheEU.org, carried out by the Access Info team in February 2020, found that three quarters (75%) were increasingly disappointed with EU authorities' responses, both in terms of the long delays in receiving answers and of being dissatisfied with the information provided.

**Example:**

In a recent event, the General Court (part of the Court of Justice of the European Union) ruled on a case involving access to documents related to legislative procedures within the Council. The applicant, Mr. Emilio De Capitani, sought access to certain documents from the Council's 'Company Law' working group concerning the amendment of Directive 2013/34 on annual financial statements. The Council had denied access, citing concerns that disclosure would undermine its decision-making process. The General Court stressed that while access is regulated, it is not an absolute right, and certain documents can be withheld to protect the decision-making process. However, in this case, the General Court found the Council's refusal lacked specific and concrete reasons. It underlined the significance of transparency for upholding democratic accountability within the EU's legislative framework (CJEU, 2023). This decision had a positive effect on transparency and access to Council documents. NGOs (such as the European Environmental Bureau) have experienced a higher success rate when requesting access to Council documents since the Court judgement.

**Recommendations:**

- Ensure consistent, accessible, and appropriate public communication that includes enhanced public access to documentation.
- A thorough critical review of exceptions that limit document availability upon request should be made and the public should have broader access to EU institution documents, aligning with European standards. This should include web streaming of preparatory Council of the EU works and minutes, disclosing the positions of Member States.

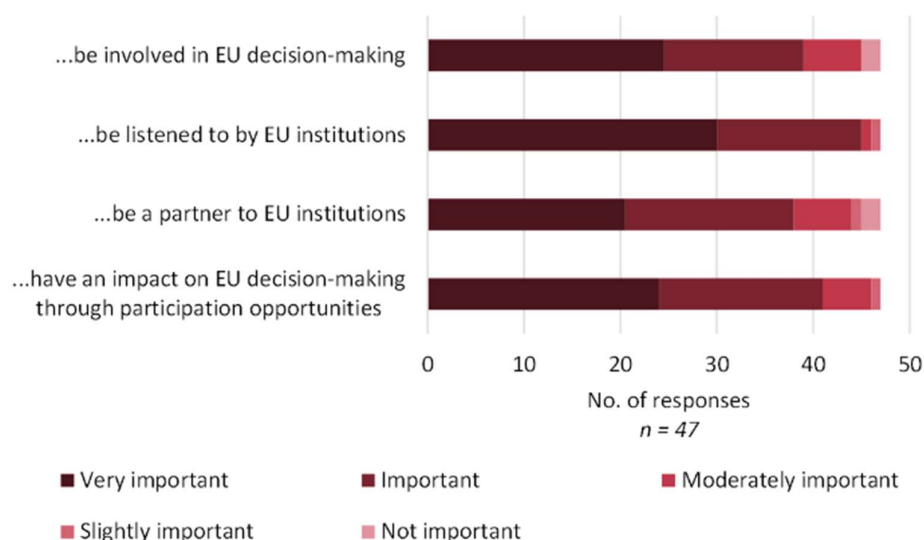
#### **4.4.6 Public participation and civil dialogue**

Public participation is an indispensable pillar of democracy and enhances the democratic legitimacy of the EU. Respondents and FG participants named various issues related to public participation (such as no involvement, no inter-institutional arrangements as

regards civil dialogue, unclear methodologies, and no feedback on input) which are presented in the chapter ‘Trustworthy civil dialogue on EU affairs’. This section focuses on the more general conditions of trust rather than concrete issues, which are addressed in other parts of the report.

As already mentioned in section **4.3.3 Being trusted by EU institutions**, respect and recognition of CSOs was important for trust in EU institutions. The same applied to being involved in EU decision-making, being listened to and a partner to EU institutions, and having an impact on decision-making through participation opportunities (see Figure 19). The relationship had to be open, honest,<sup>24</sup> transparent, cooperative and responsive. Indeed, an increase of trust in the EU and of being trusted by the EU was explained with reference to an expansion of proactively initiated participatory processes (especially by the EC), and the recognition of CSOs’ expertise. Overall, 13 out of 47 respondents found that EU institutions were proactive in engaging in dialogue with CSOs (compared to 21 out of 47, who disagreed). “There are more and more participatory processes and deliberative processes to include more people in the conversation”. There had been more openness and interest towards CSOs as non-industry representatives and they had been listened to and taken seriously, which had facilitated the development of good working relationships. Specifically, the CoFoE and the European Year of Youth were mentioned in this context. The reverse applied to a decrease of trust and being trusted less.

*Figure 19: Importance of indicators of participation for trust in the EU*

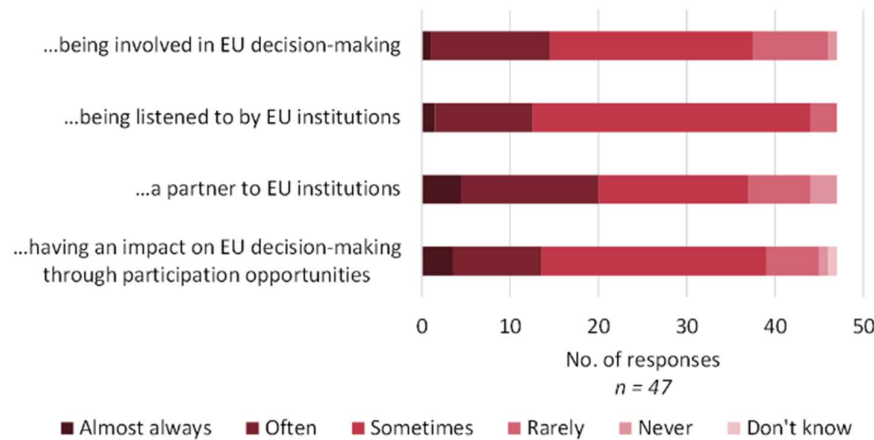


That said, the large differences at inter- and intra-institutional level and between policy fields in terms of priorities, and the extent to which CSOs were involved in decision-

<sup>24</sup> Among the 47 survey respondents, 19 agreed and 11 disagreed that EU decision makers are generally honest with CSOs in their dialogue.

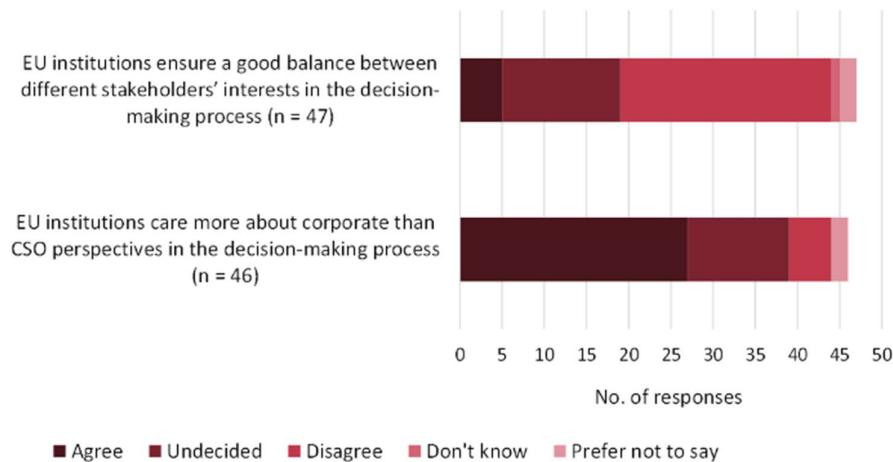
making, as well as the perception of persistent power imbalances between CSOs and EU institutions, still obstructed trust and fuelled distrust. CSOs were not yet real partners (see Figure 20) and the top-down approach entrenched in the institutions had not yet been overcome. There was “an overall general feeling that you always have, as a partner, to prove your credibility more than vice versa in the institution”. CSOs were also not always involved in the review or drafting of legislation and policies (see Figure 20), even when they themselves were concerned by it (for instance, as in the case of Directive 2017/541 on combating terrorism).

*Figure 20: Extent to which the organisation was perceived to participate*



As indicated in section **4.4.2 Reign of corporate and economic interests** and as further discussed in section 5.2.2.1 European Commission, voices of for-profit industry representatives were at times more valued and dominant than other voices (see Figure 21). At the same time, other stakeholders (like International Organisations) had become more involved. The exclusion of the main stakeholders was disadvantageous for trust in EU institutions. It would not “make sense to not involve the main stakeholder at the table of the decision”.

Figure 21: Agreement or disagreement with statements related to stakeholder representativeness



Note: 'agree' and 'rather agree', and 'disagree' and 'rather disagree', respectively, have been merged in the figure.

It was frustrating for CSOs that EU institutions sometimes did not seem to realise the value of civil dialogue. Civil society actors were of the opinion that they could help policy makers to make “better” decisions to the benefit of their constituents. They had “the information [on] what's going on in the field”. If the EU cared about evidence-based policy-making and serving citizens, then they should work in partnership with CSOs. In addition, public participation was perceived as a legitimate right and not something CSOs should have to fight for:

*We are not asking for favours [...] It's not a favour to listen to citizens' voices [...] We are legitimate stakeholders and so are the people we represent. We are not asking for special treatment. We are asking for a seat at the table that is ours anyway.*

As mentioned in section **4.3.4 Mutual trust**, mutual trust was a precondition for having a meaningful dialogue in which CSOs were listened to and their opinion was taken into account. However, even if public participation had improved for some, there was not always a perceived impact (see Figure 20):

*I feel there's a bigger culture of involvement of civil society in the EU [...] yes, we are consulted [...] the question is more [about] the effectiveness of these dialogues that are existing. I think that would be a more key question to ask here [in the context of trust].*

#### 4.4.6.1 The relevance of personal relationships

There was common agreement that it was easier for large organisations to access EU institutions (almost three-quarter of the respondents agreed). It was “a long-term process to be recognised by the EU as an expert” if you were not from a large, well-known organisation. Small organisations had “less contacts or less presence or less time

to be more present". There was "a need for democratisation of this access to information". A good reputation as a credible and reliable partner, and recognition of members at national level, had opened doors at the EU level. However, traditionally, access to EU institutions was based on personal networks and on opportunities to form personal relationships:

*We used to call this work 6 p.m. advocacy work. Everything occurred after work because you know people [on] the street, you met them in Brussels. Some of them were dealing [with] or working for an NGO before coming to the institution, and that way you had access to them and then they gave you some information. It wasn't official [...]*

Commonalities facilitated such connections, as well as a work relationship before the EC contact person entered the civil service. For instance, contact with EU Delegations (EUDs) outside of the EU had helped to establish contacts in Brussels. It can "open some doors" because staff from the delegations relocate to the Headquarters. It was easier to access EUDs "because it's field related" and "you've got more attention".

The alternative to informal interactions were time- and resource-intensive requests for official meetings, which could take a long time to transpire. This process was frequently not suitable for the type of information that was sought often at short notice. There were strict rules in the EC not to share certain (potentially sensitive) documents and information, so personal relations were key to knowing what was going on. This was also applicable to cases where contact details of Commission public servants were no longer published or shared. "Since you [CSO] have access to one person, they will give you information or the contact details of the others. It's not an official access through the blue book, white book or whatever". Informal ways of interaction were faster and easier, but as a prerequisite, CSO representatives needed "to have this connection with these people". The eventual access to information and influence on policy drafts and decision-making was contingent on the quality of the relationship and the willingness of the contact person to open a door for civil society actors. Usually, CSOs relied on "one champion inside the institutions that they know will take onboard the stuff". These were individuals who CSOs "really, truly rely on, and [who] have been great supporters" and through whom civil society had "often gained access" amid a lack of institutionalised civil dialogue:

*With the way the EU is functioning, the only thing we can do - because it's a situation in which we are - is to find inside the institutions people who will follow up on what is important for us. Then we have a good chance for our concerns to be really considered and be positively addressed. If we don't have champions inside the institutional process, we are side-lined. The trust or the mistrust for me is also resulting from this way institutions are functioning, definitely not as what should be in a transparent democracy.*

Sometimes, it was easier to build a relationship over personal than professional reasons because the institutional dialogue partner might not be mission-driven and committed to the cause. It was "this thing that ultimately makes civil dialogue [...] it's way too much

based on personal contacts right now". This reliance on personal contacts and informal processes contributed to an imbalance of power in the relationship, whereby CSOs were very much dependent on the goodwill of people in the institutions to involve them rather than being able to rely on formal structures of civil dialogue. Although there had been improvements in institutionalising civil dialogue, there was still a way to go to enforce democratic access to EU institutions detached from personal connections. Therefore, it was important to have a codification or (inter-)institutional strategy on civil dialogue, as is further discussed in Chapter 3.

#### **Recommendations:**

- Shift the paradigm so that EU decision makers view CSOs as valuable partners, and by doing so, embrace transparency by sharing (non-sensitive) information openly. They should take the initiative to proactively engage in participatory processes, demonstrating openness, honesty, and responsiveness. EU decision makers recognise the value of CSOs' expertise and contributions by actively listening and involving civil society in decision-making. This way, they foster meaningful collaboration that goes beyond tokenism, and ensures that the diverse perspectives of CSOs are genuinely considered in both sectoral and horizontal policy issues.
- Make participation and access to information less reliant on personal connections by implementing a structured, regulated civil dialogue.

#### **4.4.7 Institutional affairs**

A high turnover and rotation of staff (in the EC) required CSO representatives to regularly restart building a relationship with a new dialogue partner or contact person and repeat discussions. In particular, if the person was new to the topic and not aware of the developments in the previous years, more time investment was needed on the side of CSOs. The turnover of staff would lead to stagnation of the progress. This issue would outweigh the positive effect of having a new perspective on an issue:

*After a few months or one year, the person changes [...] and then you need to start again from scratch. It's a continuation of restarting the process all over, re-discussing the things all over [...] It might be that the person has no expertise in the topic you are addressing, so you need to actually teach the person the topic. It's a constant work that you have to do and you are losing time.*

The high turnover was particularly problematic since civil dialogue was often based on personal relations, as discussed in Section 4.6.1 The relevance of personal relationships. This combination would make civil dialogue unsustainable:



*[...] the moment, these people end their missions and their terms [...] you need to reach out to more people rather than the institution itself being more accessible. The system forces you to build your network, reach out more policy-makers or persons that could actually have access to inside-information or the information you need, or the developments that are going on, but [that are] not immediately shared with civil society. This has its limit because these people, they may or [...] may not continue working in that institution.*

Unfamiliarity with the topic and understaffing in the EC was another problem in the context of trust. Sometimes, it made it “very hard for [CSOs] to trust them because obviously they have not a clue what’s going on [...] but that also makes them not trust [CSOs]”. The situation would be less of a problem if there were willingness and openness to “learn” from CSOs, which was often not the case. The technocratic nature of the EC and expectations to be impartial as a civil servant, combined with occasional irritation because the CSO representative appeared to know more about the topic than the new employee in the EC DG who was not required by their job to have a strong expertise, risked negatively impacting the relationship:

*I think that there is so much in their heads that they are the only experts [...] However, when it comes to governing in the specific sectors where we are the experts and not the institutions, there really needs to be more of a co-management rather than a consultation (and then they take whatever they want out of it [the consultation]). I think that's the key difference and the key change that needs to happen in order for the trust to increase.*

Related to this was the relevance of evidence-based policy-making for trust in the EU. Institutions needed to understand the consequences of decisions. Distrust was fuelled by an unawareness of the impacts of policies, as well as by a lack of understanding of sentiments and practices in all EU regions. Moreover, survey respondents perceived the path dependency of the EU - and especially in the foreign policy of the EC – as an obstacle to effectiveness. Projects were repeated without recommendations being taken into account. There was a lack of effective impact assessment or evaluation of programmes and projects, and complexity sometimes hindered transformative change.

Another aspect that drove distrust were different priorities and approaches, as well as no coherence across the institutions, including competition between DGs and between different governance levels. This was not only to the detriment of the EU, but also to CSOs who needed to navigate the discrepancies:

*The capacity of institutions in Europe to connect economic, environmental, civil, and political issues has not been built [...] For a democracy that functions, the coordination between these components is key in order to fully address the interlinked issues resulting from the complexity and diversity of our societies. It is not primarily subsidiarity between European and national responsibilities that can ensure proper decision-making, as there is no independence between these components. The split between national and EU responsibilities for decision-making make things often very*

*difficult for us civic actors who need this coordination between economic, social, environmental, and political articulation.*

Trust in the Council of the EU or the European Council had decreased or stayed low and distrust had grown because they prioritised national over European agendas and interests. The dominance of national agendas guided by economic interests, and the unanimity rule and conflict-aversion were especially mentioned in this regard. Member States became less trustworthy because they did anything to maintain the upper hand. The rule of law and European and international conventions were not respected in some Member States. Hence, some countries were perceived as less trustworthy than the EU as a political institution, but the inability to deal with the issues and the problem of the unanimity rule reduced the perceived effectiveness of the EU overall. Only in a few cases did trust in the Council increased, for instance, because Council events focused on the social economy had increased in frequency.

**Recommendations:**

- Promote and facilitate the collection of disaggregated data to ensure that policies and their evaluation respond to and reflect the needs of everyone, including marginalised groups. Suitable robust and reliable research processes should be considered as an essential part of legislative processes.
- Ex-ante, interim, and ex-post impact assessments for all legislative initiatives to enhance accountability and avoid discrimination and fundamental rights violations.
- Improve the Better Regulation Guidelines by making impact assessments a requirement and being transformed into legally binding instruments. This will instil greater accountability and adherence to these guidelines across EU and Member State levels.

## **4.5 Discussion**

The study emphasises the significance of democratic values and public participation as foundations for trust in the EU institutions. The concept of 'good governance' emerged as relevant, highlighting a normative dimension of trust. Respondents often expressed expectations of what the institutions "should" do to earn trust, while distrust was frequently described as "a lack" of certain qualities or actions. Clear expectations regarding behaviour were evident. Significant variations in the levels of trust and distrust in EU institutions and individuals were apparent across research participants. This is not surprising given the diversity of individual experiences within organisations and with institutions.

Institutional trust was based on the aims and values of the EU and the Rule of Law. In this context, trust was a legitimate expectation rather than a feeling; a legitimate

expectation that citizens have certain rights, and that these rights are protected by the constitutional framework. Transparency was also important for trusting EU institutions, as was having an understanding of institutional processes.

Trust as a feeling developed out of, and evolved based on, experiences and interpersonal interactions, contingent on persons working for or representing the institutions. These persons were regarded as trustworthy if they were supportive of CSOs and perceived as sharing common goals, but also if civil servants or politicians found ways to engage in civil dialogue in the absence of clear requirements thereof. For example, trust was established or strengthened if a Commission DG or unit implemented civil dialogue, although they were not obliged to do so by the Treaties. Then trust in (a group of) individuals could be projected on the institution, in some cases. However, at the same time, institutional rules and practices could also result in a distrustful attitude towards individuals working for the institutions, for instance, because they were not permitted to provide certain information to civil society. Hence, it can be argued that although institutional and interpersonal trust are two different concepts, they are interrelated.

Having trust in the EU was important for CSOs' activities as it significantly contributed to their belief in the effectiveness of their advocacy work. They had to have trust in order to believe in their work and fulfil their responsibilities as EU-level network organisations. Indeed, scholarly work suggests that group efficacy beliefs are more likely to lead to collective action when expectations of having an effect are high (Cohen-Chen & Van Zomeren, 2018). This necessity suggests an instrumental function of having trust, a rationality of trusting, but also reveals a dependency on having trust. At the same time, there was recognition of the need for mutual trust – that is, the EU also placing trust in organisations - so that CSOs would be listened to and their work would be viewed as meaningful. Against this backdrop, it is important to acknowledge that the work of pan-European CSOs would not automatically become irrelevant in the absence of mutual trust. However, their funding sources, operations, and missions would undergo drastic changes, akin to countries where civil rights are suppressed or inadequately defined.

CSOs considered the existence of distrust important for two reasons: on the one hand, it was argued that distrust was counterproductive for building trust and collaboration between CSOs and institutional interlocutors. This argument suggests that trust and distrust were perceived as two distinct and opposing ends of the same continuum and that both could not exist at the same time. On the other hand, they argued that distrust did not have to be something negative and should always exist to some extent in a democracy because governments should not be blindly trusted and distrust would contribute to accountability and progress. This second argument suggests that trust and distrust were not perceived as contradictory or distinct from each other. Political institutions could be trusted while having a healthy dose of distrust. That is not to say that both did not influence each other. The terms and situations used to describe trust and distrust were quite similar, but it is possible that determinants somewhat differed between both.

As regards the conditions of trust, accountability and transparency were regarded as important for trust in the EU, but because of cases of maladministration, corruption, and ineffective or opaque lobbying rules, these principles were not fulfilled. While many CSOs believed in the need for stricter rules to prevent unethical behaviour, others doubted that this would be the solution to rebuilding trust in political institutions. The latter point of view is supported by Heywood et al. (2017) who argued that compliance approaches may have no or even an adverse effect on trust in the political system, because if integrity is externally imposed, there are fewer opportunities to show intrinsic integrity. In general, integrity is considered essential for trust in the EU. The concept is often associated with the notions of trustworthiness, consistency and reliability, and is assumed to contribute positively to the legitimacy of political institutions (Heywood et al., 2017; Maesschalck, 2009).

Civil Society Organisations regarded the empowerment of CSOs as important for trust in the EU. However, they observed too little action taken by the EU (Commission) in its response to shrinking civic space and the violation of fundamental rights in Member States. Some respondents thought that the reason for inaction was to avoid conflicts with Member States. While support of civil society outside of the EU was perceived as stronger and more visible, this support was often undermined when economic interests were at play. CSOs further observed a progressively more challenging regulatory environment in EU Member States, at times in the context of discourse on increased transparency. They associated this development with a decrease of trust in CSOs. However, we cannot be certain that this development is a direct effect of reduced trust placed in CSOs. For example, Keating and Thrandardottir (2017) showed that trust of donors placed in NGOs was based on social (e.g., common goals) rather than rational trust. Strict rules and regulations would therefore not serve to increase the trustworthiness of NGOs.

The significance of transparency surfaced once more in the topic of funding. It was important for CSOs to understand how applications were evaluated and why grants were structured the way they were. The high demand on reporting, the rigidity and lack of involvement in the design and management of grants, and the scarcity of structural funding gave the impression of a distrustful attitude towards CSOs and consequently also reduced trust in the grant giving institution. This situation exemplifies a reciprocity between receiving and giving trust. If CSOs were perceived as trustworthy, there were better chances that institutions would be trusted in return. Transparency and access to information and documents was the minimum requirement on institutions. Opaqueness raised the question of why there was no transparency and raised suspicion.

When it came to interactions between CSOs and EU institutions, it was important that organisations were trusted and that there was mutual trust, so that the interactions were not just established to tick the box of civil dialogue, but that they were effective. Survey respondents and FG participants wanted to be recognised as a relevant stakeholder and involved in and listened to in all the decision-making processes from agenda setting to implementation and monitoring. They found that they had a right to be involved as representatives of citizens and civil society. CSOs saw themselves as partners and as a

resource, but this perception was not necessarily shared in the institutions. The divergence between defenders of representative democracy and the proponents of participatory democracy as a complementary tool to the former is relevant in this context.

Despite some instances of improved civil dialogue during the last years, a reduction in opportunities for engagement and sceptical attitudes towards CSOs (interpreted as eroded trust in CSOs) have diminished the trust CSOs place in the EU. Differing expectations and understandings regarding responsibilities and mandates have led to frustration and hindered mutual trust. For example, CSOs see themselves as a valuable partner to decision makers, while some individuals in the institutions see CSOs as an interest group like industry representatives, but not as partners. CSOs call for a meaningful civil dialogue, but some individuals in the institutions do not recognise the value of civil dialogue and do not perceive a responsibility to engage with civil society. CSO representatives are activists and experts, but their expertise is not always recognised, and activists may at times have difficulties finding common ground with pure technocrats.

Because of the lack of an open, regular and transparent civil dialogue, exchanges between CSOs and EU institutions are based too much on personal relations and informal meetings, leading to a very undemocratic way of (gaining access to) participation that is highly dependent on the will of individuals in the institutions. To address this issue, CSOs have called for an (inter-)institutional framework for civil dialogue that includes clear obligations and designated contact persons within institutions and units. This civil dialogue agreement should also be embraced by Member States. The call for a structured framework for civil dialogue stems from the legitimate expectation on the implementation of the Treaties associated with institutional trust. CSOs anticipate a systematic approach to civil dialogue that eliminates individual discretion in its execution. By implementing a civil dialogue agreement, challenges arising from staff turnover within the EC can be addressed, and debates about expertise can be rendered irrelevant. Such a framework would establish a defined role and mandate for CSOs, hold institutions accountable, and promote evidence-based policy-making and adherence to core values.

## 5. Trustworthy civil dialogue on EU affairs

Anne Esser and Carlotta Besozzi

### 5.1 Introduction

This chapter examines the challenges and implications of civil dialogue in EU governance, shedding light on the impact it has on trust in EU institutions and the perception of their commitment to design, through participatory democracy, policies that respond to people's needs and that are in line with the values underpinning the EU treaties. It underlines the importance of transparency, accountability, and equitable resource allocation in fostering trust and meaningful participation. Different ways of interaction between EU institutions and CSOs and citizens are presented and analysed. This chapter is based on desk research and the direct experience of CSE, with some references to the survey, focus groups, and interviews covered in the previous chapter.

Additionally, this chapter examines the complexities and variations in civil society engagement across EU Member States, emphasising the need for standardised guidelines and sustained deliberation efforts to bridge the gap between the EU and its citizens. Communication plays a vital role in fostering understanding and trust between the EU and its citizens. However, EU governance and decision-making processes are often perceived as opaque and difficult to grasp. In their 2014 study, Stroeker et al. found that EU institutional communication fails to effectively establish a connection with EU citizens and residents, resulting in a perceived sense of distance between them and the EU. This chapter presents an overview and assessment of different ways in which the EU institutions and Member States engage and communicate with the public on EU affairs.

### 5.2 Civil dialogue at EU level

Article 11 of the Treaty on European Union (TEU) specifies different levels of public participation, including “an open, transparent and regular dialogue with representative associations and civil society”. According to Pichler et al. (2015), civil dialogue aims at mutual understanding and goes beyond deliberative democracy towards cooperative and collaborative democracy. In a dialogue, “there is this exchange of views, exchange of information on both sides”. A culture of civil dialogue is characterised by an environment that encourages and values open, transparent, and regular interactions between EU institutions and CSOs. However, the enforcement of Article 11 is not monitored by the institutions, and a definition of civil dialogue has not been developed beyond the TEU (e.g., FRA, 2018). Article 11(1) and 11(2) TEU outline the principles of horizontal civil dialogue, but they do not provide guidance on how to effectively implement these principles. Communication and consultation (Article 11(3)) and the ECI (Article 11(4)) are implemented and they are part of participatory democracy, but they are not civil dialogue (Pichler et al., 2015). Based on our EnTrust research activities, there is common agreement among CSOs in Europe that EU governance lacks a culture of civil dialogue. This deficiency extends from the highest levels of EU institutions, such as the European Commission and the European Parliament, to the lower levels and various

units and directorates. The problem is systemic and not limited to specific entities within the EU.

FG participants thought that civil dialogue “can be done. It's just political will not to do it”. Relevant in this context is the contrast within EU institutions between advocates of representative democracy alone and those who see participatory democracy as complementary to the former. According to Article 10(1) TEU, the EU operates on the basis of representative democracy, with citizens being represented through the European Parliament and their national governments in the Council of the EU and the European Council. Critics of participatory democracy use this principle to argue against civil dialogue, suggesting that since representative democracy is the guiding principle, there is not a requirement to involve CSOs in relevant new European initiatives, despite the TEU defining them as intermediaries between citizens and the EU.

In contrast to civil dialogue, social dialogue specifications are clearly defined. Article 154 TFEU reflects the principle of social subsidiarity, which bestows on European social partners the right to be consulted on all new social European initiatives. The article outlines a mandatory two-stage consultation process: initially, the EC seeks input from the social partners regarding the possible direction of the initiative, and subsequently, the attention shifts to the initiative's content. This process grants European social partners significant opportunities to participate in development of proposals pertaining to employment and social affairs, as outlined in Article 153 of the Treaty.

Civil dialogue not meeting expectations has led to distrust in EU institutions and their willingness to consider civil society as partners for policy making (CSE, 2018; CSE, 2022b; ECF & CSE, 2021). Trust has been eroded among research participants due to discontinued initiatives, unfulfilled promises, and unmet responsibilities. Participants criticised the infrequent and unstructured way civil dialogue is implemented, describing it as “very weak”, “done on an ad-hoc basis”, and “not systematic” nor “sustainable”. The implementation of civil dialogue needed transparency and a clear process, because “if you have a clear, transparent process, there is more trust in what the final decisions are”. Instances of closed-door decision-making detached from external involvement contributed to distrust. Feedback was crucial for assessing the impact of participation. Our research showed that meaningful and transparent civil dialogue was paramount for trust in EU governance:

*The more we are involved, the less distrust we have, because, being part of the process, it makes you trust more because you monitor it, you take part in it. It makes you feel you have a say[...] and that also builds the trust and [...] minimises the distrust.*

**Example:**

SOLIDAR took the initiative to establish a self-organised civil dialogue space. They co-organise regular Civil Society Fora for Sustainability which provides a space for CSOs and policy makers to “have a dialogue” and an “exchange of information on both sides”. This would be a sort of “learning process: CSOs learning from the policy makers

and policy makers learning from CSOs”. However, “in terms of impact, that's a question mark”.

**Example:**

In December 2022, European Civic Forum and Civil Society Europe brought together more than 100 representatives from civil society, EU and international institutions, and donors.<sup>25</sup> The purpose of the gathering was to discuss strategies for fostering, safeguarding, and broadening Europe's civic space. The primary objective was to cultivate trust among participants with diverse backgrounds and to identify specific actions required to establish a supportive environment for civil society within the EU. Following the discussions held during the European Convening, the organisers have formulated recommendations, outlining how the European Commission can take action to safeguard and enhance civic space. Feedback from civil society and institutions was very positive, emphasising the benefit of the informal, confidential set-up to engage with and learn from each other.

In addition to institutional barriers, there are also operational obstacles to participation at the EU level, including a lack of resources in CSOs. While external ‘experts’ are specifically compensated for their time and expertise on a policy matter as consultants, CSOs’ capacity to engage in participatory processes like consultations vary from one organisation to another and depends on their own resources. As such processes require time and resources to engage their own constituencies, CSOs often face frustration when they are uncertain about the impact of their efforts. As civil dialogue is mandated by legislation, it is crucial to guarantee that CSOs are adequately equipped with the necessary financial and personnel resources to actively participate:

*This [participation] requires a lot of resources from civil society and not all civil society organisations have enough resources to do this. [...] Any EU civil dialogue mechanism should also be accompanied by funding mechanisms or resource allocation from the side of the EU to ensure that civil society organisations do not need to re-prioritise their already limited resources.*

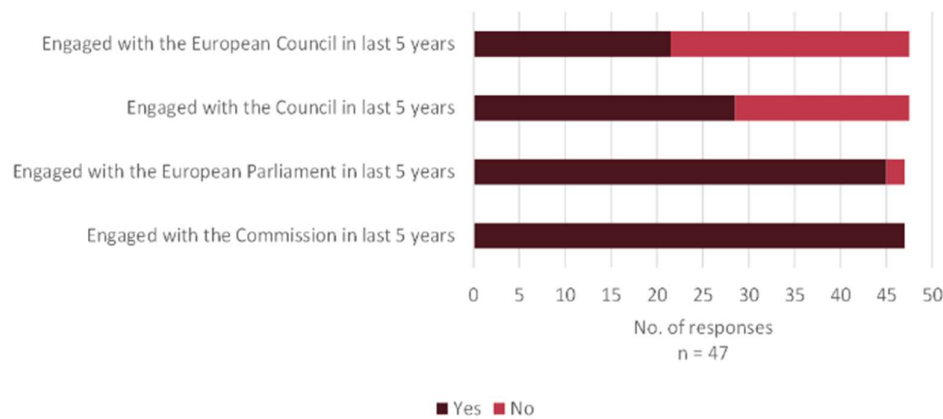
All surveyed organisations had engaged with the EC in the last five years. In contrast, fewer organisations had engaged with the Council of the EU and the European Council (see Figure 22), which are perceived as being less accessible.

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<sup>25</sup> <https://civic-forum.eu/european-convening-on-civic-space>



*Figure 22: Engagement with EU institutions in the last 5 years*



Identifying who is responsible for relations with civil society within the main EU institutions is not an easy task. It has been claimed that institutions encounter a similar difficulty with CSOs, and perceive the identification of a representative of civil society at the EU level as a challenge. This alleged issue is attributed to the inherent diversity of CSOs, leading to challenges in reaching a consensus on their representation. In the focus groups, participants argued that this perceived diversity made it challenging to engage with civil society, as there were no single or few main reference points, but rather hundreds. This difficulty is amplified when CSOs operate in isolation from one another and pursue different strategies. Some CSOs invite each other to attend their meetings while others do not. If an institution establishes a trusted partnership with a specific organisation for a particular topic, but this organisation does not extend invitations to others working on the same topic, it effectively closes the door to those CSOs.

However, EU-level networks of civil society have been formed since the early '60s to unite and represent the voice of specific sectors, based on national and grassroots level membership. Some of these thematic networks joined EU platforms in order to better make their voice heard by the institutions. Moreover, Civil Society Europe (as Business Europe and ETUC in the realm of the social partners) serves as a cross-cutting representation for CSOs at the EU level, drawing upon its membership that consists of the most representative organisations in their respective fields. Despite these efforts by civil society to self-organise transnationally and seek to be representative of different sectors, the absence of a well-structured institutional framework for civil dialogue, and the lack of identification of legitimate actors along a “pick and choose” approach by the institutions of organisations to engage with, contributes to undermining these efforts for organisation and representation, and fosters fragmentation inside civil society. Recent events have provided several examples where, when the need arose for organising CSOs, they were able to come together and form a cohesive alliance. Examples include the Civil Society Convention on the Future of Europe, joint letters, and working groups organised by CSOs.

### 5.2.1 Civil dialogue throughout the full policy cycle

The political decision-making process includes various consecutive steps: agenda setting, policy drafting, decision, implementation, monitoring, evaluation, and, potentially, reformulation. These steps should be taken “in dialogue and partnership” with CSOs. Civil dialogue “should start in early stages” and involve CSOs “from agenda setting to reformulation”. Then “you have the trust” because “you’ve been in the process from A to Z”, and “you have the transparency, you have the accountability and access”.

There was a common agreement that CSOs “[had] no say in setting the agenda” and were often not aware of a (draft) initiative before it was made public, though there could be some influence in more informal ways. “Sometimes it’s not even information” that CSOs would receive. They would “just see what comes out”. Sometimes, it was problematic to be only involved at the policy drafting stage because the draft policy or the legislative options had not been well developed. CSOs were unable to raise concerns and generate awareness about certain issues that were either presented or neglected during the agenda setting stage. This lack of opportunity to bring issues to the forefront caused problems and resulted in a high demand on personnel and financial resources at a later stage. This practice delayed the process of policy drafting because things from the agenda setting step had to be re-discussed, but it was sometimes too late to change them. Due to these reasons, many FG participants considered the agenda setting stage as the most crucial step to focus on when it comes to civil dialogue:

*The biggest item to look at is agenda setting because it's where it all starts. If we miss that out, the rest can only be a reflection of what has happened in the agenda-setting phase. For me, there is a lot of inconsistency there. You really have different approaches and different ways of influencing a particular agenda and who is setting that and how much of the civil society are actually involved or not.*

*I find it important to define together as partners of the institutions what needs to be discussed because if they discuss every time things that they want to discuss, we are not progressing at all on what needs to be addressed. They would say ‘we are trying to do something for you’ and that’s not at all what we were expecting. It’s an immense loss of time for everybody [...] It’s good to have a good understanding from the beginning [...] so we can move in the right direction with the optimum effort.*

#### **Example:**

The agenda setting and drafting process of the European Anti-SLAPP Directive serves as an illustrative example of a consultative approach that went into the direction of a dialogue - although likely initiated due to the strong presence of an organised civil society coalition rather than upon the initiative of the EC itself. Consultations were held with Vice-President Jourová, and a conference took place in Strasbourg involving the EC and the Council of Europe.

The policy drafting phase is a crucial step in the political decision-making process, during which institutions, particularly the EC, have the greatest openness to engaging civil society. Typically, involvement takes place in the form of public consultations, although there have been instances where dialogues were established to leverage CSOs' expertise. On occasion, the EP may extend invitations to civil society actors to contribute to the refinement or amendment of legislation.

The implementation phase is a critical juncture where CSOs can become partners with institutions and governments. The extent and nature of CSO involvement in policy and legislation implementation can vary depending on the country, the specific policy area, and the government's approach to engaging with civil society. Some Member States may have well-established frameworks for civil society engagement, while others may still be developing such mechanisms and yet others have no such ambition, and in some cases, are even dismantling established mechanisms. CSOs can be involved in policy and legislation implementation in EU Member States through various mechanisms and processes, including consultations and public hearings, among others. Regarding the implementation of EU funds at national level, EU regulations and guidelines often emphasise the importance of involving CSOs to ensure effective and inclusive use of the funding, but it can also vary depending on the specific funding programme, the country's governance structure, and the level of engagement between CSOs and government authorities.

The ability to establish an effective monitoring mechanism, or take appropriate action, was mentioned as a factor that determined trust. FG participants acknowledged the significant potential of CSOs in contributing to the monitoring phase. Their expertise on the subject matter and grassroots connections made them valuable stakeholders. Also, the role of EU networks was crucial as they facilitated the development of comparative reports across countries, incorporating valuable input from national organisations. However, CSOs have been afforded limited opportunities for involvement in monitoring processes. While they might be invited to shadow policy implementation monitoring, there is no allocated budget to allow organisations to engage meaningfully with the personnel resources required. CSOs commonly advocate for the utilisation of the Technical Support Instrument, an EU programme that offers customised technical expertise to Member States for reform design and implementation. However, Member States tend to allocate most, if not all, of the funding associated with the Instrument to support public administration rather than providing assistance to CSOs, for example, in the framework of the European structural and investment funds (ESIF); or the National Recovery and Resilience Plans (NRRPs).

**Example:**

The European Commission's proposal on the Recovery and Resilience Facility (RRF) lacked an obligation for Member States to involve relevant stakeholders, including

CSOs, in the preparation, implementation, and monitoring of the NRRPs. Consequently, the EC did not consider stakeholder involvement as a criterion for approving or rejecting NRRPs. The European Parliament proposed an amendment to address this gap, suggesting that Member States should establish a multilevel dialogue involving various stakeholders, and the draft Plan should be subject to public consultation. Consequently, the regulation was amended and improved, but the requirement for civil dialogue was weak.

The consultation processes for the NRRPs have generally been poor, with limited representativeness, transparency, and accessibility. The exclusion of legal obligations for stakeholder engagement and the lack of clarity in identifying implementing actors have hindered comprehensive and inclusive involvement of CSOs and other stakeholders in the NRRP development and implementation processes. Social partners were better consulted than CSOs, and sectoral alliances had more success than individual NGOs. European Code of Conduct on Partnership Principles, such as early involvement and transparency, were often not followed in consultations. Civil dialogue channels related to the EU Semester and ESIF were generally underutilised for consulting CSOs during the preparation of the plans. Many CSOs viewed the consultations as tick box exercises with limited information sharing and little time for meaningful input.

Transparency and accessibility were major issues, potentially impeding effective utilisation of the RRF funds for addressing the economic challenges resulting from the COVID-19 pandemic. Moreover, the RRF did not allocate specific funding for social priorities (Social Platform, 2022a), and the exclusion of environmental CSOs in the development of some NRRPs posed a potential risk of non-compliance with environmental conditionalities (CAN Europe et al., 2021). Implementation plans often lacked specificity on CSO involvement, and monitoring committees in some countries only included CSO representatives in certain cases. In its review report on the implementation of the RRF, the EC did not analyse either quantitative or qualitative stakeholder involvement.

(Caimi & Farrell, 2021; Caimi & Farrell, 2020)

#### **Recommendations:**

- During interactions with CSOs, institutional actors should clearly communicate their expectations on these organisations. To facilitate this, a crucial starting point is establishing a common definition of CSOs and NGOs, as well as civil dialogue.
- Formally recognise CSOs as essential stakeholders in EU governance and democratic processes, acknowledging their valuable contributions and structurally involving them in decision-making processes within an established structured civil dialogue framework on a par with social dialogue.

- Create an (inter-)institutional framework for a regular and structured civil dialogue that encompasses clear obligations and designated contact persons within institutions and units for involving civil society in all legislative initiatives, with clear separation from other interest groups. This will demonstrate trust in, and recognition of, CSOs and circumvent time- and resource-intensive requests for official meetings, as well as the need to repeat advocacy efforts and re-explain issues to new EC staff members.
- Ensure that civil dialogue spans the entire policy cycle, involving pan-European CSOs in agenda-setting, drafting, implementation, and monitoring stages.
- Promote transparency throughout the entire participatory process, ensuring that the methodology and process of participation are clearly communicated and accessible. This fosters not only input and output legitimacy, but also in-between legitimacy and accountability, that is, of the process of how decisions are made.
- Implement effective monitoring mechanisms to ensure democratic access to the institutions. Embrace the practice of conducting impact assessments to evaluate the inclusion of relevant stakeholders, including CSOs, in policy- and law-making processes, aiming to include all relevant stakeholders.
- Ensure the availability of EU funding for CSOs, including by increasing the availability, and reduce the administrative burden ensuring the effective implementation of regulatory tools at EU and Member State level, including mandatory feedback for consulted stakeholders, evaluation at all stages, and involvement of CSOs from the beginning.

## 5.2.2 Civil dialogue in the EU institutions

### 5.2.2.1 European Commission

In the latter half of the previous century, the EC's terminology for collaborating with CSOs underwent a transformation. The initial term 'consultation' was replaced by 'partnership' and eventually evolved into 'participation' (Quittkat & Finke, 2008). With the start of the participation era, consultations expanded in scope, incorporating online platforms and embracing more comprehensive approaches, such as policy forums and expert groups (Quittkat & Finke, 2008). However, the EC's employment of participatory democracy rhetoric, emphasising ownership and co-decision-making, seems to serve a purely instrumental and symbolic purpose (Kroeger, 2008). The EC would be “allergic to this kind of co-management practices, where you have the possibility that civil society representatives and government representatives in the field decide together”. However, this co-management was “the ideal that civil society organisations [strove] for.”

There is not yet a clear coordinated strategy or action plan within all Commission services to ensure that civil dialogue happens in practice. The implementation varies greatly between DGs and policy fields (Kroeger, 2008), which makes the implementation

of Article 11 TEU very sketchy. For instance, CSOs are rarely involved in discussions about the digital economy in comparison with other topics, such as better regulation or environmental concerns (Kergueno, 2021). It was “an illusion” of the EC to think “that they [were] more open than national governments”. In some cases, they were “even more closed”.

For its external relations, the EC developed a common strategic framework for the engagement of EU Delegations and Member States with civil society at country level, called the EU Country Roadmaps for Engagement with Civil Society. CSOs involved in international co-operation and development were “integrated in all EU external policies”. They were encouraged to be “actors of governance in their own right” so they could “operate freely and flourish and to increase CSOs’ capacity” (Document SWD(2017) 136 final, pp. 3-4). CSOs operating within the EU enjoyed fewer formal involvement and discretion.

Following calls from civil society before and after the European elections in 2019, Commission Vice-President for Values and Transparency, Jourová, is responsible for “maintaining an open, transparent and regular dialogue with other EU institutions, citizens, representative associations and civil society”.<sup>26</sup> This task was added in December 2019 to the first mission letter issued by Commission President von der Leyen. However, it is not clear what it involves and it is not translated into a framework that would involve the different departments, but rather seems to be just an entry point for CSOs to meet with the EC at the highest level on issues related to fundamental rights, rule of law, and transparency (see for example CSE, 2022c). The von der Leyen Commission also appointed Vice-President for Democracy and Demography, Šuica, who is in charge of “deliberative democracy and the Conference on the Future of Europe.”<sup>27</sup>

In her mandate, Commission President Ursula von der Leyen usually does not meet with (pan-)European CSOs. Meetings with her cabinet have also been limited. According to Integrity Watch EU, von der Leyen had 21 meetings with NGOs<sup>28</sup> during her term, compared to 90 meetings with companies and company groups (status 28 July 2023). The 21 NGOs included the World Economic Forum and SGI Europe, organisations that represent enterprises. Commissioners also met more often with companies (1,376) than NGOs (1,182) (status 28 July 2023). In contrast, Vice-Presidents had more meetings with NGOs (215) compared to companies (158) (status 28 July 2023). The NGOs also included the World Economic Forum, to give one example of an organisation representative of industry.

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<sup>26</sup> [https://commissioners.ec.europa.eu/vera-jourova\\_en](https://commissioners.ec.europa.eu/vera-jourova_en)

<sup>27</sup> [https://commissioners.ec.europa.eu/dubravka-suica\\_en](https://commissioners.ec.europa.eu/dubravka-suica_en)

<sup>28</sup> World Economic Forum (2), The Rockefeller Foundation (1), SGI Europe (1), National Academy of Medicine (2), Bill & Melinda Gates Foundation (3), Global Citizen (10), Tony Blair Institute for Global Change (1), WeProtect Global Alliance (1) on <https://www.integritywatch.eu/ecmeetings.php>

In 2017, Civil Society Europe sent a letter to all DGs requesting information on the individuals responsible for engaging with civil society and the methods employed for such engagement, beyond events or ad-hoc meetings, using concrete examples (CSE, 2018). Based on the responses received, it was evident that only a limited number of DGs possessed dedicated units tasked with coordinating relations with civil society (namely, DG AGRI, DG MARE, DG TRADE, DG FISMA, DG SANTE, DG NEAR). Other DGs identified contact persons within their inter-institutional relations and communication units to handle civil society matters. Certain DGs had implemented mechanisms to foster civil dialogue on specific issues, while others relied solely on expert groups or events to engage with CSOs. Only a few DGs collaborated with civil society within established policy frameworks. Interactions primarily served to obtain input, promote transparency, and ensure accountability in the policy-making process. The responses indicated that some DGs actively sought to engage with civil society, while others lacked a culture of dialogue and internal strategy. Notably, the Secretariat General had not issued Commission-wide guidelines on civil society engagement and dialogue, and there appeared to be no demand for such guidelines from the DGs.

A survey conducted by Pichler et al. (2015) revealed that Commission DGs generally expressed support for civil dialogue. Some DGs indicated that they perceived civil dialogue as a tool to benefit themselves, citing the "need for accountability and better ownership of policy" and "collecting feedback." DGs recognised the advantages of participatory democracy, including "enhanced legitimacy," "better governance," "transparency," "more expertise," and "legitimising action." They believed civil dialogue could overcome the shortcomings of representative democracy. DGs understood civil dialogue as a structured and meaningful exchange that involves listening and discussing, emphasising its two-way flow. Yet, they held mixed views on the effectiveness of civil dialogue. When asked about potential negative effects, DGs mentioned (too) high expectations and that not everyone had equal opportunities for active participation. Ideas for enhancing effectiveness included: fostering a culture of civil dialogue in all Member States, engaging in more frequent dialogues, promoting openness and honesty, ensuring balanced representation of interests, and organising physical fora. While respondents acknowledged that the concept of civil dialogue was introduced by Article 11 (or at least the TEU, in general), it was predominantly seen as a voluntary gesture rather than a legal obligation.

**Example:**

**DG EMPL** maintains ongoing and structured thematic dialogues with CSOs active in the employment and social areas, which are attached to upcoming initiatives of the EC. These have improved in the past years, noteworthy by being organised online and thus allowing national and local CSOs that are not based in Brussels to participate more easily (in the past, they needed to pay to travel to Brussels themselves). One FG participant appreciated the transparency, regularity and structural approach of DG EMPL:



*[...] in DG Employment, it's better in a lot of ways than the other DGs because you know who's taking the decision and how the process is going. They have processes in place where they engage [with] you ahead of launching a policy, like a proposal. [...] We know when, what, and to whom to send [something] and how to engage. It's more transparent in this sense because you know what they're doing and how they're doing it, while other DGs are different [...]*

**Example:**

**DG AGRI** launched Civil Dialogue Groups (CDGs) in 2014. There was an open call for NGOs from the EU to apply to join the groups, followed by a formal selection procedure, resulting in 13 groups, each dedicated to a specific topic (Pichler et al., 2015). Initially praised for its implementation, a review of the CDGs identified various areas for improvement, including the need for more diverse opinions and increased interactivity. The review suggested involving members in policy drafting early on, providing consistent feedback, and establishing balanced representation of interests with equal seats for each member organisation. To enhance collaboration, it was recommended that the chair of the civil dialogue groups should be held by the EC, as seen in other DGs (Deloitte et al., 2019). However, the review did not lead to notable changes, and structural inequalities (financially and in terms of power) persist between industry and NGOs. Especially Copa-Cogeca, representing European farmers and agri-cooperatives, dominates the CDGs, providing them with significant influence over policy advice and agenda setting. In 2019, Copa-Cogeca held the chairmanship of eight out of thirteen CDGs. Despite calls for reform, the situation remains largely unchanged, with Copa-Cogeca actively resisting changes that could dilute their control over these groups (CEO, 2020a).

**Example:**

The topic of trust was rarely addressed in Commission communications and decisions regarding civil dialogue. Though in a research report on Civil Society Dialogue within **DG TRADE**, it was emphasised that one strategy was to maintain an open-door policy for meetings with stakeholders in order to gain their trust. DG TRADE considered transparency and accountability to be essential for creating trust (Tetra Tech & Deloitte, 2021).

The COVID-19 pandemic introduced more challenges in the dialogue with CSOs and in ensuring accountability of EU institutions. Although several Commission DGs maintained meetings, they mostly took place in a reduced format with online meetings being the norm. Major decisions were taken without external advice and with reduced public scrutiny (Caimi & Farrell, 2020). Some EU Member States used the crisis as an opportunity to reduce transparency and restrict fundamental rights, such as freedom of



assembly and expression. Critical voices, including journalists and civil society activists, were silenced, and CSOs were excluded from consultations on key laws addressing the pandemic's impact. Parliaments introduced many laws without public consultation, and when social partners were involved, it was under tight deadlines and at the last moment (Pazderski et al., 2022).

#### 5.2.2.1.1 Consultations

In the broad sense, stakeholder consultations may encompass various ways of public engagement, including conferences and other events, public hearings, Eurobarometer surveys, expert groups, workshops, and meetings (Giménez Bofarull et al., 2021a). In the narrow sense, consultations are published online on the website of the EC. Here, stakeholders and the interested public have the opportunity to give feedback and share their insights on legislative initiatives. This form is the primary way in which the EC engages with CSOs. This kind of participation is overall positively perceived, but the way in which it is implemented is considered unsatisfactory (Giménez Bofarull et al., 2021a). There are various elements of consultations that CSOs find fault with which relate to different good governance principles and determinants of trust as mentioned in the previous chapters. Points of criticism include the equation of consultation with civil dialogue and its unclear impact:

*Consultation is also important. We welcome this [...] but it's one end. It's not continuous. You're part of something up to a point and you don't even know when it comes to policy implementation, even decision, how much your contribution will be taken [into account] in the process [...] I don't think this [consultation] should be perceived as dialogue.*

Consultations are initiated by the EC in the policy drafting stage and are run in a technocratic, top-down fashion (ECF & CSE, 2021; YFJ, 2022; Kroeger, 2008). CSOs often do not have a say in the agenda setting stage of a legislative initiative, although most important for trust in the EC (EU), as discussed above (CONCORD, 2022; CSE, 2018; Suiter & Reuchamps, 2016). Moreover, in order to meaningfully provide input for a consultation, it is crucial to have access to relevant information regarding the legislative initiative (Suiter & Reuchamps, 2016), which is not always provided.

There are various barriers linked to participation itself. Consultations are criticised because of poor user-friendliness (ECF & CSE, 2021; Valenti & Beltrà, 2020) and their inaccessibility for persons with disabilities in violation of Article 4(3) of the CRPD (FRA, 2017). They are formulated in “EU language” and “not everybody understands this language.” Time frames are frequently inconsistent and short (12 weeks), not allowing enough time for stakeholders to provide input (ECF & CSE, 2021; Eurochild, 2014). In addition, consultations are sometimes insufficiently publicised, which enables self-selection and is detrimental for representativeness (CSE, 2018; ECF & CSE, 2021; FRA, 2022; FRA, 2018; Giménez Bofarull et al., 2021a; Valenti & Beltrà, 2020):

*[...] there [are] some organisations that have the possibility to participate in this consultation process and the dialogues, and some others that don't have the*

*opportunity. That could be something to think about; what type of civil society organisations are invited or you want to invite to these processes to democratise the policies and topics.*

CSOs occasionally find fault with the design of consultations: questionnaires are technical and long (ECF & CSE, 2021; BEUC, 2021; Valenti & Beltrà, 2020); a quantitative approach is not appropriate for the questions asked (CSE, 2018; Kroeger, 2008); questions are politically biased (CSE, 2018; Giménez Bofarull et al., 2021a) and serve to validate a position. Consultations sometimes fail to be inclusive of different stakeholders, including CSOs. The EC's own Regulatory Scrutiny Board deprecated the poor coverage of different interest groups for some consultations (Giménez Bofarull et al., 2021a). This bias of perspectives cannot be solely ascribed to self-selection but is also the result of consultations aimed at stakeholders other than CSOs (CSE, 2018): "It's also coming from a different type of culture" so that "you don't think that civil society is as relevant" as businesses .

How consultation input is evaluated and taken into account is not made transparent, and there is frequently no feedback on contributions (AEJ et al., 2021; CONCORD, 2022; ECF & CSE, 2021; FRA, 2022; FRA, 2018), which reportedly fed into distrust. This would be different to other "experts" who are consulted and remunerated for their work. This behaviour diminishes the transparency of the whole process and the accountability of the EC (Kroeger, 2008). It gives the impression of tokenism, a 'fake' or mere box-ticking exercise without a genuine interest, which was put into context with distrust in the survey. There are also concerns that inputs are cherry picked (CSE, 2018; ECF & CSE, 2021). Indeed, the EC has a high degree of discretion not only to weigh but also to prioritise certain perspectives over others (Giménez Bofarull et al., 2021a). This structure diminishes the impression of having an impact through consultations, which would be important for trust in EU governance and output legitimacy (Suiter & Reuchamps, 2016).

#### **5.2.2.1.2 Expert groups**

The EU uses external experts to assist with the assessment of proposals, applications, and tenders, and the monitoring of actions, grant agreements, and public procurement contracts. Experts also advise on the preparation, implementation and evaluation of EU programmes and design of policies. Interested individuals can register with the database that is open to everyone; there is no deadline.<sup>29</sup>

An expert group is a consultative body of public and/or private sector representatives that advises the EC during different stages of legislation, policies, and acts. However, the input from expert groups is not binding for the EC. Depending on the expertise of interest, the group can be composed of a more or less diverse assembly of stakeholders. Expert groups can be formal (set up by Commission decision) or informal (set up by an individual Commission department). Only under "emergency conditions" or in case of

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<sup>29</sup> <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/work-as-an-expert>

issues with “overriding priority” is the EC permitted to select experts without a public call (EC, n.d.-a).

Members of an expert group can be of different types: individuals representing either their personal views (Type A) or a common interest of a specific policy orientation (Type B), all kinds of organisation including companies, NGOs and universities (Type C), or Member States’ authorities (Type D) or other public entities (Type E). Types B and C members have to be registered in the Transparency Register. On 19 June 2023, there were 39,191 members of which 3,260 belonged to type A and B, 1,318 were NGOs (Type C) and 24,434 were Member States’ authorities..<sup>30</sup>

Over the years, various issues have been raised in terms of transparency and balanced representation of expert groups. In 2014, the EP froze almost 4 million € of the EU budget for 2015 covering expenses for expert groups, demanding the EC take action (Access Info Europe, 2014). In 2014-2017, the European Ombudsman investigated the organisation of expert groups, the transparency of decision-making, and the access to documents where the issues of imbalances between industrial, commercial and public interest concerns had been highlighted. She recommended in particular: to ensure greater transparency of expert group deliberations, to improve policies to address conflict of interest, to link the expert groups’ database with the Transparency Register, and to ensure a more balanced composition (Case OI/6/2014/NF). In response, and following calls from the EP and civil society, in 2016 the EC published a Commission Decision with revised rules governing the functioning and work of its expert groups (Decision C(2016) 3301 final). According to the Ombudsman, the new rules were largely aligned with her suggestions, including a more transparent and open selection process, publishing of minutes (including dissent opinions), the introduction of a new conflict of interest policy for individual experts, and the requirement for organisations and self-employed individuals to register in the Transparency Register (Case OI/6/2014/NF).

While many aspects have indeed improved considerably, others need stronger adherence. For instance, the openness of meetings to the public and the publishing of comprehensive minutes or summaries are more an exception than a rule (Giménez Bofarull et al., 2021a). In response to the suggestion of the European Ombudsman that minutes of expert groups’ meetings should be more detailed and meaningful, the EC replied that secrecy serves the purpose of creating mutual trust within the groups so that every member feels comfortable expressing their opinion (Opinion OI/6/2014/NF). Notably, as long as no threat to security exists, members (except Member States) are named publicly (Giménez Bofarull et al., 2021a).

There are also persistent issues related to the transparency of the functioning of expert groups and the balance between economic and public interest groups. The guidelines do not specify how representatives should be selected, and there is an imbalance

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<sup>30</sup> <https://ec.europa.eu/transparency/expert-groups-register/screen/members?lang=en>

between CSOs and corporate industry in expert groups to the detriment of the former (CSE, 2018).

**Example:**

In 2022, five CSOs left a Commission-led expert group on sustainable finance with the accusation that the EC would ignore their recommendations without evidence-based justification for doing so. The CSOs found that the credibility of the EC was compromised by lobbyists and EU governments, and they no longer had the perception that they could remain members of the group without losing their independence and integrity (Simon, 2022).

According to the revised rules, balanced representation is ensured in addition to geographical diversity as regards “know-how and area of interest”, but not with respect to the type of interest represented. For instance, some groups include business representatives or associations representing industry interests and academia, although the EC would also need expert advice in these areas by consumer, environmental or public health organisations, to name a few examples.<sup>31</sup> One reason for this gap is the failure of the EC to differentiate between stakeholders representing different interests (CSE, 2018). They would “try to put together both civil society organisations that are doing advocacy for social matters and then lobbying organisations, maybe representing corporate interests”. Initiatives in a specific policy field should meaningfully include CSOs specialised in the topic (CSE, 2018; ILGA-Europe, 2020; Valenti & Beltrà, 2020). The satisfactory representation of CSOs in expert groups is important for inclusiveness, accountability, and transparency. Moreover, individuals may receive allowances, but this is not an option for organisations (Giménez Bofarull et al., 2021a). This contributes further to an imbalance of corporate and public interest representations (Giménez Bofarull et al., 2021a), as CSOs often lack the personnel resources to take part in expert groups.

Some DGs tend to have expert groups exclusively composed of Member States, although most of the topics would benefit from civil society expertise (e.g., the Digital Services Expert Group (E03894), or the Commission Expert Group on Union restrictive measures and extra-territoriality (E03773)). The EC expert group on statistics on plastic packaging waste (E03804) and the expert group on public health (E03884) are only composed of Member States and other public entities (Type E), to give the same examples. For this issue of inclusion, it would be crucial to review who is considered an expert and what constitutes expertise to ensure that not only privileged voices are heard. This imbalance in representation is counterintuitive to democratic principles and risks consolidating

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<sup>31</sup> For instance, the expert groups on ‘economic migration’ and on ‘fertilising products’ only include one NGO each.

distrust among the general public and civil society. It is also unclear how often the composition of the groups is revised. On 19 June 2023, out of 599 active Commission expert groups,<sup>32</sup> there were only 48 open calls (of which 39 were continuously open).<sup>33</sup>

#### **5.2.2.1.3 Stakeholder dialogues**

In the framework of the European Platform against Poverty and Social Exclusion, launched in 2010, the EC organises regular Stakeholder Dialogues with EU-level NGOs and social partners in the fields of employment, social affairs and inclusion, as well as EU institutions, International Organisations, representatives at different governance levels, and relevant think tanks and foundations. Member state representatives' participation in stakeholder dialogue meetings is extremely rare. Initially, social attachés from member states were regularly invited, but their interest in these meetings was minimal. Occasionally, representatives from the Presidency of the Council of the EU do attend these meetings (Sabato & Vanhercke, 2014).

The inclusion of stakeholders with high technical expertise marginalised traditional stakeholders like EU CSOs and people experiencing poverty. This broader inclusion appeared to have come at the expense of the quality of the exchange and limited time for stakeholders' input, with the European Commission controlling the meeting agendas. While information gathering and knowledge exchange are important, the potential of these meetings to foster meaningful engagement in the policy-making process was underutilised. As a result, the stakeholder dialogue meetings became more of a bureaucratic information exchange rather than a forum for substantive debate, as originally intended (Sabato & Vanhercke, 2014).

#### **5.2.2.1.4 ESIF monitoring committees**

The European Structural and Investment Funds (ESIF) require a Partnership Agreement (based on the European Code of Conduct on Partnership) involving a monitoring committee composed of public authorities, economic and social partners, and civil society bodies (Commission Delegated Regulation (EU) No 240/2014). However, the quality of engagement in these committees remains a challenge, with mixed opinions on their impact (CSE, 2018; Farrell, 2021). Civil society not engaged in monitoring committees cited reasons such as lack of information, awareness, financial resources, and access to political choices (CSE, 2018; EAPN, 2016). There is a need for more transparency, regular evaluations, and greater involvement of stakeholders, particularly NGOs and those targeted by initiatives. The EC should promote the Partnership Principle, and Member States should invest in capacity building for CSOs to ensure meaningful contributions to the use and monitoring of EU Funds (CSE, 2018; Farrell, 2021; EAPN, 2016).

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<sup>32</sup> <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups?lang=en>

<sup>33</sup> <https://ec.europa.eu/transparency/expert-groups-register/screen/calls-application?lang=en>

#### **5.2.2.1.5 Citizens' Dialogues**

Based on the concept of 'town-hall meetings' (where politicians meet with citizens to discuss their concerns or specific political initiatives), the idea of Citizens' Dialogues was developed in 2012 based on Article 11(2) TEU. Citizens' Dialogues invited the public to ask questions about EU affairs to European Commissioners and other EU decision makers, such as MEPs, national, regional and local politicians. The objective of the Citizens' Dialogues was, in part, to foster public trust. The format started in response to decreasing public trust in EU and national governance, and swelling concerns of the public that their voices were not taken into account at EU level (Communication COM(2014) 173 final). From its inception until 2019, the format recorded 1,572 dialogues (EC, 2019). Citizens' Dialogues stopped in 2021 and were a predecessor to the CoFoE, and later to Citizens' Panels.

Citizens' Dialogues were criticised for a certain self-selection since they attracted citizens who were already interested in EU matters. They mostly followed a question-and-answer format, aimed at informing citizens rather than having an exchange of views, and not establishing a structured engagement. The input from citizens did not feed into EU decision-making or influence the political agenda in any way (Scholz, 2021). The Dialogues aimed at transparency rather than participation (Russack, 2018). Also, the cooperation with CSOs on the ground for the organisation of these meetings was limited.

#### **5.2.2.1.6 European Citizens' Panels**

European Citizens' Panels were introduced with the CoFoE. The EC envisages making these panels a regular part of policy-making, inviting randomly selected EU citizens (representative of the socio-demographic and -economic composition of their respective EU Member State) via telephone to meet in Brussels. Proponents of the Panels highlighted their deliberative approach to policy-making, which would have the potential to democratise discussions and decisions by providing diverse perspectives from EU citizens. Such panels could help to better hold decision makers accountable and increase trust in EU decision-making (Greubel, 2022). Sceptics fear that 'mini-publics' and a randomly selected sample of citizens would be seen as a replacement for the full public sphere. This would equal a depoliticisation of participatory democracy, and risk legitimising the neutral public by claims of being representative. Sceptics take the position that such initiatives should include the full public sphere, including CSOs (Oleart, 2023). There are concerns that assemblies are not truly representative and exclude marginalised groups. The ad-hoc implementation of assemblies is also perceived as diminishing the positive outcomes the method could have (International IDEA, 2022).

In 2022 and 2023, the EC organised three Citizens' Panels (on food waste, virtual worlds and learning mobility), consisting of 150 randomly-selected citizens from all EU Member States.<sup>34</sup> An assessment of the European Citizens' Food Waste Panel (CTOE, 2023)

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<sup>34</sup> [https://citizens.ec.europa.eu/index\\_en](https://citizens.ec.europa.eu/index_en)

highlighted the lack of connection to ongoing public debates and little public attention. It was further criticised that the topic was selected with a top-down approach, matching policy dossiers that were at the right policy stage for a citizens' panel, rather than chosen together with citizens following a citizen-led agenda setting. The topics discussed in the process did not necessarily reflect the priorities of European citizens. The 'knowledge committee' responsible for informing the process was established by the same institution that was expected to follow up on the outcomes. As a result, most of the experts who provided input, including representatives from civil society, were largely aligned with the European Commission's initial perspective. The recommendations that emerged from this process strongly aligned with the EC's 'individual responsibility' approach to tackling food waste. Unfortunately, civil society groups that might have offered more critical and diverse ideas to the EC were not invited to the deliberation process.

One limitation of citizens' panels is that the format does not allow for significant contention or debate. To address this, it would be beneficial if experts introduced pro/con arguments, or if participants were exposed to varying views from European political groups regarding food waste. Underrepresented and vulnerable groups were inadequately involved in the process. The majority of the discussions centred around awareness-raising campaigns related to food waste, rather than addressing the actual legislative targets set by the EC. Contesting recommendations that have been made by CSOs in this context were not presented. Based on this experience, non-institutional actors express scepticism about whether citizens' panels will genuinely enhance democratic decision-making within the EU, or simply serve as a means to improve relations between institutions and citizens (Ellena, 2023).

#### **5.2.2.1.7 European Citizens' Initiatives**

The European Citizens' Initiatives (ECIs) are based on Article 11(4) TEU and were introduced by the Lisbon Treaty (and post-Maastricht democracy concerns). They were a step towards more formalised participation. Citizens are invited to submit a proposal for a new legislation to the EC. If the initiative is supported by at least one million citizens, covering at least a quarter of EU Member States, the organisers are invited to present their proposal at a public hearing at the EP before the relevant legislative committee (EP, n.d.-a).

A new regulation from 2020 improved the user-friendliness and accessibility of ECIs and introduced a longer timeframe to collect statements of support. It obliged every Member State to set up a minimum of one contact point to offer free information and support to organisers. Moreover, the European Citizens' Initiative Forum provides learning materials, opportunities for interaction and dialogue with fellow users and organisers, and the chance to receive personalised advice on legal matters, campaigning, and fundraising. This new Forum is overseen by the European Citizen

Action Service.<sup>35</sup> Furthermore, every year, the EESC hosts an ECI Day, a dedicated event for discussing the initiative and offering practical tips and recommendations to organisers.

As of July 2023, seven initiatives have been "successful". Notably, the 'Right2Water' initiative contributed to the revision of the EU Drinking Water Directive, which now includes a requirement for EU countries to enhance access to water, with special attention given to vulnerable and marginalised groups. Additionally, the EC responded to the initiative 'Ban glyphosate and protect people and the environment from toxic pesticides' by amending the General Food Law Regulation, thereby increasing the transparency of EU risk assessments in the food chain. Furthermore, in response to the 'End the Cage Age' initiative, the EC has committed to presenting a legislative proposal by the end of 2023, aimed at phasing out and ultimately banning the use of cage systems for the animals mentioned in the initiative (EC, 2022-b).

The success of initiatives can be attributed not only to the active participation of citizens, but also to the longstanding commitment and involvement of CSOs (Berg & Hieber, 2022). However, the significant disparity between the logistical and bureaucratic costs of implementing an ECI, and the relatively weak legal impact of a successful citizens' initiative, are major factors contributing to the lack of interest from organised civil society in this method of participatory democracy (Berg & Hieber, 2022). There is limited assurance that a successful ECI will substantially influence EU legislation and so far their overall impact has been rather minimal. There are also concerns that the unexplored potential of the ECI, due to the absence of direct actions and consequences, could erode citizens' trust in EU institutions (Berg & Hieber, 2021).

To date, the ECIs remain primarily a consultative tool rather than a binding mechanism for decision-making. Interpretation of the European Treaties suggests that ECIs can initiate Treaty amendments through Article 48(2) TEU, providing a legal basis for the EC to accept proposals under Article 11(4) TEU, but the full extent of this option remains unclear (Berg & Hieber, 2022). According to Berg and Hieber (2021), the key to making the ECIs more impactful would be to introduce a provision that allows successful ECIs to be directly submitted to the European Parliament and the Council.

The digital dimension of the European Citizens' Initiative is crucial for its success, as without the option of online signature collection, it would be practically impossible to gather a million signatures within the given time frame. Individual Online Collection Systems have played a significant role in the achievements of European Citizens' Initiatives. However, the European legislature intends to restrict this option to initiatives registered before the end of 2022, which could pose a significant setback (Berg & Hieber, 2022).

Member States, like Finland, Latvia, and Denmark, have been inspired by the European Citizens' Initiative and have implemented their own citizens' initiatives addressed to

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<sup>35</sup> [https://europa.eu/citizens-initiative-forum/blog/european-citizens-initiative-2020-flexible-timeline-simplified-registration-straightforward\\_en](https://europa.eu/citizens-initiative-forum/blog/european-citizens-initiative-2020-flexible-timeline-simplified-registration-straightforward_en)



national parliaments. By 2021, 16 out of 571 initiatives in Finland reached the required 50,000 signatures, leading to debates and votes in the Finnish Parliament. Similar success has been seen in Latvia, where 17 out of 800 initiatives met the 10,000 signature threshold, and eight of them were adopted and implemented, reflecting a success rate of nearly 50%. The obligation for the EP to vote on successful initiatives ensures they are taken seriously as a democratic instrument (Berg & Hieber, 2021).

#### **5.2.2.2 European Parliament**

A motion for a resolution on citizens' dialogues and citizens' participation in EU decision-making from 2020 (Report 2020/2201(INI)) emphasises that maintaining citizens' trust in the EU institutions is "fundamental for democracy, good governance and effective policy-making" (E). Additionally, it recognises the significance of civil dialogue and the need to address the underrepresentation of specific groups. However, currently, there is a lack of a cohesive strategy regarding relations with civil society and participatory democracy in the European Parliament that involves both policy and legislative departments, as well as parliamentary committees and the Bureau.

Until 2022, the focus of Vice-Presidents in the European Parliament was primarily on business and trade union relations (social partners), with civil dialogue being neglected. However, during the European Parliament midterms, CSOs addressed President Metsola with a request to appoint a dedicated Vice-President responsible for civil dialogue with civil society representing citizens. As a result of this advocacy, and in line with existing provisions in the working rules, President Metsola incorporated civil society relations into her own responsibilities, supported by Vice-President Pedro Silva Pereira (Social Platform, 2022b). Moreover, the rules of procedure within the EP specifically assign a Vice-President to report to the Conference of Presidents (CoP) whose role is to organise structured consultations with European civil society on significant topics.<sup>36</sup> The CoP consists of leading MEPs from each political group, non-attached MEPs, and the President of Parliament (Giménez Bofarull et al., 2021b).

EP Committees have the authority to invite experts, including CSOs, to participate in hearings when their input is deemed essential to the committee's work on a specific topic. These hearings are often held at regular intervals and provide an opportunity for committees to gather diverse perspectives and engage in discussions. It is also possible for multiple committees to jointly organise hearings (EP, n.d.-b). However, the process of compiling a list of experts and inviting civil society lacks a structured approach. Frequently, individuals considered as experts, with whom the MEP or the secretariat already have existing contacts, are simply chosen. Additionally, there is significant variation in access to information among different committees. Compromise amendments, for example, are often not disclosed at the time of the vote. Public hearings, such as those focused on "restoring citizens' confidence and trust in the

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<sup>36</sup> See Paragraph 15 of rule 26 & Chapter 3, rule 27, paragraph 5, of the EP's rules of procedures

European Project," aim to gain public trust.<sup>37</sup> However, the format of these hearings does not explicitly target building trust with the stakeholders invited. Additionally, Parliament Policy Departments may arrange workshops to facilitate discussions with experts and enable an exchange of views. These meetings are not necessarily conducted in public; rather, they may take place during a committee meeting (EP, n.d.-c).

Moreover, intergroups in the European Parliament serve as platforms for informal exchanges of views with civil society on specific issues. They are composed of Members from diverse political groups and committees, and their primary purpose is to facilitate informal exchanges and communication between Members and civil society. They do not function as formal parliamentary bodies. Intergroups make "it easier for CSOs to influence the discussion. They are much more open to gathering opinions from civil society" than other formats. Some political groups (like the Greens and S&D) also hold regular meetings with CSOs to stay informed about their ongoing work and priorities. However, it is unclear how the information obtained during these meetings is utilised.

"Meetings, access to meetings, access to specific MEPs is much easier, but also because this is often their job." If MEPs agree to meet, the interaction is overall quite positively assessed, however, there is still room for improvement in terms of transparency of outputs and opportunities to meet. CSOs can access the EP in an informal way more easily than other institutions (RARE, 2022), which was also addressed in our research study:

*We've actually much more easily gotten access to whatever is the discussion in the Parliament than whenever we need to have [...] access to anyone within the Commission. This is the first thing that you are told whenever you want to do anything politically, or publicly, whenever you work for any organisation. It's like the unwritten rules of the European bubble.*

The right to petition is protected by the Treaty (Articles 24(2) and 227 TFEU), and is also enshrined in the Charter of Fundamental Rights. To facilitate this right, the EP hosts an online platform where citizens and civil society can submit or support petitions. A dedicated Petitions Committee is responsible for responding to the received petitions and ensuring that citizens' concerns are duly considered in decision-making processes.<sup>38</sup> The Committee (2022) emphasised in their report that a prompt and effective handling of petitions would be essential to foster citizens' trust (Report 2020/2275(INI)). Petitions can cover various demands, such as requesting the release of institutional documents (Giménez Bofarull et al., 2021b). Furthermore, Russack (2018) argues that the right to petition stands out as one of the few participatory tools that serves citizens, rather than primarily organised civil society.

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<sup>37</sup> Event: Restoring citizens' confidence and trust in the European Project (22 June 2017), <https://www.europarl.europa.eu/committees/en/product/product-details/20170614CHE01941>

<sup>38</sup> <https://www.europarl.europa.eu/petitions/en/home>

In 2006, after the failures of the French and Dutch referenda on the Constitutional Treaty, Parliament Vice-President, Gérard Onesta, proposed a citizens' agora which would meet every year with members of the EP on the basis of themes agreed by the EP's plenary. Between October 2006 and May 2007, more than 1,800 citizens from all EU Member States gathered for a debate about the Future of Europe. They were selected at random by specialist contractors specialised in random selection, universities, or NGOs according to a set of criteria that ensured that they reflected the diversity of the EU's population. An event to present conclusions by citizens themselves was organised in 2007. Successive agora meetings were organised in a more traditional conference format until 2011, and then discontinued. The termination of the citizens' agora was widely seen as a setback for citizen participation and democratic accountability within the EU.

The European Parliament operates Liaison Offices (EPLOs) in all EU Member State capitals, along with regional offices in the five most populous Member States, and two offices outside the EU (London and Washington). EPLOs play a crucial role in implementing local institutional communication activities with the aim of increasing public awareness about the European Parliament's impact on their daily lives, and encouraging engagement in the European democratic process. These offices actively collaborate with stakeholders and multipliers, including civil society groups. CSOs can access information related to their areas of interest and they also receive support for activities promoting EU values and democracy.<sup>39</sup>

### **5.2.2.3 Council of the EU**

The Council of the EU does not have a specific policy framework in place for engaging with civil society, except in the area of foreign affairs (Council Conclusions 10279/17). The involvement of civil society within the Council's activities mainly occurs in specific areas upon the initiative of different EU Presidencies. During Informal Council Meetings, which are chaired by the Council Presidency team consisting of civil servants, diplomats, and ministers (Hoffmann-Axthelm, 2021), certain 'traditions' of civil society engagement have been established. For example, under the Presidency FREMP (Fundamental Rights) Chair, regular dialogue is established with the Human Rights and Democracy Network, as well as within the Council Working Party on Human Rights (COHOM). The Social Platform has been invited to participate in the Informal Council Meeting on Employment and Social Affairs, chaired by the Council Presidency. Likewise, environmental NGOs have been included in meetings within the Informal Environment Council Meeting, also chaired by the Council Presidency.

The Council is often perceived as an opaque institution that is difficult to access. Engagement opportunities are described as "very few and lacking transparency". Unlike the EC and the EP, the Council has fewer obligations to ensure transparency in terms of lobbying (Kergueno, 2021). There is a lack of transparency of Council processes and decisions, and access to information is often restricted (CSE, 2018; ECF & CSE, 2021).

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<sup>39</sup> <https://liaison-offices.europarl.europa.eu/en/mission>

There are no official channels for CSOs to engage with the Council, or information thereof (CSE, 2018; RARE, 2022). Civil society does not “have trust in that institution [the Council] because you actually don't know how the process works”. They had “no idea how the discussions are going, who's taking [part in] the discussions, or when the discussions are taking place”.

The lack of transparency within the Council is particularly problematic given the increased power of Member States in policy-making and their ability to veto decisions, which has led to a diminished impact of public participation (Cooper et al., 2021). As a result, FG participants have recognised that if they truly want to influence decisions, “you have to establish [a] contact with the Council”, but it was “the most difficult part to have access” to.

**Example:**

During the Finnish Presidency, CSOs were involved in and invited to contribute to the drafting of a Council recommendation. “A lot of the text was taken into consideration in the final Council recommendation”, which was positively received.

#### **5.2.2.4 European Council**

The European Council holds meetings with social partners before its spring summit focused on employment and social affairs, but there is no comparable structured engagement with NGOs. Civil society can engage with the European Council by sending open letters to express their opinions or share research findings, either individually or through joint actions. The right to correspond with any EU institution or body and receive a response is protected by Article 24(4) of the TFEU. In the June 2006 Presidency Conclusions, the European Council committed to enhancing transparency in its work to foster citizens' trust and confidence in the EU (Presidency Conclusions 10633/1/06 REV 1). However, research participants perceived the European Council as an inaccessible and opaque entity that makes decisions behind closed doors, resembling a black box, like the Council of the EU.

**Recommendations on public consultations:**

- Place consultations in a clearly defined civil dialogue framework that promotes two-way communication in all consultation formats, enabling meaningful interaction between participants and decision makers as part of civil dialogue.
- Increase the visibility of consultations by publicising them in a timely manner and more broadly, including through collaboration with Member States. This helps to reach a wider audience and encourages diverse participation.

- Establish a clear separation between consultations aimed at individual citizens and those targeting interest representatives, and when including both, ensuring that tailor-made roadmaps are available to each group ensuring their meaningful contribution.
- Promote transparency in the selection and invitation of stakeholders to consultations, clearly outlining the criteria and methodology used.
- Provide access to information that is relevant to the consultation process, including available and timely data and information on related ongoing legislative initiatives. This ensures that participants have access to necessary information on time to make informed contributions.
- Ensure that in-person meetings organised in the framework of consultations are geographically and physically accessible, making them convenient and inclusive for participants, and that such meetings are adequately designed to ensure the participation of all actors and to guarantee the exchange of views.
- Make sure that the publication of meeting minutes complies with GDPR regulations, and safeguards the privacy and protection of vulnerable individuals involved.
- Ensure that the minimum time frame of at least 12 weeks (extended to 14 in the holiday period) for submissions is respected to allow different stakeholders to provide meaningful input.
- Ensure that consultations are easy to understand and answer, the question format and methodology used in consultations should be appropriate for the nature of the questions being asked and consultation questionnaires should be free from any bias in the way questions are phrased. Minimise the use of technical jargon in consultation questions; tailor them to the specific context and ensure that they are easily understood by participants. This ensures that participants can provide relevant and meaningful responses.
- Take into account the frequent unpaid work put into answering questionnaires by CSOs when determining the length of the questionnaires, ensuring that the workload is reasonable and manageable.
- Maintain a transparent methodology for consultations, clearly articulating the process and approach used to gather and analyse input. Establish clear criteria and methodology for processing consultation input, including mandatory feedback on the input provided. Additionally, document how the comments were taken into account to hold the EC accountable for transparent decision-making.

**Recommendations on expert groups:**

- Improve balanced representation by clearly defining guidelines for selecting representatives based on the interests they represent and the expertise they bring to ensure a diverse and inclusive representation of stakeholder perspectives.

- Make it mandatory for EU decision makers to provide justifications for not incorporating recommendations from expert groups into decision-making processes. This requirement ensures transparency and accountability by providing a clear rationale for the acceptance or rejection of stakeholder input.
- Promote consistent openness of meetings to the public and ensure the publication of comprehensive and meaningful minutes or summaries.

### 5.2.3 The 'citizen turn': the Conference of the Future of Europe

Engaging citizens directly in dialogue can be seen as a means to enhance trust in EU governance. Involving citizens in bottom-up policy-making processes, where their input informs decision-making, is likely to garner more support and trust compared to technocratic approaches. It demonstrates that governments place trust in their citizens and fosters a sense of democratic unity and political efficacy (OECD, 2020). The direct engagement of citizens by EU institutions also reflects a response to national-level trends, such as polarisation and low voter turnout, which are indicators of diminished trust in governments (OECD, 2020). Additionally, the impact of 'Qatargate' on citizens' trust in the EU should not be underestimated, particularly considering that the corruption scandal involved the EU's only elected body.

The Conference on the Future of Europe (CoFoE) was announced by the President of the EC, Ursula von der Leyen, as “a new push for European democracy” as part of her political programme. It was a joint venture of the EP, the Council and the EC together with Member States. According to von der Leyen, the Conference aimed to bring together citizens, with a particular emphasis on engaging young people, along with civil society and European institutions, as equal partners in shaping the future of Europe (von der Leyen, 2019). Half of the respondents (51%) to the Special Eurobarometer 500 (EC, 2021) thought that ordinary citizens should be actively involved in the Conference. In the same survey, 92% found that the voice of EU citizens should be taken more into account in decisions concerning the future of Europe.

While the reform of the EU Treaties was not one of the stated primary objectives of the Conference, von der Leyen expressed her willingness to take action, including legislative measures and Treaty changes, if deemed appropriate, based on the outcomes and agreements reached during the Conference. The Council was the most sceptical of the goals and format because it wanted to avoid any disrupting reform proposals (Ålander et al., 2021).

Stakeholders, including CSOs and citizens, were invited to organise events at different governance levels, including CSOs and citizens. Citizens were able to obtain information, share their opinion and recommendations, and discuss Conference proceedings on a multilingual digital platform ([futureu.europa.eu](https://futureu.europa.eu)). Four European Citizens' Panels took place, each with three sessions of two days over weekends (two physical sessions and one online session). The panels comprised in total 800 panellists, representative of EU citizens. Six Member States also organised National Citizens' Panels. Recommendations

put forward by citizens addressed trust-building with EU institutions by implementing tools that enhance participation and transparency (CoFoE, 2022).

Some see the CoFoE as marking a 'citizen turn' which largely decouples citizen participation from CSO participation (Oleart, 2023). At the same time, CSOs are increasingly seen as facilitators of a dialogue with citizens rather than as partners in the agenda setting, as exemplified by the Joint Declaration on the CoFoE, or the "This Time I'm Voting Campaign", to give some examples. While two social partners (SGI Europe and the European Trade Union Confederation) acted as observers in the Executive Board of the CoFoE and were part of the plenary, CSOs were initially sporadically appointed to the role of facilitators of initiatives targeted at citizens, with limited involvement and resources in defining the Conference's objectives, methodology, and governance structure. They were also not assigned a role in the citizens' panels. In response, European CSO networks, under the coordination of Civil Society Europe (CSE), established the Civil Society Convention in 2021 to ensure their participation in the plenary and other activities, ultimately succeeding in this endeavour (CSE, 2022d).

While there were positive experiences, not all aspects of the CoFoE were universally perceived as having been implemented well, or as having been beneficial. Right from the start, there was a lack of clear planning and structure. The COVID-19 pandemic only complicated matters further, causing delays and introducing additional challenges, especially to the Common Secretariat (tasked with managing the CoFoE). The cooperation between components was lacking, and interactions with citizens were limited. The Multilingual Digital Platform allowed citizens to submit ideas, but the complex and lengthy registration process and lack of guidance hindered contributions. Notably, there was a seeming gender imbalance among contributors, with a significantly higher percentage of men compared to women. Addressing this gender gap and proactively involving underrepresented demographic groups, particularly those with lower educational backgrounds, should have been a priority. Issues related to the European Citizens' Panels included the late delivery of materials, poor communication, and problems with simultaneous interpretation. Moreover, the panel experts lacked diversity, primarily having academic or institutional backgrounds, while civil society and other experts had little opportunity to present different points of view. Despite some attempts to ensure diversity in panel composition, the criteria and quotas fell short of capturing the full diversity within the EU population. Overall, accessibility for persons with disabilities was not adequately addressed. Furthermore, there are doubts about whether recommendations formulated during the conference will really be taken into account or addressed (CSE, 2022d). There were concerns among civil society that recommendations could be picked to suit individuals' agendas, possibly using them to retroactively legitimise past policy decisions, because they were so numerous and vaguely formulated (FGs).

**Example:**

In the CoFoE's Working Group (WG) focusing on democracy, citizens expressed dissatisfaction with the initial draft recommendations crafted by the WG's Chair and his colleagues, as they did not align with the citizens' demands. In response to this criticism, the Chair and his colleagues collaborated with the citizens to re-draft the recommendations according to their feedback.

Oleart (2023) argues that the Conference had a depoliticised character and that events organised in the framework of the CoFoE can be rather categorised as public outreach than meaningful participation, especially those at Member State level. Intermediaries like political parties and other political actors were mostly side-lined in the Conference so as not to 'bias' the neutral citizens. The neutral public was legitimised by claims of being representative. Oleart called this depoliticised approach 'democracy without politics' that would discourage political parties, CSOs and other stakeholders to participate. This view was also shared by participants in our research study:

*[...] it [the CoFoE] was still nice, sure, but [did] not really creat[e] an impact on the trust in the institution [...] It's the nature of [...] having citizens' representatives instead of having civil society and instead of having organised people to work on the topic. It's all choices that were made for making it not a really political thing.*

The European Environmental Bureau introduced the term 'citizenwashing' for situations in which politicians and public authorities use the term "citizen" to justify their decisions without genuinely incorporating public opinions or concerns into the decision-making process.<sup>40</sup>

**Recommendations:**

- Legislation and regulation for civic rights and civil dialogue should be advanced by balancing direct citizen participation. Complement citizen participation with robust civil dialogue, and recognise that both are mutually reinforcing.
- When engaging in participatory processes, be cautious of relying solely on supposedly representative and neutral mini-publics. Such initiatives run the risk of depoliticising participation. Instead, aim for inclusive engagement that encompasses the entire public sphere, including diverse political opinions and potentially politically marginalised segments of society, ensuring they are not isolated due to their lack of fit within existing formats.
- Go beyond consultative tools and consider the implementation of binding mechanisms to enhance the impact of citizens' political participation.

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<sup>40</sup> <https://meta.eeb.org/2022/07/13/citizenwashing-what-it-is-and-how-to-spot-it/>



#### 5.2.4 Youth participation at EU level

*Note: There is a separate section on youth participation because of all the information gathered in the focus groups on this topic. This separate section does not imply that other social groups or categories, animals, or the environment, are less important than young people.*

Youth organisations have long called for more inclusion in participatory processes. They often encountered paternalistic attitudes and were disregarded as partners in decision-making processes (YFJ, 2019). Frequently, the question for youth organisations was not at which step of the political decision-making process to be involved, but to have the recognition to be involved at all, especially in some Member States. Dialogue with youth organisations was sometimes perceived as a tick-the-box exercise. Tokenism “doesn’t happen always, but it is something that is still a danger today and keeps taking place”. These experiences gnawed on the belief that young people could make a difference and consequently reduced trust in institutions on the side of youth civil society (Deželan et al. 2020, YFJ, 2019):

*When you are a young person, generally, you can have all the good ideas of the world and all the good intentions, but just because you are a young person, you are not listened to. It's really something, in my opinion, that can also create mistrust in the institutions. [...] Since we are students, sometimes we see a difficulty in institutions to trust us and what we are saying [...] They have a difficulty to trust us because we do not have [...] the years of experience that the other people at the table may have. [...] We know the situation and we do not need any degree, any PhD, to be able to speak, because we are in contact [with students]. I have the impression, sometimes, that we have more to prove to be heard and to have our voice taken into account in the decision-making process just because we have this label of students or youths [on] our heads.*

As mentioned above, policy-making should include the main stakeholders concerned in order to be accountable (Save the Children and CIS, 2022). This includes children and young people. The Council of Europe Recommendation on ‘Participation of children and young people under the age of 18’ (28 March 2012) specified the right of children to participation and representation by CSOs. The Recommendation aimed at giving ownership to children as those who knew what they needed (Eurochild, 2014).

Youth organisations also faced additional barriers in the form of a lack of funding and resources (YFJ, 2019). As is the case for CSOs in general, they were not involved in decisions concerning their funding options. For Erasmus+, there was “no regular dialogue in place to make sure that they [EACEA and DG EAC] are gathering the input of civil society beneficiaries on its function and implementation”. For example, the European Youth Forum used to be an observer in the Programming Committee of Erasmus+, but this is no longer the case. They “see that the whole process can be improved” and are advocating to again be invited as observers in the meetings.

Youth organisations also faced obstacles regarding being involved in other decision-making instances. The European Education Area<sup>41</sup> brings together EU Member States to build more resilient and inclusive national education and training systems. The European Students' Union made various attempts to be involved in the initiative, but they were denied participation without receiving a reason for the refusal. The EC's attitude here was somewhat baffling: "They want to build something on education without involving the main stakeholder of education, it just doesn't make sense [...] You are here for us and you are here because of us, so involve us, please".

There was also a positive example of youth participation, which had positively contributed to trust. As part of the Bologna Process, Ministerial Conferences are organised every two or three years to review the European Higher Education Area (EHEA) and decide on future actions. Each Conference adopts a Communiqué that is drafted by the Drafting Committee for the Ministerial Communiqué. The European Students' Union (ESU) was Co-chair of the Drafting Committee involved in various steps of the decision-making process, from agenda setting to monitoring and (policy) reformulation. This appointment was significant for ESU because it reflected the "recognition of the role of students as main stakeholder of higher education institutions" which ultimately "increases [their] trust in institutions because institutions have put trust in [them]".

The main youth participation process at EU level is the EU Youth Dialogue (formerly known as the Structured Dialogue) which was established in 2009. This is a structured dialogue between young people, decision makers and youth organisations. It serves the implementation of the EU Youth Strategy 2019-2027 and youth policies. In principle, it aims at two-sided communication between young people and decision makers (Oross & Pokornyj, 2019). It offers structured opportunities for participation with defined objectives, ensuring transparency. The Dialogues are organised by the Trio Presidency in collaboration with the EC, national agencies, and CSOs, including the European Youth Forum (YFJ, n.d.). The Trio Presidency sets the theme linked to the European youth goals for the 18-month work cycles. Each cycle is divided into two parts, the consultation and implementation phases, during which three conferences are organised to reflect on the outcomes of the consultations and discussions with young people, youth organisations, and decision makers over youth issues at European level and in Member States, which take place in all EU Member States, organised by national working groups and International Non-Governmental Youth Organisations. The methodological framework of the consultations and dialogue events is set by the European Steering Group (composed of the Trio Presidency Ministries and National Youth Councils, the European Commission, and the European Youth Forum). The input from the dialogue events serves as a common basis for joint discussions at the EU Youth Conferences, organised successively by each EU Presidency every six months. At the Conferences, youth delegates and representatives of the Ministries responsible for youth from all EU Member States discuss and agree on political outcomes relevant to the given priority.

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<sup>41</sup> <https://education.ec.europa.eu/>

The Joint Recommendations are then sent for discussion to the Council of the EU, which approves whether to include them in the political conclusions adopted under each Presidency (EU, 2022). At the end of each cycle, a Joint Council Resolution is proposed by the Trio Presidency, reflecting on the 18-months' worth of outcomes from dialogue events.

Although the EU Youth Dialogues are, in principle, very welcome and the process, which involves a high number of young people, has improved over time to address further fields of youth policy, many participating organisations regret that there is insufficient mainstreaming of policies relevant to youth, limiting its policy related impact. Also, the high participation of youth is not matched with equal engagement of EU and national decision makers, especially missing decision makers from areas other than youth policy. Furthermore, it was unclear “what is the follow-up on these recommendations [conclusions]” and “what happens with them”. The effectiveness of the process is limited because young people and decision makers put forward co-drafted recommendations and joint declarations, but these are not legally binding. The Dialogues remain thus a mostly consultative forum with limited impact (Oross & Pokornyi, 2019). Although some funding is allocated to National Working Groups, it falls short of meeting their needs, particularly considering the increasing expenses and their additional responsibility for implementing the outcomes (see, for example, Moxon & Barta, 2023). An extensive dialogue process, like the EU Youth Dialogue, would require more resources for youth organisations, increased participation of relevant decision makers, and strengthened visibility to utilise its outcomes in all related policy areas and by all levels of policy making (from local to European).

**Recommendations:**

- Support tools like the Youth Test, which assesses the impact of proposals on young people and aims to mainstream youth perspectives in all policies. Promote youth mainstreaming by incorporating youth perspectives across various sectors during policy and project development stages. Apply similar measures to ensure the participation of all population groups, including marginalised groups, in the decision-making process, applying an intersectional approach. Adapt such instruments to the relevant target group to ensure their accessibility.
- Establish a mandatory requirement for decision makers to respond to the recommendations emerging from EU Youth Dialogues. This ensures accountability and demonstrates a genuine commitment to valuing and incorporating youth perspectives in the decision-making process. Encourage greater participation of EU and Member State decision makers in EU Youth Dialogues.

### 5.3 Communication and civil dialogue in Member States

This section provides an overview of provisions for and practices of communication to the public on EU affairs in Member States. It continues by describing the ways in which civil society and citizens obtain information and are involved in formulating national positions on EU draft law, referring to developments over time. The section ends with an overview of current challenges and threats faced by CSOs across the EU.

#### 5.3.1 Communication on EU matters

With a decision-making process founded on both an intergovernmental method (the Council of the EU and the European Council) and a representative method (the European Parliament), as well as a power of legislative initiative resting almost solely with the executive power (the European Commission), EU governance is often perceived as opaque and difficult to grasp by the general public. Citizens and CSOs in Member States often do not understand how EU governance and decision-making works, and European level umbrella/network CSOs have a hard time explaining it in a comprehensible way, as was also communicated in our research study:

*There is very little trust at a national level towards the [...] European institutions, or there is less trust because they're seen as complicated, as well. There is not a lot of reporting on what is happening in Europe. It's only reported on when there are big decisions. It [the reporting] doesn't explain how the process has worked.*

Political trust plays a pivotal role in ensuring the efficacy of EU institutions and upholding the rule of law (Palm, 2017). Building trust in governments entails equipping the public with tools and resources to hold them accountable, including transparent communication and fostering a sense of citizen empowerment in political affairs (Brezzi et al., 2021). Citizens have a right to be informed about EU issues, as enshrined in the Charter of Fundamental Rights. In the Charter, it is mandated that communication aimed at the public should establish a clear connection between EU achievements and the underlying EU values (Iskra, 2022).

At the EU level, specialised DGs at the EC and Parliament engage with the public through websites and social media platforms. Additionally, individuals have the opportunity to visit these institutions in person. To further enhance communication, the EC and Parliament maintain liaison and local offices in each Member State, equipped with dedicated services serving the needs of the media (Iskra, 2022). Moreover, there are more than 400 EUROPE DIRECT Centres located across the European Union, whose mandate is to inform citizens about the EU and facilitate participation in related debates. The Czech Republic established Eurocentres in all regions of the country, complementary to EUROPE DIRECT Centres (permanent representation to the EU, e-mail communication, 3 April 2023). The Eurocentres serve as an info-point about the EU, and initiate outreach activities towards the general public.

Communication strategies and practices at Member State level are less straightforward and, at times, instrumentalised to the advantage of national governments. In 2002, in

the framework of the discussions on EU Governance, a communication strategy was developed for the EU to inform on its priorities and there was a plan to establish a voluntary working partnership with Member States on communicating on EU activities and engaging citizens (Communication COM(2002) 350 final/2). However, the success of this endeavour has been limited. Member States often lack communication and discussion with the public on EU affairs and primarily communicate about EU activities during their respective EU Presidency periods, which also presents an opportunity for governments to consult with civil society and citizens regarding EU policy developments. Unfortunately, such efforts are rarely sustained beyond the Presidency term.

Some Member States tend to attribute “unpopular” national decisions to EU-level decisions, using the latter as a scapegoat, while ascribing “popular” decisions to themselves. This practice is reinforced by a general lack of understanding of the EU's functioning and institutions, resulting in situations where the EU is blamed for decisions made by Member States’ representatives in the Council of the EU. The detachment of MEPs from national debates further reinforces the perceived separation between the EU and the national level (Stroeker et al., 2014), although, as elected representatives, it is their mandate to communicate about the EU and address citizens' concerns (Iskra, 2022).

**Example:**

The Danish government funds ‘The Committee for Promotion of Debate and Information about Europe’ (in Danish, "Europa-Nævnet"). The committee's goal is to enable Danish citizens to form opinions on European political matters by impartially supporting initiatives that promote information and public debates in Denmark. Europa-Nævnet offers grants that Danish political parties, organisations, selected companies, and private individuals can apply for to organise events or initiatives centred around the EU (Permanent representation to the EU, e-mail communication, 17 March 2023).

**Example:**

In February 2012, the German Federal Foreign Minister introduced the concept "Explaining Europe - Discussing Europe" in the Federal Cabinet, drawing from a 12-page strategy paper entitled "Communicating Europe." The paper explicitly outlined plans for fostering discussions on European matters in Germany, in collaboration with the Federal Press Office and civil society. In 2014, the *Europäische Bewegung Deutschland* (EBD) and the Representation of the European Commission in Germany collaborated to establish a new dialogue platform involving EU institutions, the Federal Government, the Länder, and civil society. The EBD was entrusted with the responsibility of fostering the federal government's communication on Europe with civil society. The "Multilateral Dialogue on European Communication" aimed to

facilitate networking and arrange periodic meetings. The dialogue emphasised a participatory and locally-focused approach that encouraged critical engagement.<sup>42</sup>

Notably, countries like Germany and Spain seize EU-initiated projects as opportunities to inform the public about EU affairs (Stroeker et al., 2014). In some Member States, schools are required to include education on the EU in their curriculums (e.g., Germany) (Stroeker et al., 2014). An initiative to bring Europe on the national agenda were the European Citizen Consultations (ECCs), carried out in 2018. They were organised by Member States in collaboration with national and local organisations, although there were no standardised guidelines for implementing the ECCs, resulting in significant variations in practices (Oleart, 2023).

**Recommendations:**

- Promote clear rules pertaining to the disclosure of documents and minutes to the public, including making public the voting records of Member States on EU matters to minimise potential misuse for the sake of secrecy.
- Citizens' right to be informed about EU issues should be effectively implemented at the Member State level. This should extend beyond EU Presidency terms and include a clear roadmap of initiatives. Additionally, there should be regular overviews of EU agenda items that are relevant to national affairs, similar to the annual State of the EU report in the Netherlands. These overviews could be part of a centralised website at the Member State level to inform the public about various ways to participate in EU matters, including consultations.
- Incorporate education about the EU into school curricula and non-formal education provision as part of an EU-wide Civic Education programme, and provide training for (formal, non-formal, and informal) teachers and other learning providers, as well as civil society actors to improve the understanding of the EU's functioning at the Member State level. These actors should be supported to ensure outreach to all communities and learners across the EU.
- Member States should consider offering specialised training programmes, provided free of charge, for journalists to enhance their knowledge of the EU and its decision-making processes.

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<sup>42</sup> <https://www.netzwerk-ebd.de/aktivitaeten/ekev/multilateralerdialog/>

### 5.3.2 Civil Dialogue on EU matters

In many Member States, the consultation of civil society on EU issues has started with the Treaty of Lisbon or their EU accession (Chabanet & Trechsel, 2011). Following EU accession, CSOs are provided with opportunities to participate in the design and implementation of cohesion policy programmes through the Partnership Principle of the EU Cohesion Policy. The implementation of this Principle is legally binding for EU Member States (Potluka et al., 2017), and consultation requirements can be found in all Member States (OECD, 2019). However, it is not mandatory to involve CSOs at an early stage and they often lack financial resources to meaningfully participate. The nature of the work also demands technical expertise, necessitating training for organisations and volunteers involved. Moreover, it is only with the introduction of the New Cohesion Policy 2021-2027 that all members of the monitoring committee,<sup>43</sup> including CSOs, have been granted voting rights. These shortcomings have occasionally led to low-quality input and output. Overall, scholars have observed that the Partnership Principle was more easily implemented in countries with a corporatist culture than in countries with a statist culture (mostly Central and Eastern Europe) (Potluka et al., 2017). Traditionally, actors other than politicians were not involved in national governance in communist countries, and the public was not consulted (Chabanet & Trechsel, 2011).

There are significant variations among Member States and ministries regarding their obligations and practices in consulting civil society on national positions concerning EU policies and legislation. In cases where consultation is not mandatory, it is often done in an ad-hoc manner, and sometimes it might not occur at all. The permanent representation of Estonia to the EU noted, regarding their case, that "how thoroughly stakeholders are involved, depends on the specific ministry and the specific EU initiative. In some cases, simply written feedback on the EU proposal is requested, but in the case of high-impact EU initiatives, much larger events may be organised" (e-mail communication, 23 March 2023).

#### **Examples:**

- Croatia: Key draft legislative initiatives are published on government websites, inviting public comments. Relevant administrative bodies are obliged to respond to all comments (OECD, 2019).

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<sup>43</sup> The monitoring committee, in the context of the EU Cohesion Policy, is a body responsible for overseeing the implementation of cohesion policy programmes and projects. It plays a significant role in ensuring that the allocated funds are used appropriately, and that the policy objectives are achieved effectively. The composition of the monitoring committee can vary depending on the specific cohesion policy programme and the Member State involved. Typically, the committee includes representatives from the relevant national, regional, or local authorities responsible for managing the policy funds, as well as representatives from various stakeholders, including public and private bodies, social partners, and sometimes CSOs.



- Czech Republic: The Statute of the Committee for the EU affairs mandates consultation of relevant CSOs at the ministerial working level, and position documents should make reference to such consultations. The Office of the Government launched the National Convention on the EU in November 2014 to facilitate broader strategic consultation of stakeholders, initiating debates on Czech priorities within the EU, building consensus among partners and representatives, and forming concrete recommendations for Czech EU policy, with roundtables, expert discussions, conferences, with public events being organised on various topics (permanent representation to the EU, e-mail communication, 3 April 2023).
- Denmark: CSOs are included in committees to analyse specific EU issues and their implications (permanent representation to the EU, e-mail communication, 17 March 2023).
- Latvia: Line ministries are obligated to consult CSOs and social partners during the early stages of developing national positions on EU draft legislation (permanent representation to the EU, e-mail communication, 16 February 2023).
- Slovakia: All draft legislation and related impact assessments are published on a government portal, inviting public comments. If a comment has at least 500 supporters, ministries are obliged to respond (OECD, 2019).
- Sweden: The government hosts public EU thematic consultation fora, called EU-sakråd. The government publishes invitations to and reports of the forums on its official website (CSE, 2018).

It is a common practice for EU Member State government websites to provide some information on European policy. Many Member States have dedicated online platforms on their government websites for public consultations on EU draft policies and legislation, and about half also publish consultations of the European Commission (OECD, 2019), although not consistently. In some cases, these Commission consultations are the only ones that are published.

**Example:**

The Estonian government has been working on an innovative online platform for “co-creational policy-making”, enabling “an even more meaningful interaction between civil society and public institutions”, allowing stakeholders to propose and discuss solutions, and monitor the policymaking process from inception to government adoption. They have not yet established a complete solution to connect domestic discussions to EU directives' adoption and national implementation on this platform. (Permanent representation to the EU, e-mail communication, 23 March 2023)



Additionally, CSOs are consulted on EU matters through other means. For instance, the Swedish government invites CSOs and relevant stakeholders to participate in a dialogue about the European Semester twice a year to gain valuable knowledge and perspectives from civil society. Moreover, the Croatian government has consulted CSOs about funding programmes, which is generally seen as a positive practice (permanent representation to the EU, e-mail communication, 24 April 2023).

Despite certain positive practices and frameworks, the reality is that CSOs encounter substantial challenges and threats in various European countries, as highlighted in the Liberties' Rule of Law Report 2023. While some positive developments are noted as well, overall, there are concerns about the shrinking space for civil society and the lack of meaningful consultation with CSOs in policymaking processes. Concretely, the challenges and threats include new laws that create uncertainty among civil society actors (notably, in the Netherlands and France), restrictions on the right to protest, the targeting of rights defenders through SLAPPs and smear campaigns, and attacks on activists both online and offline. For example, in Greece, the stringent registration requirements impose a potential threat to the viability of CSOs by limiting their access to national resources and benefits, including tax exemptions (ECF, 2023). There is also misuse of fast-track procedures by the executive to implement policies without proper review and consultation in countries like Croatia, France, Hungary, Ireland, Romania, and Slovakia. In some countries, no steps have been taken to address long-standing problems hindering CSOs' work, leading to legal uncertainty and restrictions on their advocacy efforts, especially in the area of human rights (Liberties' Rule of Law Report 2023).

Many CSOs feel excluded from participating in policymaking processes due to insufficient efforts to engage in regular and meaningful consultations with the public and civil society. The implementation of civil dialogue, including public consultations, in many European countries is often ad-hoc or tokenistic. Notably, some countries lack a regulated framework or common standards for civil dialogue, hindering structured engagement between national authorities and civil society. Sectoral dialogue, while having some positive examples, generally has a low impact, and transversal dialogue is rare. Poor coordination among government ministries, and insufficient support from the EU, hinder the effectiveness of civil dialogue. Participation is often seen as a mere requirement stemming from EU policies (Civic Space Report 2023; ECF & CSE, 2021).

**Example:**

In the Czech Republic, there is a prevailing absence of a participatory culture and a limited awareness of its significance and advantages in public decision-making at the central governmental level. The lack of consistent participation mechanisms hampers access to information and decision-making. CSOs bear the responsibility of actively pursuing collaboration and funding their involvement (Glopolis & ECF, 2023). NGOs that work on public policies chronically lack sufficient funding to have an impact through their advocating activities (Potluka et al., 2017). On a positive note, the

Government Council for NGOs took a welcome step by approving a methodology for the participation of CSOs in the policy-making process. The Council Secretariat was instructed to pilot test this methodology in the ministries (Civic Space Report 2023).

**Example:**

Cooperation between public administration and NGOs in Poland had generally received negative evaluations (Piróg, 2019). Amid the "Europeanisation" of dialogue in Poland following EU accession, both social and civil dialogue failed to achieve their intended outcomes due to their inability to fulfil their core objectives. For dialogue to be more effective, it was crucial to adopt an organised and systematic approach to the decision-making process. This prerequisite was vital for the successful involvement of stakeholders and genuine participation in dialogue. It entailed creating opportunities for meaningful participation, rather than merely symbolic engagement, but was not realised (Misztal, 2016). Public administrations were accused of fulfilling legal requirements in a superficial, secretive, and manipulative manner. Both the European principles of good governance, and the laws aimed at reforming the behaviour of public administration in Poland, did not change the way civic engagement was handled (Piróg, 2019).

**Example:**

Outside the EU, in Serbia, things do not fare much better for CSOs. The National Convention on the European Union serves as a platform for dialogue among government representatives, political parties, CSOs, experts, the business community, trade unions, and professional organisations regarding Serbia's EU accession process. However, there are no clear rules established for CSO participation, rendering their involvement merely a formality. Limited consultation timeframes, and lack of transparency regarding the analysis and rejection of civil society comments, further complicate the process. The Office for Cooperation with Civil Society is recognised as an advisory body for involving CSOs in the regulatory process, but despite increased requests for support from various government bodies, the quality of CSO engagement remains unaffected (Selakovic et al., 2020). The EU's emphasis on quantitative criteria has contributed to an artificial form of public participation and debates, primarily driven by influential GONGOs (Government-Organised NGOs). Together with PONGOs (Party-Organised NGOs), GONGOs pose a serious challenge to the work of independent NGOs in Serbia. Despite some changes in the legal framework, the issue of limited influence in the decision-making process for non-politically affiliated CSOs remains unaddressed (Selakovic et al., 2020).

### **Recommendations:**

- Establish clear guidelines for civil dialogue and other citizen participation activities for EU draft policies and legislation at the Member State level. This will help avoid significant discrepancies and discretionary practices, ensuring consistent and inclusive engagement with the public. Designated personnel within each ministry should ensure the proper implementation of consultation processes. It should be ensured that the public in Member States is consulted at the early stages of defining the national position on EU matters, and that it is mandatory to provide replies to public comments, utilising mechanisms such as voting or support-based systems to identify the comments to reply to.
- Facilitate regularly convened thematic meetings at the Member State level involving various stakeholders, including civil society actors, to discuss national positions on specific EU topics. Take inspiration from the Swedish government's approach to the European Semester.

## **5.4 Discussion**

### **5.4.1 EU Level**

There is currently no universally agreed definition or framework for civil dialogue, itself a crucial factor in establishing trust or distrust. Meaningful civil dialogue has been shown to contribute positively to trust in EU governance. When citizens and their organisations are meaningfully involved in the decision-making process, the policies are likely to reflect and respond to people's needs on the ground. Their trust increases as they feel they are listened to and are able to monitor and shape decisions that have consequences on their daily lives. To build trust, it is crucial to establish transparent processes, designate responsible individuals within institutions, and clearly define the responsibilities of all parties involved. Conversely, a lack of civil dialogue and unmet expectations erode trust in EU institutions. The absence of meaningful and structured civil dialogue has been perceived as a deliberate political strategy to marginalise CSOs from the process of agenda setting, formulation, and monitoring of legislative initiatives. This lack of dialogue has also been interpreted as an indication that EU institutions do not have trust in CSOs.

The effectiveness of policies in meeting people's needs, and prioritising the common good over financial interests (output), serve as indicators for assessing democracy's (input) success. Trust is predominantly achieved when democracy is perceived as delivering policies that contribute to the well-being of everyone: humans, animals, and nature. CSO involvement in decision-making processes from start to finish contributes to this goal, particularly if they have a clear influence on agenda setting and providing expert input on legislation.

Feedback and accountability mechanisms must be in place to ensure that input from civil society is taken into account in the decision (output). Input and output of participation

processes should not be separate from each other, and there should be clarity on what happens during the phase between both. Cengiz (2016) argues that deliberative democracy should involve a holistic approach to policy making, where democracy (input) and effectiveness (output) work together, rather than being opposing forces. Suiter and Reuchamps (2016) stress that to establish legitimacy, it is crucial to consider not just the start (input) and end (output) of decision-making, but also what happens in between. This includes *how* participation happens and *how* it leads to decisions.

The EC's utilisation of participatory democracy rhetoric has largely been seen as symbolic in nature. There have been significant disparities in civil dialogue practices among different DGs, although the overall attitude towards it has been mostly positive. Currently, the EC primarily engages with civil society through consultations, a practice generally supported by CSOs. However, there is a shared desire for consultations to be more transparent, democratic, bottom-up, inclusive of diverse perspectives, and followed by feedback and documentation illustrating how the input was considered. Another form of engagement involves expert groups, but criticism has arisen regarding the lack of transparency in expert group deliberations and the imbalanced representation of stakeholders. The manner in which consultations are conducted demonstrates a greater emphasis on the preparatory phase (input) of policy-making, rather than the process, evaluation, and monitoring phases (in-between and output) (Kroeger, 2008). Input legitimacy has been a key instrument employed by the EU (Suiter & Reuchamps, 2016), along with technocratic legitimacy achieved through engaging experts, which helps explain the strong focus on transparency (Yiğit, 2009).

Within the EP, a coherent strategy regarding civil dialogue is also lacking. Nonetheless, compared to other institutions, it is easier to obtain information and have informal meetings with MEPs and Parliament staff. Conversely, establishing a dialogue with the Council of the EU, or the European Council, proves to be significantly more challenging. These institutions primarily prioritise one-way communication directed at the public, and the transparency of discussions and decisions is compromised, even when they are influenced by interactions with civil society.

In light of the recent 'citizen turn' at EU level, critics argue that public input not only lacks impact (as is already often the case with civil dialogue), but also that the approach to participation becomes tokenistic.

The adoption of legislation without consulting the main stakeholders undermines trust in EU institutions and compromises claims on input legitimacy (Suiter & Reuchamps, 2016). Youth organisations have frequently encountered paternalistic attitudes and have been overlooked as partners in decision-making processes. For instance, although initiatives like the EU Youth Dialogues are welcome, they tend to be more consultative in nature, since the recommendations they generate lack legal binding. Nonetheless, there have been recent positive developments, such as the European Students' Union being appointed as Co-chair of the Drafting Committee for the Ministerial Communiqué on the Bologna Process. In this capacity, they were involved in various stages of the

decision-making process, ranging from agenda setting to monitoring and policy reformulation.

#### **5.4.2 Member State level**

Citizens frequently lack understanding of how the EU functions and the respective responsibilities of its various institutions. Effective communication of EU affairs at the national level remains a challenge. Consequently, this leads at times to a sense of distrust in the EU among citizens, as decisions are easily attributed to 'Brussels' without further education of the public on the functioning of the EU.

Practices related to civil dialogue vary significantly across Member States, influenced by each country's political history, the timing of their EU accession, and institutional frameworks. While there are frameworks and mechanisms in place to involve civil society in national positions on EU draft law, the implementation is often inconsistent and lacks meaningful engagement. Member States vary in their obligations and practices, with some countries lacking a regulated framework for civil dialogue on EU matters. Despite some positive developments, CSOs in the EU face challenges, including (new) disadvantageous laws, restrictions on the right to protest, and attacks on activists, leading to concerns about the shrinking space for civil society.

## 6. Conclusions

Anne Esser and Carlotta Besozzi

The study indicated that trust in the EU is rooted in its foundational principles and values, as outlined in the Treaties. Consequently, trust and expectations are largely based on normative principles such as 'good governance'. However, it is important to distinguish between institutional trust and interpersonal trust. Both types of trust are rooted in the EU's founding principles and values, but develop differently.

Institutional trust is primarily based on the legal framework established by the EU, which grants citizens and civil society certain rights, and sets expectations for how institutions should conduct themselves. Institutional trust is somewhat (but not completely) independent of actual behaviour and experiences. On the other hand, interpersonal trust emerges from personal interactions with individuals representing the EU institutions. It can also be extended to the institution as a whole, connecting to institutional trust. Evaluating the trustworthiness of individuals is facilitated by relevant legislation and regulations, as well as by observing how individuals adhere to these guidelines. Interpersonal trust is mostly a subjective and individual experience, leading to variations within organisations. Thus, the level of trust placed in EU institutions, departments, and individuals differs among civil society representatives, which makes it difficult to determine overall trust in the EU as a whole. The diverse institutional frameworks at the EU level add further complexity, as each one uniquely shapes institutional trust.

Trust in the EU serves an instrumental role for CSOs, as it contributes to their impact and activities. Without trust in the effectiveness of their participation in policy making and respect for their rights under EU and international law, their work, the values they defend and act for on the ground, is weakened. Also, a certain distrust in the EU is considered important and beneficial as it fosters a critical perspective and ensures accountability among decision makers, thereby facilitating democratic progress, but not weakening trust in the system. However, not everyone agrees on the value of distrust, as some view it as hindering civil dialogue and progress. Furthermore, the trust that EU institutions place in CSOs is highly significant and instrumental. It enables CSOs to gain access and be heard, granting them opportunities to participate. Nonetheless, recent debates in the EP regarding transparency and ethical conduct of CSOs indicate an increased (or resurfacing) distrust in these organisations. Some argue that this distrust is being manipulated, using CSOs as scapegoats for the EP's own shortcomings. Distrust in CSOs is also shaped and instrumentalised in the competition for influence among various interest groups and ideological positions. For example, this can be seen in conflicting views between the agribusiness sector and environmental organisations.

Trust and distrust are complex and dynamic phenomena, influenced by various factors. As previously noted, principles such as transparency and accountability play a crucial role in shaping trust and distrust. Unethical practices, like maladministration and corruption, erode trust and amplify distrust. Similarly, integrity is a key component of

trust. Moreover, insufficient actions to address the shrinking space for civil society and behaviours that contradict EU values have detrimental effects on trust. Access to financial assistance and the trust placed in CSOs to effectively manage funds are also noteworthy in this regard. Overall, conditions that involve interactions between CSOs and EU institutions underline the significance of mutual trust.

The level of trust or distrust in institutions and the individuals within them is not solely determined by observing the behaviour of institutional actors. It also depends on how these actors interact with CSOs, and whether civil society perceive themselves as being trusted or distrusted. The significance of mutual trust becomes particularly evident in the context of participation, which is another principle that impacts the levels of trust and distrust towards EU institutions, and is perceived as a right of civil society. Meaningful and effective consultations and civil dialogue can only occur when there is trust and respect on both sides. Such trust forms the basis for a genuine partnership and helps mitigate power imbalances within the relationship. An essential aspect of this trust is recognising CSOs as organisations that unite and organise people, from local to transnational level, to voice concerns and proposals for the common good. In so doing, they are experts in their respective fields and relevant stakeholders:

*They have to ask us out on a date, but we must turn up. I think that's how you build trust. They build our trust by initiating dialogue, reaching out, and doing it in a respectful and meaningful way. We respond by turning up and being prepared when called.*

Article 11 TEU is often cited as a significant provision for civil dialogue; however, it does not set clear guidance, allowing individuals and departments within the institutions considerable discretion in engaging with different stakeholders. To date, there is no commonly agreed universal, structured framework on civil dialogue, neither at inter-institutional level nor within each institution, and the rhetoric surrounding participatory democracy is largely perceived as symbolic. For CSOs, it is crucial to be involved in initiatives and decisions from inception to completion. Transparency and accountability should be maintained throughout the entire process. The legitimacy of actions and decisions is not solely derived from participation and information regarding input and output; it also hinges on the process itself and what occurs in between. Some subdivisions or individuals of institutions may deem it inefficient to engage with CSOs, particularly on urgent matters, while CSOs perceive it as inefficient to be involved only at a certain stage of decision-making rather than being included from the outset in defining the issue at hand.

Since the establishment of the EU in 1992, the treatment of CSOs within legal frameworks has undergone a shift in focus, initially emphasising information (transparency), then transitioning to participation, and more recently returning to an emphasis on transparency. The emphasis on participation can be seen as an effort to institutionalise trust, demonstrating trustworthiness, and seeking legitimacy through the promotion of participatory democracy. However, considering that some individuals and groups fail to recognise the complementary nature of participatory democracy to

representative democracy, there is still a perceived lack of political will, from policy makers at all levels and across all EU Institutions, to establish meaningful civil dialogue at EU level. The demands of CSOs have not changed since the early 2000s, as exemplified by the Convention on the Future of Europe following the Laeken declaration in 2001. Despite some improvements, CSOs still ask for formal recognition as relevant stakeholders and a structured civil dialogue. With the EU not only being a political but also an economic union, in which economic interests are well represented, it remains to be seen to what extent these demands of civil society will be met.



# Case study 1: : Building Trust: CSOs' Struggle for Transparency, Participation and Accountability in EU Trade Agreements

Anne Esser

## 1. Introduction

This case study explores CSOs trust and distrust in EU trade policy. While political institutions tend to portray trade as an economic concern that is ideology free and rational, for CSOs it is a part of politics that is deeply entrenched with social, environmental, and economic conditions in both trading economies. Because of trade's impact on rights, well-being, and planetary health, CSOs monitor how, and which kind of, legislation is adopted, and how the EU cooperates with third countries – which are significant indicators of the EU's self-positioning in a global context and the Union's adherence to its own values.

This case study starts with an introduction to trade agreements and the corporate influence on the negotiations. It continues by illustrating the main issues of such agreements from the perspective of civil society by giving examples of recent trade deals. Next, the study discusses the role of sustainability, transparency, participation, and democracy within a European neoliberal trade agenda. The study ends by looking at the future of trade agreements and providing conclusions on CSOs' trust and distrust regarding EU trade policy.

## 2. About EU trade agreements

Presently, the EU has in force 41 EU trade agreements with a total of 72 countries to facilitate trade with other economies. These trade agreements fall into three distinct categories:<sup>44</sup>

1. Free Trade Agreements (FTAs): These agreements are designed to provide privileged market access for 'developed' nations and emerging economies.
2. Economic Partnership Agreements (EPAs): These agreements not only offer preferential trade terms (such as lower or zero tariffs), but also incorporate aspects related to the partner country's 'development'.
3. Association Agreements (AAs): These agreements serve to strengthen partners' commitments to political and other reforms.

In addition to these types of agreements, the EU enters into customs union agreements aimed at eliminating customs duties in bilateral trade and establishing a single tax rate for products coming from other countries. The EU also engages in non-preferential trade

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<sup>44</sup> <https://www.consilium.europa.eu/en/eu-free-trade/>

agreements within the framework of more comprehensive agreements, like Partnership and Cooperation Agreements.<sup>45</sup>

Trade agreements can encompass various elements, such as adjustments to tariff rates, import and export quotas, and export subsidies, among other aspects. The EC conducts negotiations for FTAs on behalf of EU Member States, which approve the negotiation mandate before discussions commence. Ultimately, the decision to ratify and implement these agreements lies with the European Parliament and the Member States' governments through the Council of the EU.

### **3. Corporate Influence**

EU trade policy is made largely for and by corporate interests. There have always been close ties between EU trade policymakers and industry. Consequently, trade agreements tend mostly to benefit big business, often to the disadvantage of workers, citizens, and the environment (Tansey, 2018). Corporations typically enjoy privileged access to negotiation discussions, while information about these meetings, despite the EC's assurances of transparency, is often not disclosed, making it difficult for civil society to monitor the process (Gheyle & De Ville, 2017).

One example of the privileged treatment of corporations in trade agreements is the integration of business-friendly Investor-State Dispute Settlements (ISDS) or Investment Court Systems (ICS) that function as arbitral tribunals, independent of domestic courts, and which are only accessible to foreign investors. For instance, they can oblige governments to recompense corporations for profit losses due to new laws or regulations, even if those laws aim to safeguard workers' rights, public health, or the environment (Friends of the Earth Europe, 2015; OHCHR, 2016). Investment courts are to the disadvantage of citizens and incompatible with the International Covenant on Civil and Political Rights because they limit the authority of states to regulate and legislate in the interest of the public (OHCHR, 2016). As one informant remarked: "It's all made in order for one party – mainly rich multi-nationals and corporations, generally – to gain the upper hand and prevent democracy from being exercised".

### **4. Examples of trade agreements**

#### **4.1 The Transatlantic Trade and Investment Partnership and the Comprehensive Economic and Trade Agreement**

The EU-US FTA Transatlantic Trade and Investment Partnership (TTIP) negotiations – now stalled due to significant public opposition and changing US politics – serves as an exemplary case of conflicting business and general interests in the trade policy approach of the EU. It was brought to public attention through civil society mobilisation because it touched upon topics that CSOs were working on, mostly related to social and environmental aspects. Generally, the EC tends to depoliticise (trade) policies by presenting their legislative initiatives as neutral and rational, and by framing trade

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<sup>45</sup> <https://www.consilium.europa.eu/en/policies/trade-policy/trade-agreements/>

agreements as a technocratic exercise. But due to civil society mobilisation against TTIP, and thus its politicisation, this approach could no longer be maintained (Matthieu & Caluwaerts, 2018; Schmidt, 2010).

CSOs strongly criticised the lack of transparency of TTIP negotiations which hindered civil society and citizens from monitoring discussions and defending public interests (Colli & Kerremans, 2021; Gheyle, 2016). Crucial documents, such as consolidated negotiation texts, but also internal discussions about transparency, were not made public during TTIP talks (Stavinoha, 2021; Tansey, 2018). During the negotiations, the EC argued that it would be in the interest of the public that trade policymakers would make decisions without outside pressure and public involvement (Stavinoha, 2021). Transparency and participation of CSOs was considered potentially counterproductive (Gheyle & De Ville, 2017). It is true that the trust required for reaching an agreement can be compromised by the unilateral release of critical information. Therefore, demanding complete transparency in the TTIP negotiations, even if it harmed the EC's negotiation position, clearly reflected a lack of trust in EU trade policy making (Transparency International, 2016).

The first reaction of the EC and business groups to public mobilisation involved attacks on the legitimacy of CSOs, strongly questioning the expertise of organisations on the matter (Colli & Kerremans, 2021). For instance, records from a private meeting, in February 2015, between Trade Commissioner Malmström, the European Federation of Pharmaceutical Industries (EFPIA), and Novartis regarding TTIP and the EU-Canada FTA Comprehensive Economic and Trade Agreement (CETA) revealed how the pharmaceutical lobby and EU trade leaders exchanged strategies for shaping public opinion and disregarding valid public concerns as baseless "false myths" (Tansey, 2018).

It took further public pressure and a report of the European Ombudsman (Case OI/10/2014/RA) until the EC released some position papers and disclosed its mandate and various details about the negotiation process (Tansey, 2018; Transparency International, 2016). Under Trade Commissioner Malmström, the EC showed increased commitment to transparency and a more open-door policy to an extent that had never happened in any other previous trade negotiations (although they did not support the view that public access should be the norm) (Gheyle & De Ville, 2017; Transparency International, 2016). But although transparency is essential for democratic deliberation, it does not encourage participation, and therefore provides little democratic value. Consequently, the demand for transparency evolved into a demand for involvement (Gheyle, 2016; Mancini, 2022). DG Trade established a TTIP advisory group and later, an FTA expert group. However, corporate interests had already heavily influenced TTIP's agenda before it entered the public spotlight (Tansey, 2018). A substantial imbalance was evident in the consultation of different groups during the preparatory phase and initial negotiation period of TTIP. Data from Corporate Europe Observatory (2014, 2015) illustrates that during the preparation phase, 92% of consultations involved the private sector, and a mere 4% involved CSOs. Similarly, 88% of stakeholder meetings included businesses compared to only 9% that included CSOs (Matthieu & Caluwaerts, 2018). The information sessions, called Civil Society Dialogues (CSD – explained below), were

viewed as a gathering where the EC informed CSOs about TTIP negotiations, with only limited opportunities for questions, often met with vague responses. Additionally, the EC did not provide feedback on the input received, leading to the perception that the CSD was a mere formality. Similar criticisms were aimed at the TTIP advisory group, seen as a discussion platform with one-sided communication (Matthieu & Caluwaerts, 2018).

Parallel to the negotiations on the TTIP, negotiations on CETA took place, which entered into force provisionally in 2017. In this context, Alfred de Zayas, former UN Independent Expert on the Promotion of a Democratic and Equitable International Order, criticised the pressure put on Belgium's Wallonia region regarding CETA negotiations. Initially hesitant about the deal, Wallonia eventually approved it after claiming its concerns were addressed. De Zayas highlighted a troubling trend of trade agreements taking precedence over human rights, calling it a culture of intimidation. He had previously cautioned that CETA would undermine democracy, human rights, and the rule of law (OHCHR, 2016). Civil society had been “disappointed” about the European Parliament's insufficient backing for a motion requesting the European Court of Justice (ECJ) assess the legality of CETA (BEUC, 2016). Léa Auffret, from the European Consumer Organisation (BEUC), complemented:

*CETA is a good example of what should not be done [...] It started on the wrong side when it was really hard to have any information about what was going on. Really few public events where the Commission would update stakeholders about what was happening... So, it was really hard to have just basic information [...] We teamed up with several NGOs to make sure CETA would deliver to the public interests. Unfortunately, those recommendations have not been taken on board [...] So, it was for us a striking moment and it's mainly because this relationship, the trust relationship, was not there since the start, and so the changes could not be made in time and the final deal was not good enough and actually risky for public interests.*

## **4.2 EU-Mercosur Free Trade Agreement**

The EU–Mercosur FTA concluded in 2019, but it has not been ratified, partly due to the opposition of EU Member States. However, it is not clear whether EU Member States, primarily France, will object to the Mercosur deal due to environmental and human rights concerns, or to defend their own economic interests (Stender, 2020).

Throughout the negotiation process, a consistent element has been the presence of secrecy, a lack of transparency and access to information, and the absence of democratic oversight, as well as meaningful participation of CSOs. Civil society's involvement appeared to be merely a procedural requirement. While draft texts of the agreement were accessible to EU parliamentarians, civil society had no access. The latest texts available for analysis were leaked by Greenpeace in December 2017. Only major trade union confederations, like the Southern Cone Confederation of Trade Unions and the European Trade Union Confederation, were occasionally permitted to engage in the negotiations, but only in observer roles (Ghiotto & Echaide, 2019).

A complaint to the European Ombudsman emphasised that the EC's trade policy should align with legal obligations and values stated in the EU Treaties. These include promoting human rights, sustainable development, and democracy. The EC's failure to follow its own guidelines would be reflected in the maladministration in concluding Mercosur trade talks without meaningful civil society engagement and impact assessments (ClientEarth et al., 2020). In 2021, the European Ombudsman indeed found the EC to have conducted maladministration because they had failed to implement the obligatory sustainability impact assessment in the trade deal with the Mercosur bloc (Fern, 2021).

### **4.3 The European Union–Vietnam Free Trade Agreement**

The initiation of trade negotiations cannot only be ascribed to economic reasons; they are also driven by geopolitical considerations, especially in light of competition with new emerging economic powers, such as China. The European Union–Vietnam FTA (EVFTA), signed in 2019, is criticised because of Vietnam's record of human rights abuses. The EU aimed to address this issue by incorporating social standards into the agreement, but these standards only apply post-implementation. For the EU, EVFTA appears to be part of a geopolitical strategy to profit from Vietnam's growing economy and to avoid exclusion from crucial global value chains (Stender, 2020).

## **5. Trade and Sustainability Chapters in FTAs**

Trade and Sustainability Chapters (TSDs) in FTAs set out labour and environmental requirements in an attempt to incorporate sustainable development goals into EU trade policy. Although social clauses in FTAs have indeed been improving (Novitz, 2021), CSOs have lamented various shortcomings of TSDs, including the lack of systematic Sustainability Impact Assessments (SIAs) linked to specific milestones and regular ex-post assessments, and no tailoring to environmental challenges specific to each country or region. European CSOs and organisations in partner countries should be involved in all stages of the process, including the design and implementation of effective dispute settlement processes. Furthermore, sustainability provisions should also be included in other chapters, and there should be a clause to prioritise the Sustainable Development Goals (SDGs) over other aims (Blot et al., 2022).

Weak sustainability and labour requirements in FTAs can partly be attributed to corporate influence. European companies operating within global value chains depend on importing inputs from low-labour cost nations. They typically resist exporting regulations (e.g., through trade deals) that raise their import costs. This opposition from these companies leads the EU to take a more relaxed stance on including sustainable development provisions in negotiations with certain 'developing' countries (Poletti et al., 2021). This approach is somewhat contradictory to other contexts in which the EU sets much stricter mandatory requirements for monitoring and addressing adverse impacts on sustainability, for instance, as regards the EU Corporate Sustainability Due Diligence Directive (Bronckers, 2022).

For Stéphanie Ghislain from Eurogroup for Animals, the main issue with the Trade and Sustainability chapters is the lack of binding requirements in trade agreements that

would tie trading partners permanently to their commitments: “The chapters themselves don't have very committed language. It's very broad. It's very hard to say that something has been violated because it's very general language, it's non-committal”.

The TSDs indicate an awareness of the intersection between trade, the environment, and labour and social aspects, but this awareness is not apparent in EC internal coordination on the drafting and negotiation of trade agreements. Although DG Trade picks up on topics that are trending in the EC, and then puts a strong focus on this topic, CSOs agree that DG Trade should generally work more with other DGs when entering trade negotiations to have a better understanding of other issues related to trade. The disconnection of DG Trade from other topic areas is perceived as being contradictory to the overall strategy of the EC and a risk to human and consumer rights, and environmental health. DG Trade would make decisions about issues that they do not have expertise in, without involvement of the relevant DGs. This would bear the risk of ignoring international commitments and limiting the EU's power to regulate. CSOs find that other DGs should be more involved and show more interest in what is done in the name of trade.

## **6. Transparency, information and participation since TTIP and CETA**

Despite more transparency since TTIP and CETA, and the EU's commitment to “being the world's most transparent public institution in the field of trade policy”,<sup>46</sup> access to information from DG Trade remains difficult with the excuse that negotiations are ongoing. CSOs are the ones who face the greatest challenges as they do not have a prominent voice on trade matters, or they lack concrete contacts within institutions. In terms of its information policy, the EC appears to be indecisive, caught between “the depoliticising logic of technocratic and neoliberal rationality on one hand and the legitimating demands of liberal and deliberative democracy on the other, such that public opinion becomes simultaneously invoked and excluded” (Stavinoha, 2021).

The EC's actions regarding TTIP seem to have been responses to criticism rather than a lasting dedication to transparency. These actions were not repeated in later negotiations, nor were they applied retroactively to existing trade deals. The TTIP advisory group remains an isolated occurrence among trade negotiations (Mancini, 2022). Also, the FTA expert group disappeared after TTIP and CETA because Commissioner Malmström was replaced by Commissioner Hogan who did not see the need for and value of such a group. The same applies to the current Commissioner Dombrovskis. According to Léa Auffret, the FTA expert group should be revived to enable meaningful dialogue and strengthen trust in the EC:

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<sup>46</sup> [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/transparency-eu-trade-negotiations\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/transparency-eu-trade-negotiations_en)

*We're going backwards in terms of trust because of that. [...] [The FTA expert group] allowed us to be on equal footing between industry and NGOs, and to have really constructive discussions on the texts [...] the future would be brighter if we would have this free trade agreement expert group [because it was] not just general comments or concerns [...] There is political willingness to continue to engage with civil society, but to make it meaningful, we would need this expert group, in my opinion.*

The EC declares to be aiming to “have a transparent and accountable trade policy based on consultations with all parts of European civil society.” DG Trade organises “regular, structured” Civil Society Dialogues for organisations and groups registered in the Transparency Register to inform about and discuss trade policy issues because they “value the opinions and expertise of civil society”. According to DG Trade, they regularly provide feedback on the meetings organised with civil society, and post the minutes on their website.<sup>47</sup> Léa Auffret found they were “good”, “working well”, and provided a space to “get updates to help [BEUC] monitor what is happening and ask questions if something isn't clear”, but that they were “not enough” and there was “no obligation for DG Trade to follow up on specific concerns or recommendations”. Moreover, despite having “this equal footing between NGOs and business groups” the perceived majority of the people in the room appeared to represent private interest groups. One issue with CSDs was that participants from civil society sometimes would not want to reveal “what [their] strategy is or [their] demands are” in front of opponents because some industries could be “quite aggressive towards NGOs”. Business groups and representatives share their opinion “without a problem, and they're bringing figures [data] on top of the many meetings that they have”. In this way, CSDs are “also a lobbying tool”. Another issue was that “sometimes it can be 200 people in the room” and although “it's good to have really broad stakeholder engagement [...] it's a bit superficial [and] it's hard to really enter into some details”. However, it was possible to follow up on certain questions by e-mail and get a reply, which was “good in terms of the trust relationship”. Stéphanie Ghislain also found that CSDs did not discuss “thought-provoking sort of things”, and has observed that “you don't really get an answer, very often, if you pose a very specific question” or a critical question. It would mostly be information provision with rare opportunities for civil society to address issues in depth. But “it can still make them aware of something”, and this can lead to a bilateral meeting to discuss the concern.

CSOs are generally consulted when negotiations have already started and DG Trade has already defined the priorities without consulting CSOs; they are not involved from the beginning and are usually only consulted on certain aspects. There was no structured dialogue from the beginning. This required CSOs to repeat the same criticism of certain aspects for every trade agreement. The agreements were different, but the core issues were the same, and the criticism did not seem to be taken into account in the next negotiation. The repetition of issues and concerns also occurred because contact

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<sup>47</sup> [https://policy.trade.ec.europa.eu/analysis-and-assessment/eu-trade-meetings-civil-society/objectives\\_en](https://policy.trade.ec.europa.eu/analysis-and-assessment/eu-trade-meetings-civil-society/objectives_en)



persons changed, with great variations regarding their openness to engage with civil society and listen to citizens' concerns about trade agreements:

*There is also a personal factor in this where you have civil servants [...] it's in their DNA to be open. It's not something that you need to impose on them. Others, they should have an open-door policy, but they [might think] it's a waste of time. So yes, they will give you a meeting, but in three months' time. So, it really depends also on who you are talking to. And it's true that for each negotiation, you have to [repeat the same message over and over again]; it's really tiring, taking a lot of energy, [because] each time you're talking also to different people [who] might not be aware.*

Similar strong demands for transparency and involvement as for TTIP and CETA were not repeated by civil society for later trade negotiations (Mancini, 2022). Civil society's limited resources are a major reason for the absence of mobilisation and advocacy efforts for many trade deals. In fact, the initial public focus on TTIP was limited due to civil society's capacity constraints (Tansey, 2018). Some CSOs have the resources to advocate and develop expertise on trade agreements, while it is generally more difficult to get a foot in the door for smaller organisations, which ultimately plays into the hands of large companies that can afford to have dedicated personnel working on complex trade agreements. The limited capacity forces CSOs to prioritise among many issues. The decision whether effort should be put into a campaign and the extent of the campaign is largely dependent on 1) funding and 2) the chances of winning. Mobilisation and success also depend on the civil society network in trade partner countries. It is helpful for the impact of mobilisation if there is public scrutiny from both sides.

## **6.1 Domestic Advisory Groups**

In 2011, the EU created Domestic Advisory Groups (DAGs) composed of NGOs and businesses to monitor trade agreements. The EESC and the EC both select DAG members for each new trade agreement, with the EC initiating the process through calls for interest. DG Trade handles candidate review and selection. For CSOs, DAGs provide a good opportunity to get in contact with counterparts in partner countries. However, analysis reveals an overrepresentation of employers' and business associations compared to trade unions, workers' associations, and NGOs, raising questions about selection criteria application. Some NGOs with significant expertise participate, yet questions arise about the EC's application of selection criteria for DAG members (Hagemeyer et al. 2021). Some stakeholders also do not have the financial resources to invest time in participating in DAGs (Blot et al., 2022). Next to organisational issues, the main problem of DAGs is the lack of meaningful dialogue between members, on the one hand, and between groups and governments on the other hand, resulting in little policy impact and progress (Martens et al. 2020), making DAGs merely a token gesture:

*For many NGOs, it can't justify the work you're putting into it. So, that is a vicious circle because then there's almost nobody working on the environment and then you don't have really environmental concerns or climate concerns that are relayed in these groups. [And in the end] it's all about whatever the Commission wants on the environment. [...] The impression that I had [is] that a lot of organisations didn't really*



*see any more [...] use of actually going there because impact was quite low. And then, of course, you maybe have other things where you can have a better impact when you put your resources there.*

## **7. Democracy and sustainability in a neoliberal trade agenda**

The attitude of the EC in the context of trade demonstrates a very narrow understanding of democracy in which civil society and citizens do not really play a role in defining the EU trade agenda (Stavinoha, 2021). Democracy and rights would be undermined in order to advance monetary profits and serve big business (Stender, 2020). According to one informant, the secrecy around trade negotiations is “pernicious” and not in line with democratic principles:

*The understanding of democracy is, to a large extent, both in the EU and many countries, that corporations are right. [...] What they want to do - and do quite successfully - is to avoid public discussion because people oppose it. And if your understanding of democracy is to put things away from the public, that's the most undemocratic way [of doing things].*

A critical attitude towards trade agreements, or a certain distrust, has always been there because of the simple fact that the EU was founded based on the idea of an economic union and therefore, it was always expected that economic interests would be put first:

*It's not scepticism, it's realism. The way the EU is designed is a union of corporations wanting to have a sort of internal free trade. [...] The basis is to protect corporate interests, and by doing that, you get some consumer rights, you get a few fundamental rights, and so on. But to me that is not why the EU was founded. [...] It's not being sceptical, I know that if we do not work on something, there is a high risk of losing out on human rights. [...] All trade agreements [...] [are] about undermining legislation that protects people or the environment. [...] We knew that from the beginning.*

The politicisation of EU trade policy around TTIP challenged the neoliberal paradigm in EU trade policy, with democratic values, the environment, and workers' rights gaining prominence (Oleart, 2021). The COVID-19 pandemic further highlighted the need for policy changes (Oleart, 2021). There is a general demand from CSOs to discuss why we need trade deals, what are their objectives, and how they should look. This is sometimes perceived as “a battle of vision” because “it's more than just a trade agreement. It's about how you see trade policy and what it should have as components”.

Yet, the EC fails to understand that NGO mobilisation also expresses an overall opposition to the neoliberal trade agenda of the EU (Stavinoha, 2021), as well as a fundamentally differing notion of what constitutes legitimate trade negotiations (Gheyle & De Ville, 2017). Even though the EC recognises the expertise of CSOs, they do not fully comprehend the position and objectives of CSOs. This is also because trade attracts people who are interested in economics and profit. DG Trade staff are generally

career-oriented, competitive, with expertise. Leading or being involved in trade negotiations can be a career push.

## 8. The future of trade agreements and CSOs' trust in the process

Overall, things *are* changing and there have been some positive developments at the EU-level in terms of participation. As one informant said: "The trust relationship [with the Commission] is getting better, really, I have to say. Whenever we need a meeting, we can have a meeting". However, there are concerns that trade deals will increase distrust in the EU when the current approach to conducting trade is kept, and this distrust might spill over into other areas the CSO is working on:

*Especially during CETA and TTIP, it created a distrust in other fields than trade, notably on food safety aspects because we were seeing what was happening and going wrong. [During CETA] we started to distrust the respective Director General working on this because we realised that [they were] not defending the citizens' interests in this negotiation. So yes, it has a spillover effect. And now we have this a lot nowadays on all the trade negotiations that have an impact on artificial intelligence. Here we have a lot of concerns. It [also] creates [...] a new level of distrust that was not there before with a specific part of the Commission working on AI because we consider them not doing enough to protect people's digital rights in this international context.*

So, what is the future for trade deals and CSOs? It is possible that trade agreements will stop in the future in the way we know them, given a growing focus on local production and services, as well as the emergence of alternative ways of cooperating. For the adoption of alternative approaches, it will be key not to repeat mistakes and develop a structured, meaningful way to involve civil society, in balance with the engagement of other stakeholders:

*It will be more and more about this very blurry line between trade discussion and cooperation discussion like we have with the United States in this Trade and Technology Council, the TTC. [...] So, this will be the future and this is where NGOs will have to pay attention to what is happening. But to make sure they can have constructive relations and help the Commission go in the right direction, they would need to be better resourced [...] We all cannot have our eyes on everything. So, it's going to be more and more dominated by industry because they will have the resources and NGOs will have to focus on other things, and it will be an imbalanced relationship. And ultimately, we could come back to the level of distrust that we were [having] during the TTIP and CETA discussions.*

## 9. Conclusion

Industry representatives and business groups enjoy privileged access to EU trade negotiations. They thereby exercise a significant influence on the negotiations and content of trade agreements, putting private over public interests. Compared to other stakeholders and interest groups, they are more strongly represented in CSDs and DAGs.

In terms of civil society participation in decision making regarding trade, there has been some improvement, notably since TTIP and CETA. CSOs have more opportunities to express their concerns and there is less reluctance among EC staff to engage with civil society. This increased openness is the result of public pressure and continuous advocacy work by CSOs to have a seat at the table. However, participation is often perceived as a one-way communication and a token gesture without any real impact, particularly if DG Trade does not provide feedback, or reacts in any way to raised concerns. The case study shows that the opportunities for and the meaningfulness of participation influence CSOs' trust. It also shows the dependence on individuals within DG Trade in terms of access to information and opportunities for participation. Without a clear framework for civil dialogue on trade matters, individuals within DG Trade enjoy a great deal of discretion in this matter.

CSOs are only involved when the negotiations have already started and the general approach has been decided on. Hence, there is no opportunity to really influence the outline of a trade agreement, or discuss objectives. This gives the impression that CSO concerns about the philosophy behind trade are not recognised, reducing the impact of participation on CSOs' trust. Additionally, concerns have to be repeated for every trade agreement, partly because new EU staff is involved, which makes CSOs question the lasting effect of their interventions and efforts. The perception of being able to have an influence on decisions and outcomes is an important factor in the decision to work on a trade agreement in the first place. Due to limited resources within CSOs, advocacy and mobilisation only take place if there is a belief in their efficacy.

Despite the increased political interest and polarisation towards trade, the EC continues to maintain that trade policies have to be treated in a neutral and rational manner. While the EU presents itself as transparent and open for dialogue, it keeps arguing for secrecy as a pretext to withhold information from the public on matters that concern their daily lives. To strengthen CSOs' trust in the process, DG Trade should strengthen its dialogue with CSOs and its collaboration with other DGs to ensure accountability of all chapters in trade agreements. There should be binding, clear commitments and requirements in trade chapters in respect of social, political, and environmental rights. CSOs recommend the creation of a Forum, similar to the FTA expert groups, that would allow for a dialogue between different stakeholders in a balanced way, with debriefings and provision of feedback. It is critical that the EC is able to demonstrate that civil society concerns are really heard and taken into account, to build credibility in view of future trade agreements. In light of changing ways when conducting trade, it is important to involve civil society right from the beginning so as not to lose the trust that has been built since civil society mobilisation on TTIP.

# Case study 2: Civil society formal involvement, campaigning and mobilisation in the frame of the Nature Restoration Law

Matteo Vespa

## 1. Introduction

The Nature Restoration Law (NRL) has been one of the most contentious files of the 2019-2024 European Parliamentary term. The proposed regulation, which is part of the Green Deal package and under the EU Biodiversity Strategy for 2030, put forward binding targets to restore a wide range of ecosystems, as a complement to existing legislation, such as the Habitats Directive, with the aim of restoring at least 20% of the land and sea areas by 2030, and all the degraded ecosystems by 2050. The proposed regulation was at the heart of a strong mobilisation at the EU level of both civil society organisations, especially from the environmental sector, in support of the law, and from the agricultural, fishery and forestry industries, against the regulation. Such a mobilisation, coupled with the strong involvement of the European Commission during the co-legislators phase, led to a strong polarisation of the file: in the European Parliament, the proposed regulation was rejected by the associated committees of Fisheries (PECH) and agriculture (AGRI), as well as by the main committee on Environment (ENVI), with 44 votes in favour, 44 votes against, and no abstentions. In the Plenary, the proposal to reject the text was defeated by a slim majority (312 votes to 324 with 12 abstentions); a heavily amended version, much closer to the position of the EU Council, was approved with 336 votes in favour, 300 against and 13 abstentions. At the moment of writing, the regulation is being discussed in the trilogue negotiations between the European Parliament, the Council and the Commission (for a full overview, see EP, 2023). The polarisation around this file and its mediatisation make it an ideal case study for the role of CSOs in the EU legislative process and their trust in EU policy making. The case, developed via a desk research on the policy-making process of the law and by interviews with three nature NGOs involved in the advocacy for the NRL, showed how the polarisation spearheaded by the centre-right European People's Party (EPP) in actively working for the rejection of the whole text left a negative impression on the role of the Parliament in this file and how, if in general the trust towards the EU policy-making process has not been severely affected, the case cast a shadow over the possibility of agency by CSOs and about the policy results should such polarisation become more frequent in EU party politics.

## 2. The inception of the law and the Commission's policy making

The idea of a nature restoration law originated from the reflections of BirdLife, the European Environmental Bureau, and WWF as a positive agenda towards nature (Nature NGO 2, personal communication, 2023), and it was promoted by the Green10, a

coalition of the major European environmental NGOs, in the context of the 2019 European Parliament elections (Green10, 2019). The EU Biodiversity Strategy, published by the Commission in 2020, contained the commitment of proposing, by 2021, legally binding restoration targets in order to ‘put Europe’s biodiversity on a path to recovery by 2030’, with the restoration of significant areas of degraded and carbon-rich ecosystems, no further deterioration in conservation trends, and at least 30% deteriorated habitats and species reaching favourable conservation status, or at least showing a positive trend (EC 2020 b, p. 14). Such a target, as well as that of the restoration of all the world’s ecosystems by 2050, was supported by the European Parliament in the resolution dedicated to the Strategy (EP, 2021, p. 11).

After the publication of the Strategy, the Commission gathered the input of the civil society and the general public via the publication of an Inception Impact Assessment (4 November – 2 December 2020), an online public consultation (12 January - 5 April 2021) and five online stakeholder workshops (November 2020 - September 2021) (EC, 2022-a, p. 262). The first workshop was open only to the Member States. The other workshops were open mainly to the members of the Coordination Group on Biodiversity and Nature (CGBN), the main Commission’s Expert Group for the implementation of diversity policies, which includes the Member States, international and inter-governmental organisations (such as the Council of Europe) NGOs, businesses, sector associations, research institutes and individual experts. The invitation to other stakeholders was allowed upon request, with the mailing list kept stable throughout the workshops (ibid., p.284). The CGBN, which in 2022 became the EU Biodiversity Platform (EUBP, see EC, n.d.-b), served as a platform for information for both NGOs and interest organisations, including on the timeframe and subsequent delays notably due to the war in Ukraine (see EC, n.d.-b), as well as to provide additional policy input (see EC, n.d.-c). According to a nature NGO member of the group, the role of the CGBN and of the stakeholder workshops were complementary: the CGBN only allowed to ‘measure the temperature in the room’ on proposed policies, while the workshops allowed more in-depth discussions with informed stakeholders. According to the nature NGO, the agriculture interest groups ‘played a difficult, but positive role’ and did not block the legislation (Nature NGO 2, personal communication, 2023). However, the contributions to the Inception of impact assessment already showed a cleavage between environmental CSOs, gathered around a joint contribution, calling for binding targets beyond the current legislative framework (A Rocha et al., 2020), and the agricultural and forestry organisations, which favoured a voluntary, non-binding instrument built on already existing measures (see COPA-COGECA, 2020; Confederation of European Forest Owners, 2020). Nonetheless, while acknowledging that both legally binding targets and voluntary measures were argued by stakeholders, the Commission concluded that there was general support for the proposal stemming from the contributions received (EC, 2022-a, 263). Such a division between civil society and industry clearly emerged in the stakeholder workshops, where nature NGOs supported legally-binding targets beyond the Habitats Directive, while forestry and agriculture stakeholder organisations preferred soft measures instead of legally-binding requirements (ibid. p. 285).

Nature NGOs had started mobilising the general public to influence the policy-making process already during the drafting period of the Commission's proposal: the campaign #RestoreNature, led by the European Environmental Bureau (EEB), BirdLife and WWF, and involving many other NGOs, managed to rally almost 105,000 citizens and organisations around a common contribution to the open public consultation through a #RestoreNature Campaign, making up 93.5 % of all survey responses. However, the Synopsis Report considered these responses as one contribution and treated the remainder, which 'overwhelmingly rejected the setting of legally binding targets and the provision of guidance for Member States to develop restoration plans' (ibid. p.270) as multiple responses. However, as the Commission report says, an analysis of the responses other than those under the #RestoreNature campaign showed that 'while the wording of qualitative answers differed slightly between these respondents, it conveyed very similar meaning. In the absence of an officially announced campaign in this Member State [Poland] and sector [forestry], the survey analysis team neither confirms nor rules out possible coordinated action(s). Nevertheless, a bias in the stakeholder representation is significant and needs to be borne in mind when considering the survey feedback' (ibid. p.284). Therefore, the analysis of the open public consultation singled out more than 90% of the answers, de facto considering them as only one answer, but did not perform the same to the probably coordinated answers from the other group, making the whole consultation exercise inconclusive (see ibid. pp. 264-284). However, the #RestoreNature campaigners, considered that such mobilisation was successful in demonstrating the strong support towards the law and the definition of specific restoration targets (beyond the Habitats Directive) by organisations and citizens, and in influencing the Commission's final policy decisions (Nature NGO 2, personal communication, 2023). Furthermore, the NRL preparation was the subject of internal and external debate during the drafting process. The proposal received an initial negative impact assessment by the Commission's Regulatory Scrutiny Board (retrieved by the NGOs via a request to access the document), as well as negative feedback during an interservice consultation by some Commission's Directorates General. At the same time, articles were published in the media calling for a postponement of the law due to food security concerns over the war in Ukraine (Nature NGO 2, personal communication, 202). On 14th December 2021, while the draft regulation was not yet public, more than 150 NGOs wrote to the Executive Commission Vice-President for the European Green Deal, Frans Timmermans, in charge of the file, expressing their concerns regarding the inclusion in the proposal of a possible target that would have been less ambitious than that proposed by the NGOs (European Environmental Bureau et al., 2021). In March, the #RestoreNature campaign wrote on their website that '[o]n 23 March, the European Commission was expected to present a proposal for a new EU law for nature restoration law[, b]ut under pressure from vested interests, the law was delayed'. The campaigners managed to involve 14,000 citizens in writing to the European Commission to publish the proposal without delay (We need to restore Europe's nature NOW! n.d.) and to make activists run a total of more than 42 thousand kilometres in support of a timely publishing of the regulation (#Move4Nature, n.d.). In a letter of 18th March 2022 to the President of the Commission, Von der Leyen, the NGO coalition argued that, while the outbreak of the Russian invasion of Ukraine was indicated as the motivation for the

postponement (confirmed in the April 2022 meeting of the EUBP), the excuse of ‘food security’ due to the war was somehow used as a justification for a possible freeze of the file, which the NGOs rejected (BirdLife, ClientEarth, European Environmental Bureau & WWF, 2022-d).

### **3. The publication of the law and the legislative process**

On the 22nd June 2022, the Commission published the proposed regulation for the NRL, including the impact assessment. While the nature NGOs expressed great satisfaction with the proposal, urging the Council and Parliament to make it even bolder and address some specific shortcomings (BirdLife, ClientEarth, European Environmental Bureau & WWF; 2022-c; Oceana et al., 2022), the agricultural and forestry stakeholder organisations criticised the regulation for not respecting subsidiarity (Confederation of European Forest Owners, 2022), or calling it ‘out of step, unachievable in its current objectives and insufficiently supported’ (COPA-COGECA, 2022). Subsequently, nature NGOs proposed a more in-depth analysis in the second half of 2022 (BirdLife, ClientEarth, European Environmental Bureau & WWF, 2022-a; Seas At Risk et al., 2022), but the file gained increasing attention in 2023 when it was subject to a double process of ‘mediatisation’ and ‘polarisation’ across (European) party lines.

#### **3.1 The Council**

Such double pressure had a limited impact on the outcome of the EU Environment Council, but influenced the process of its adoption. On the one hand, the European Environmental Bureau wrote to the Environment Council ahead of its July 2022 (BirdLife, ClientEarth, European Environmental Bureau & WWF, 2022-b), December 2022 (European Environmental Bureau, 2022) and June 2023 (European Environmental Bureau, 2023) meetings, urging support for the adoption of the regulation, and other organisations encouraged their national members to reach out to their ministries (Nature NGO 3, personal communication, 2023); on the other hand, some heads of State and government argued in favour of halting the approval of new environmental regulations, including France, Belgium and the Netherlands (Di Sario, F., & Leali, G., 2023; Gijs, C., Guillot, L., & Moens, B., 2023). Acknowledging the polarisation in the negotiations in the Parliament due to the EPP positioning against the whole text, which led to the rejection of the regulation in AGRI and PECH committees, on the 5th June 2023 a coalition of nature NGOs made of BirdLife, ClientEarth, EEB, WWF, Oceana Europe and Seas At Risk wrote to the Swedish Presidency of the Council urging it to approve the text (Seas At Risk, 2023-a). In the run-up to the Council meeting, there had apparently been a last-minute attempt, coming from the office of the Swedish Prime Minister (affiliated to the EPP), to delay the vote on the law and leave it to the subsequent Spanish Presidency. This would have sent the message to the Parliament that the Council did not have an agreement on the law. To counter that, five Member States wrote the Swedish Presidency to vote on the regulation during the Swedish Presidency (Nature NGO 2, personal communication, 2023). Eventually, the Council’s position was approved on the 20th June 2022, and with 20 votes in favour, 5 against and 2 abstentions, with Sweden voting against the proposal negotiated by its own

Presidency (BirdLife, ClientEarth, European Environmental Bureau & WWF, 2023-b; COPA-COGECA, 2023-b). While the nature NGOs stressed that the approved position was weaker than the proposal of the Commission, on the other hand that conservative governments voted in favour of the text, at odds with the EPP's position in the Parliament (BirdLife, ClientEarth, European Environmental Bureau & WWF, 2023-b; Seas At Risk & Oceana, 2023-b); COPA-COGECA denounced the pressures to reach an agreement on the file within the Swedish Presidency 'despite signals from Member State capitals that there should be a postponement and a possible reassessment of the proposal and its procedures' and regretted that the Environment Council did not reject the proposal. This revealed the new positioning of the agricultural, fisheries and forestry stakeholder organisations in favour of the complete rejection of the text (COPA-COGECA, 2023-b).

### 3.2 The Parliament

The process of mediatisation and polarisation had a strong impact on the outcome of the vote of the European Parliament. During the discussion of the report on the proposal in the ENVI committee, while the rapporteur, Cesar Luena (Socialists and Democrats - S&D), proposed stronger measures than those envisaged in the Commission's text, senior EPP member, Pieter Liese, announced that his party would not support the proposal (Seas At Risk, 2023-c). The EPP decision to reject the whole proposal, without seeking a compromise, was then also embraced by COPA-COGECA. As no hearings were organised in any of the three committees that examined the law, the public debate around the regulation took place virtually, on social media, in the press and in the streets, with demonstrations. Over time, the narrative of the interest groups (especially COPA-COGECA) and that of the EPP became significantly close. While a statement from the forestry associations, signed also by COPA-COGECA, called for a revision of the law (Confederation of European Forest Owners et al., 2023), the EPP published a media campaign which warned that the NRL, if passed, would lead to a 'global famine' and would require 'tear[ing] down villages built 100 years ago' to restore wetlands, without being able to indicate specific examples; such claims have been rebutted by several experts (Guillot & Brzeziński, 2023; Guillot & Weise, 2023; De Schutter, & Frison, 2023). The EPP's stance hinted at an alliance with the eurosceptic European Conservatives and Reformists (ECR) and the far-right Identity and Democracy (ID) on environmental issues, which was visible also in the debate on the pesticide reduction law (Guillot, L., & Brzeziński, B., 2023). On the other side, 210 NGOs in March published a joint appeal for the approval of the law (AirClim et al., 2023), and managed to gather more than one million signatures to a common letter to EU lawmakers (Seas At Risk, 2023-b). Such a division between the two camps was visible in the double, opposing demonstrations that happened in Strasbourg on 11th July: on the one side, the environmental activists and on the other, COPA-COGECA and the EPP (Guillot, 2023). The EPP position led to the rejection of the NRL in the AGRI and PECH committees: the nature NGOs accused the 'disinformation campaign' of the 'anti-nature lobbies' which was 'extremely visible' in the discussions of the AGRI committee (BirdLife, ClientEarth, European Environmental Bureau & WWF, 2023-c), and denounced the alignment between ID, ECR, EPP and



Renew Europe (BirdLife, Bloom, ClientEarth, Oceana, Seas At Risk & WWF, 2023); on the other side, COPA-COGECA stated that the 'Agriculture Committee did not give in to the blackmail of the Commission' and that the 'European Commission would be better placed to go back to the drawing board, and finally be realistic and rational' (COPA-COGECA, 2023-c) and made a joint appeal with the fishing industry (association Européche) to the ENVI committee to reject the text altogether (COPA-COGECA & Européche, 2023). Acknowledging the campaign of the EPP against the law and its rejection in the AGRI and PECH committees, a coalition of nature NGOs made of BirdLife, ClientEarth, EEB, WWF, Oceana Europe and Seas At Risk wrote to the Commission, the chair of the ENVI committee, the Swedish Presidency and the parliamentary groups of the Left, S&D and Renew Europe (Seas At Risk, 2023-c). The Commission played a strong role in advocating for the law towards the MEPs: Vice-President Timmermans met key lawmakers in a one-on-one format, linking the fate of a proposal on new genomic techniques, supported by right-wing lawmakers, to the approval of the NRL and of the pesticide reduction law (Foote, 2023-c; Foote, 2023-b); he also declared himself available to discuss 'every single line' of the text, but not to redraft it, as there would not be enough time before the European elections (Guillot, L., & Weise, Z., 2023), and deplored that discussions around nature and climate laws had "turned tribal", and that centre-right risked adopting climate denial and scepticism and moving away from the centre (Foote, 2023-a). Between the two ENVI committee meetings, after the attempt to reject the whole law did not succeed and before the final vote on the amended regulation, Timmermans asked for an emergency meeting with the Green10 to discuss what they could do to reshape the narrative and ensure that the amended text was closer to the original proposal and not watered down (Nature NGO1, personal communication, 2023). Furthermore, the Commissioner for Environment Sinkevičius sent the Swedish Presidency, the Parliament rapporteur and the chair of the ENVI Committee a non-paper in support of the law, making some concessions on the content (Dahm, J., 2023). This move was deemed by some nature NGOs as counterproductive: they felt that, even if, on the one hand, the Commission justified its move as a way to ensure approval of the regulation by the Member States, on the other, they could weaken the Commission's negotiating position during the trilogue (Nature NGO 2, personal communication, 2023).

In the ENVI Committee, the EPP delegation left the negotiations' table between political groups ahead of the ENVI committee meeting that would vote on the law (EPP Group withdraws from negotiations on nature restoration law, 2023). The chair of the ENVI committee accused the EPP leader, Weber, of threatening with expulsion EPP MEPs defiant of the party position, and of substituting one third of EPP MEPs in the ENVI Committee to ensure they would vote according to the party line (Guillot, L., & Wax, E., 2023-a; Guillot, L., & Wax, E., 2023-b). Eventually, after two sessions of voting, the final vote was a split 44 to 44, which ensured the law made it to the Plenary, although with a negative assessment from the committee. The final approval of the law in the Plenary, with a close majority of 12 votes, did not satisfy the nature NGOs. The text adopted by the Parliament was considered less ambitious than that of the Council (BirdLife, ClientEarth, European Environmental Bureau & WWF, 2023-a); Seas At Risk & Oceana,

2023-a). Inversely, the forestry association, despite regretting the adoption, indicated that some of their concerns had been addressed in the final version of the text (Confederation of European Forest Owners, 2023), while COPA-COGECA called the vote a sign that the approach of the Commission had been ‘divisive, punitive, and ideological’ (COPA-COGECA, 2023-a).

### 3.3 The Trilogue

By the time of writing this case study, the text is being negotiated in the trilogue between the Parliament, the Council and the Commission: the Spanish Presidency organised the first negotiating meeting one week after the approval of the Parliament’s position, with the EPP taking part in the Parliament’s delegation, and the chair of the Committee considering that the first round of negotiations had a ‘good and constructive spirit’. The Spanish Presidency aims at closing the file by the end of 2023 (Taylor, K., 2023).

## 4. The ‘polarisation’ and ‘mediatisation’ of the Nature Restoration Law and their effects on the CSOs agency in the policy making

### 4.1 The ‘polarisation’

According to a nature NGO, the legislative process for the NRL can be divided into three phases: before the EPP walked out of the negotiations, after they walked out of the negotiations, and the start of what all the NGOs interviewed called ‘a fake news campaign’ by the EPP. In the beginning of the legislative process of the file, the interchanges between MEPs, stakeholders and NGOs were considered standard for an EU file, with different organisations and MEPs working to strengthen or weaken the provisions of the regulation. However, when the EPP walked out of the talks, they stopped meeting with those organisations that were supportive of the law and decided to work for the rejection of the whole text (NGO 3, personal communication, 2023). The pivotal point was the resolution of the 5th May 2023, approved by the EPP 2023 Political Assembly in May 2023, which explicitly rejected the NRL (EPP, 2023), as this led the party to reject the proposed law in the AGRI and PECH committees and then to walk out of the negotiations in the ENVI committee. According to another nature NGO, the polarisation of the NRL by the EPP was due to political considerations beyond the proposal: the closeness of the discussions with the 2024 European elections pushed the head of the EPP, Weber, to use it as a kickstart for their campaign (NGO 2, personal communication, 2023). This perspective was also shared by the chair of the ENVI Committee, Pascal Canfin (Renew Europe): according to Canfin, the NRL was used by Weber as a laboratory for an alliance between EPP, ECR and ID and was the signal of a battle on the right between Von der Leyen’s position on the Green Deal and ‘European Trumpism, nature- and climate-sceptic’ supporters (Schaub, C., 2023). According to another nature NGO, the position of the EPP had two goals: from an electoral perspective, it was a way to strengthen the ties with COPA-COGECA and the farmers and rural communities ahead of the European elections, in response to the rise in the

Netherlands of the Citizens-Farmers Movement (BBB) at the Provincial elections in March 2023; from a parliamentary perspective, it was a show of force to prove that ‘nothing can be done without the EPP’ (Nature NGO 3, personal communication, 2023). The first objective was confirmed by the leader of the EPP, Weber, who, speaking at the debate on the State of the European Union on 13th September 2023, reiterated that the ‘EPP supported 32 out of 34 of Green Deal files. [...] Producing [...] more food, not less, is our answer to cut inflation on food prices. The EPP is farmers’ party, and we are the party of the rural areas’ (European Parliament’s Multimedia Centre, 2023). As far as the second objective is concerned, senior EPP politician, Pieter Liese, considered the vote in the ENVI committee as evidence of a ‘nex equilibrium’ within the Parliament, stating that ‘[t]his is a changing time now, they will understand that EPP needs to be in the gravity center of the European Parliament’ (Guillot, L., & Wax, E., 2023-a). The polarisation of the EPP on the issue was confirmed by their unavailability to meet with organisations supporting the law, including businesses, which normally are close to the party, or when meetings took place to refuse to engage in a meaningful conversation (Nature NGO 2, personal communication, 2023). A nature NGO further declared that the positions of the parties became entrenched in party lines, with the EPP ‘whipping’ its members to vote against; an open discussion presenting different views through a hearing with experts would not have helped. Nonetheless, the Renew Europe group organised internal seminars which included stakeholders, and those were considered crucial for the approval of the law, as the Renew Europe group was the balance between the two blocks in favour and against the law (Nature NGO 2, personal communication, 2023). Eventually, the NGOs interviewed agreed that in the end, the vote in the Plenary was not about the policy content of the law, but about the political disagreements over environmental legislation at the EU level.

#### 4.2 The ‘mediatisation’

The NGOs interviewed agreed that the NRL had a mediatic impact above the average normal EU legislation, even if it did not reach the core of the political discussion in the national media of the Member States (Nature NGO 3, personal communication, 2023). However, the main difference to the other files was the aggressive ‘fake news’ campaign (as all the NGOs considered it), promoted by the EPP and essentially supported by COPA-COGECA, including the claim that the Law would lead to a global famine or to the destruction of Santa Claus’s home in Lapland. According to one NGO, such a campaign, which started after EPP walked out of the negotiations, was initiated to embolden sceptical MEPs from other parties (especially Renew Europe) and governments to talk or vote against the law. Such a campaign was unexpected for both the Commission and the NGOs, which had a reactive stance against it (Nature NGO 3, personal communication, 2023). In this context, the #RestoreNature campaign had to readapt its strategy to counter the disinformation in alliance with scientists and businesses, by coordinating the information flow from Brussels to the territories and the actions taken at the national level (Nature NGO 1, personal communication, 2023; Nature NGO 2, personal communication, 2023). On the usefulness of the ‘mediatisation’ of the NRL, there is no consensus among the NGOs interviewed: two NGOs considered it not useful,

as the MEPs had already taken their positions along the party lines, while another NGO deemed it 'crucial' as it raised the stakes of a possible rejection and could have worked to convince the undecided MEPs.

## **5. Conclusion: the impact of the policy making process of the Nature Restoration Law on the CSOs trust towards the EU institutions**

The three NGOs interviewed are all involved in the EU policy-making process which, as one of them described, is based on the expectation of openness, and the possibility of talking with all policy makers and stakeholders, despite disagreements (Nature NGO 3, personal communication, 2023). Such expectations of an informed and open policy debate are the essence of trust in the EU policy-making process. Therefore, the three NGOs perceived a break in the trust due to the polarisation brought forward by the EPP. Such a polarisation had little effect on the trust in the Commission, which, despite some 'erratic moves' - as one NGO described it - due to the novelty of the situation (Nature NGO 3, personal communication, 2023), tried to save the legislation. It had bigger, yet limited, effects on the Council, with some of the national delegations voting against; however, the fact that, in the end, the regulation was voted, even if Sweden was contrary to it, showed the 'professionalism' of the Swedish Presidency in dividing between the last-minute nationally mandated position and their Council Presidency role as 'honest broker' of the agreement (Nature NGO 2, personal communication, 2023; Nature NGO 3, personal communication, 2023). It did, however, have a strong effect on the Parliament: the NGOs expressed distrust towards how the process was dealt with, especially on the polarisation and the shift from an evidence-based policy debate towards a political powerplay, where, as a NGO put it, the MEPs were more interested in the political party play rather than in their constituencies and in the future of the planet (Nature NGO 1, personal communication, 2023). The feeling is that the EPP move was an out of the ordinary action, and that the situation came back to the normal with the trilogue negotiations, where, despite the unusual dynamic of the Parliament having a less ambitious position than the Council, there is trust in that stage of the policy-making process, in the role of the Commission in bringing the technical arguments in favour of the law, as explained in the impact assessment, and in the importance of continuing the mobilisation in providing the negotiating teams with arguments and in continuing the public pressure, as the trilogue meetings are not public (Nature NGO 2, personal communication, 2023).

Regarding the overall impact of the NRL on the trust in the EU policy-making process, the reactions were mixed: for one individual interviewed, the lack of seriousness with which the MEPs dealt with the issue lowered their trust in the MEPs (Nature NGO 1, personal communication; 2023); the other two NGOs still have trust in the EU policy-making process. The unexpected position of the EPP, according to one NGO, was due to happen in the end with one policy file or another, and it is up to the CSOs to learn how to react to such a possibility happening again. There is, however, a more substantiated fear of the impact that such a political stance from the EPP will have in the progress of

several policy files linked to the environmental legislation, which a NGO believes the Commission will put on hold due to the fear of a possible rejection by the EPP (Nature NGO 3, personal communication, 2023).

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# Annex 1: survey questionnaire

## EXPLANATIONS:

- *Programming instructions are in blue font colour*
- *\*mandatory question*

## Introduction

As a **pan-European civil society organisation (CSO)**, we want to hear about your experiences with, and attitudes towards, the European Union (EU) and its institutions. The survey addresses the role of trust in your activities, principles of governance, the performance of EU institutions, and your perception of, and opinion on, processes at EU level, such as CSOs' participation and funding. In addition, there are some questions about your organisation.

**We want to represent all CSOs at EU level in our recommendations to strengthen our unity and take all aspirations into account.** We want to hear from non-governmental and non-profit organisations, as well as foundations, which advocate at the European level. You have the option to not disclose your organisation's name and to not answer a question if it is sensitive in any way.

The survey takes about **15 minutes** and runs until **16 March 2023**.

Here you can download a PDF version of the questionnaire to see the questions before starting the survey. You also have the option to save your responses and continue later.

We recommend answering the survey on a large screen (computer or laptop).

If you have any questions or encounter problems when answering the survey, please contact [XXX@civilsocietyeurope.eu](mailto:XXX@civilsocietyeurope.eu).

The survey is part of the EU-funded [EnTrust Project](#) that Civil Society Europe (CSE) is carrying out together with seven European universities. The project examines trust and distrust in different governance levels. The answers to this survey will provide insights into the relationship between CSOs and EU institutions and feed into a manual for public authorities on civil dialogue. Your participation is key to understanding what you value and wish for when engaging with EU institutions so that diverse perspectives are taken into account in the development of the manual.

Survey responses are saved in Civil Society Europe's cloud storage, which is protected by a password. Anonymised survey data might be shared with project partners, but not with third parties. You have the right to access, view, and edit the information you provide within the time frame of the research study (until July 2023). You have the right to request to be removed as a participant from the study and have your data removed. Your personal data will be automatically deleted at the latest by January 2024.

Your responses are stored on the European server of Zoho Survey, in compliance with GDPR.

Q0. Are you happy to start the survey?\* [single choice]

1. Yes
2. No [screen out]

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Answers should reflect your experiences and attitudes as a representative of your organisation and not as an individual.

Q1. What is your main field of activity?\* [drop-down, single choice]

1. Ageing and older people
2. Agriculture, forestry and fishing
3. Animal welfare and wildlife
4. Anti-racism and anti-ethnic discrimination
5. Arts and culture
6. Banking and financial services
7. Child rights and welfare
8. Civic space
9. Consumer rights
10. Democracy and governance
11. Digitalisation and information technology
12. Economy and trade
13. Education and training
14. Employment and labour markets
15. Energy
16. Environment and climate action
17. Food safety
18. Foreign affairs and security policy
19. Health

20. Housing
21. Humanitarian aid and civil protection
22. International co-operation and development
23. Justice and fundamental rights
24. LGBTQIA+ rights and advocacy
25. Media and journalism
26. Migration and asylum
27. Persons with disabilities
28. Poverty alleviation and social affairs
29. Regional and minority movements
30. Sports
31. Volunteering
32. Women's rights and gender issues
33. Youth rights and empowerment
34. Other (Please specify) [\[open text box\]](#)

Q2. What is the legal status of your organisation?\* [\[single choice\]](#)

1. Non-governmental organisation, platform, network or similar
2. Non-profit social enterprise
3. Foundation
4. Other (Please specify) [\[open text box\]](#)

Q3. What is your organisation's geographic reach?\* [\[single choice\]](#)

1. Europe
2. Global

Q8. Which decision-making EU institution(s) did you engage with in the last five years?\* [\[multiple choice\]](#)

1. European Commission



2. European Parliament
3. Council of the EU
4. European Council
5. Other
6. None [exclusive]
98. Don't know [exclusive]

[IF Q8 = 5]

Q8\_5. Which other decision-making EU institution(s) did you engage with in the last five years?

[open text box]

[IF Q8 = 6]

Q8\_6. Why didn't you engage with any decision-making EU institution? Please explain shortly.

[open text box]

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The first part of this survey asks about trust in the EU and its institutions. Specifically, the relevance of trust and distrust for the activities of your organisation and developments over time. This part contains 6 required questions.

### TRUST & WORK

Q01. How would you describe trust in the EU from the perspective of your organisation. You can use keywords. Don't think too much about it.

[open text box]

Q02. How would you describe distrust in the EU from the perspective of your organisation. You can use keywords. Don't think too much about it.

[open text box]

Q32a. Would you say that trust in the EU and its institutions is important for the activities of your organisation?\* [single choice]

1. Very important
2. Important
3. Moderately important
4. Slightly important
5. Not important
98. Don't know

[IF Q32a = 1-5]

Q19. Why is trust (not) important for the activities of your organisation ?

[open text box]

Q33a. Would you say that distrust in the EU and its institutions is important for the activities of your organisation?\* [single choice]

1. Very important
2. Important
3. Moderately important
4. Slightly important
5. Not important
98. Don't know

[IF Q33a = 1-5]

Q21. Why is distrust (not) important for the activities of your organisation?

[open text box]

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## TRUST OVER TIME

Q30. Overall, has your organisation's level of trust in the EU and its institutions changed over time?\* [grid, single choice per row]

### COLUMNS

1. Increased

2. Rather increased
3. Stayed the same
4. Rather decreased
5. Decreased
98. Don't know

#### ROWS

1. European Union
2. European Commission
3. European Parliament
4. Council of the EU
5. European Council

[IF Q30 = 1,2,4,5]

Q30\_1. Why has your organisation's level of trust changed over time?

[open text box]

Q301. Based on your organisation's experience, have the EU and its institutions become more or less trustworthy over time?\* [grid, single choice per row]

#### COLUMNS

1. More trustworthy
2. Rather more trustworthy
3. Stayed the same
4. Rather less trustworthy
5. Less trustworthy
98. Don't know

#### ROWS

1. European Union
2. European Commission
3. European Parliament

4. Council of the EU
5. European Council

[IF Q301 = 1,2,4,5]

Q301\_1. Can you explain why the EU and its institutions have become more or less trustworthy over time?

[\[open text box\]](#)

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### BEING TRUSTED

Q34. Based on your organisation's experience, would you say that EU institutions overall have become more or less trusting of CSOs over time?\* [\[single choice\]](#)

1. More trusting
2. Rather more trusting
3. Stayed the same
4. Rather less trusting
5. Less trusting
98. Don't know

[IF Q34 = 1,2,4,5]

Q34\_1. Why would you say that EU institutions have become more or less trusting of CSOs? Please give examples.

Q36. Would you say that being trusted by the EU and its institutions is important for the activities of your organisation?\* [\[single choice\]](#)

1. Very important
2. Important
3. Moderately important
4. Slightly important
5. Not important

98. Don't know

[IF Q36 = 1-5]

Q36\_1. Why would you say that being trusted is or is not important for your activities?

[open text box]

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The second part of this survey addresses principles of governance and how you rate and perceive their implementation at EU level. The questions aim to better understand the relationship between your organisation and EU institutions based on your expectations and experiences. Specifically, they cover the topics of administration, participation, funding, and civic space. This part contains 13 required questions.

### GOVERNANCE PRINCIPLES

Q10. From the perspective of your organisation, how do you rate the implementation of the following principles of governance at EU level? \* [grid, single choice per row]

#### COLUMNS

1. Very Good
2. Good
3. Acceptable
4. Poor
5. Very Poor
98. Don't know

#### ROWS [RANDOMISE]

1. Transparency and openness
2. Participation
3. Accountability
4. Effectiveness
5. Efficiency
6. Integrity
7. Predictability and reliability
8. Responsiveness

## 9. Credibility

Q9. How important, if at all, are the following principles for your organisation's confidence in EU institutions?\*

[grid, single choice per row]

### COLUMNS

1. Extremely important
2. Very important
3. Important
4. Moderately important
5. Slightly important
6. Rather not important
7. Not important at all
98. Don't know

### ROWS [RANDOMISE]

1. Transparency and openness
2. Participation
3. Accountability
4. Effectiveness
5. Efficiency
6. Integrity
7. Predictability and reliability
8. Responsiveness
9. Credibility

QA1a. Do you want to add a principle that is important for your organisation but is currently missing in the list above?

QA1b. Can you explain why some principles are more important than others (if that is the case)? Are there differences between EU institutions?

[open text box]

Q18. To what extent can you rely on the EU institutions below to address your organisation's concerns? \* [\[grid, single choice per row\]](#)

#### COLUMNS

1. To a very large extent
2. To a large extent
3. Somewhat
4. Little
5. Not at all
97. Not applicable
98. Don't know

#### ROWS

1. European Commission
2. European Parliament
3. Council of the EU
4. European Council

[\[IF Q18 = 1-5\]](#)

QA2. Please explain why you can or cannot rely on the aforementioned EU institutions.

[\[open text box\]](#)

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#### INDICATORS OF GOVERNANCE PRINCIPLES

Q12. From the perspective of your organisation, please indicate how much you agree or disagree with the statements below related to EU administration and accountability. \* [\[grid, single choice per row\]](#)

#### COLUMNS

1. Strongly agree
2. Agree
3. Undecided
4. Disagree
5. Strongly disagree

98. Don't know

99. Prefer not to say

ROWS [RANDOMISE]

1. EU institutions generally accept being held accountable
2. There are sufficient tools within EU institutions to hold them accountable
3. EU institutions have not adequately addressed the issue of revolving doors
4. The European Ombudsman is effective in ensuring good administration at EU level
5. Cases of maladministration are adequately investigated and addressed by EU institutions

*[The phrase "revolving door" describes the practice of public officials or employees transitioning from public service to lobbying positions]*

Q13a. From the perspective of your organisation, please indicate how much you agree or disagree with the statements below related to EU decision-making in your field of work.\* [grid, single choice per row]

COLUMNS

1. Strongly agree
2. Agree
3. Undecided
4. Disagree
5. Strongly disagree
98. Don't know
99. Prefer not to say

ROWS [RANDOMISE]

1. My organisation is rarely disappointed by the decisions of EU institutions
2. EU institutions are proactive in engaging in dialogue with CSOs
3. It is easy to get information about the decision-making process
4. EU institutions engage primarily with large CSOs



Q13b. And how much do you agree or disagree with the statements below that are also related to EU decision-making in your field of work?\* [grid, single choice per row]

COLUMNS

1. Strongly agree
2. Agree
3. Undecided
4. Disagree
5. Strongly disagree
98. Don't know
99. Prefer not to say

ROWS [RANDOMISE]

1. EU institutions ensure a good balance between different stakeholders' interests in the decision-making process
2. EU institutions care more about corporate than CSO perspectives in the decision-making process
3. EU decision-makers are generally honest with CSOs in their dialogue

QA3. Please give examples of situations that you thought of when answering the questions above. Are there differences between EU institutions?

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Q151. As an organisation, do you consider yourself as...\* [grid, single choice per row]

COLUMNS

1. Almost always
2. Often
3. Sometimes
4. Rarely
5. Never
98. Don't know

#### ROWS [RANDOMISE]

1. ...being involved in EU decision-making?
2. ...being listened to by EU institutions?
3. ...being respected by EU institutions ?
4. ...being recognised by EU institutions?
5. ...a partner to EU institutions? [IF Q8 = 1-5]
6. ...having an impact on EU decision-making through participation opportunities?  
[IF Q8 = 1-5]

Q152. And how important, if at all, is it for your organisation's trust in the EU to...?\*

[grid, single choice per row]

#### COLUMNS

1. Very important
2. Important
3. Moderately important
4. Slightly important
5. Not important
98. Don't know

#### ROWS [RANDOMISE]

1. ...be involved in EU decision-making?
2. ...be listened to by EU institutions?
3. ...be respected by EU institutions ?
4. ...be recognised by EU institutions?
5. ...be a partner to EU institutions?
6. ...have an impact on EU decision-making through participation opportunities?

QA7. Please give examples of situations that you thought of when answering the questions above. Are there differences between EU institutions?

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## FUNDING

Q27. Do you receive or apply for EU funding?\* [\[single choice\]](#)

1. Yes, I receive EU funding
2. Yes, I apply for but do not receive EU funding
3. No
99. Prefer not to say

[\[IF Q27 = 3\]](#)

Q27\_1. Why do you not apply for funding?

[\[open text box\]](#)

[\[IF Q27 = 1-2\]](#)

Q291. In the last three years, has your organisation experienced obstacles in accessing EU resources/funding? [\[single choice\]](#)

1. Often
2. Sometimes
3. Rarely
4. Once
5. Never
98. Don't know
99. Prefer not to say

Q292. Please indicate how much you agree or disagree with the statements below from the perspective of your organisation.\* [\[grid, single choice per row\]](#)

## COLUMNS

1. Strongly agree
2. Agree
3. Undecided
4. Disagree

- 5. Strongly disagree
- 98. Don't know
- 99. Prefer not to say

**ROWS [RANDOMISE]**

- 1. The process of awarding EU funding to CSOs is transparent
- 2. I can rely on the EU to manage grants in a way that is beneficial to CSOs
- 3. My organisation is satisfied with participatory processes on funding at EU level
- 4. The information on EU funding allocation that is available meets the expectations of my organisation
- 5. The management of EU grants by Members States reduces my confidence in funding procedures

QA5. Can you give examples of situations that you thought of when answering the questions above?

[\[open text box\]](#)

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**CIVIC SPACE**

QCS1. How important, if at all, is the EU's support of CSOs' advocacy work for your organisation's trust in its institutions?\* [\[single choice\]](#)

- 1. Very important
- 2. Important
- 3. Moderately important
- 4. Slightly important
- 5. Not important
- 98. Don't know

QCS2. How important, if at all, is the EU's defence of CSOs' advocacy work for your organisation's trust in its institutions? \* [\[single choice\]](#)

- 1. Very important
- 2. Important

- 3. Moderately important
- 4. Slightly important
- 5. Not important
- 98. Don't know

QCS3. From the perspective of your organisation, please indicate how much you agree or disagree with the statements below.\* [\[grid, single choice per row\]](#)

#### COLUMNS

- 1. Strongly agree
- 2. Agree
- 3. Undecided
- 4. Disagree
- 5. Strongly disagree
- 98. Don't know
- 99. Prefer not to say

#### ROWS [\[RANDOMISE\]](#)

- 1. My organisation can trust the EU to defend civic space and fundamental rights in Member States
- 2. The EU puts economic interests above European values
- 3. The EU promotes civic space within the EU as much as it does outside of the EU
- 4. The EU speaks up against attacks on civic space and fundamental rights outside of the EU [\[IF Q3 = 2\]](#)
- 5. CSOs are supported by the EU in their advocacy work in the EU [\[IF Q3 = 1\]](#)
- 6. CSOs are supported by the EU in their advocacy work outside of the EU [\[IF Q3 = 2\]](#)

*[Civic space is the environment that enables people and groups – or ‘civic space actors’ – to participate meaningfully in the political, economic, social and cultural life in their societies. Vibrant civic space requires an open, secure and safe environment that is free from all acts of intimidation, harassment and reprisals, whether online or offline. (UN Guidance Note on Protection and Promotion of Civic Space)]*

[IF QCS1, QCS2, QCS3 ≠ 98 or 99]

QA6. Can you give examples of situations that you thought of when answering the questions above?

[open text box]

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The last part of this survey asks about the ways in which your organisation has engaged with different EU institutions (if at all) and about general characteristics of your organisation. It contains 3 required questions and is the last part of this survey.

### ENGAGEMENT WITH EU INSTITUTIONS

[IF Q8 = 1]

Q8\_1. In which way do or did you engage with the European Commission in the last five years? [multiple choice]

1. Meetings
2. Consultations
3. Expert groups
4. Stakeholder dialogues
5. Citizens' dialogues
6. Monitoring committees
7. Citizens' panels
8. Other
98. Don't know [exclusive]
99. Prefer not to say [exclusive]

[IF Q8 = 2]

Q8\_2. In which way do or did you engage with the European Parliament in the last five years? [multiple choice]

1. Meeting with MEP(s) or political group(s)
2. Participation at hearings or committee meetings
3. Submission of petition

- 4. Other
- 98. Don't know [exclusive]
- 99. Prefer not to say [exclusive]

[IF Q8 = 3]

Q8\_3. In which way do or did you engage with the Council of the EU in the last five years?  
[multiple choice]

- 1. Informal council meetings
- 2. Meetings with a national permanent representation
- 3. Meetings with the Council Secretariat
- 4. Meetings with EU Presidencies
- 5. Other
- 98. Don't know [exclusive]
- 99. Prefer not to say [exclusive]

[IF Q8 = 4]

Q8\_4. In which way do or did you engage with the European Council in the last five years? [multiple choice]

- 1. Sent a letter
- 2. Meeting with the president or members
- 3. Other
- 98. Don't know [exclusive]
- 99. Prefer not to say [exclusive]

Q38. How would you rate your participation opportunities at EU level compared to similar organisations?\* [single choice]

- 1. Far above average
- 2. Above average
- 3. Average
- 4. Below average

5. Far below average

98. Don't know

[IF Q38 = 1-5]

QA4. Can you give examples of situations that you thought of when answering the previous question?

[open text box]

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Q4. In which country is your organisation located? If you have offices in several countries, please indicate the location of the office from where you do most of your pan-European work.\* [single choice]

1. Belgium
  2. Other EU country
  3. Non-EU but EFTA country or United Kingdom
  4. EU candidate country
  5. Non-EU and non-candidate country
99. Prefer not to say

Q5a. How large is the team of your organisation (including interns and part-time employees, but excluding volunteers)? Please insert a number.

[open text box, max. 5 characters]

Q5b. Do you have volunteers? [single choice]

1. Yes
2. No

Q6. What is the annual turnover of your organisation (in euros)? Please give your best estimate.\* [single choice]

1. Up to 80,000 €



2. Between 80,001 and 250,000 €
3. Between 250,001 and 500,000 €
4. Between 500,001 and 1,000,000 €
5. Between 1,000,001 and 3,500,000 €
6. Between 3,500,001 and 5,000,000 €
7. Above 5,000,000€

98. Don't know

99. Prefer not to say

QA9. Would you like to add anything in relation to what you answered or what we asked?

[\[open text box\]](#)

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Q7a. What is the name of your organisation? The name will not be published or shared, but it might help us to better understand your answers.

[\[open text box\]](#)

Q7b. If you are happy for us to contact you with any questions regarding your answers, please type in your email address below.

[\[open text box\]](#)

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QFG. In March 2023, we will organise focus groups to follow up on this survey and discuss good practices of CSOs' involvement in EU decision- and policy-making. The focus groups will also feed-into the manual on civil dialogue for public authorities. If you are interested in participating, please share below your name and contact details.

The information will only be used to contact you for the focus groups. It will not be published in connection with this survey or shared with anyone. We will store your information separately from your survey answers.\*

[\[open text box\]](#)

100. Not interested

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Thank you so much for participating in this survey on behalf of your organisation.

If you want to discuss the questions further, please write to: [XXX@civilsocietyeurope.eu](mailto:XXX@civilsocietyeurope.eu).

QPUB. If you want to receive the publications linked to this survey, please indicate your email address below.

[\[open text box\]](#)

## Annex 2: focus group discussion guide

### Introduction:

Thank you for taking the time to participate in this focus group today. Some/most of you already took part in the survey on trust in EU institutions and you are aware of the EnTrust project and the objectives of our research.

[For those of you who do not know about it: The EnTrust Project is financed by the Horizon 2020 programme and is carried out by Civil Society Europe together with seven European universities. The project examines trust and distrust in different governance levels from different perspectives (citizens, social movements, the media, etc.). CSE contributes the perspective of CSOs active at the EU level. We conducted a survey and now the focus groups to understand the (dis)trust relationship between CSOs and EU institutions and their determinants. Both activities provide insights into the functioning of democracy and EU governance from your perspective, and they feed into a manual for public authorities on civil dialogue.]

The input for the manual will be the main focus of this discussion group today. Firstly, we will shortly talk about differences between EU institutions, departments, and DGs in terms of (good) governance and engagement with CSOs. Secondly, we will talk about specific actions initiated by your organisation that have shaped the (dis)trust relationship. Lastly, we will do a mapping of the current and the desired level of civil participation in the political decision-making process at EU level.

**[IF IN PERSON]** Before we start, I would kindly ask you to sign the privacy notice in front of you so that we have your consent to record the discussion and you can. Please confirm that you are OK with the discussion being recorded.

**[IF ONLINE]** You all have received the privacy notice to indicate up to which detail we can refer to you or your organisation in our reporting. If you haven't filled it in yet, please do so now. Please confirm that you are OK with the discussion being recorded.

I don't want the discussion to take a purely question-answer format, so please don't hesitate to ask questions to each other and add anything that you think is important but not directly asked by me.

To start the discussion, I invite each of you to introduce and say a bit about yourself.

### Institutional and interpersonal trust:

The survey often asked about EU institutions in general. However, as some participants have pointed out, there can be large differences between institutions, units, or DGs, either on an institutional or personal level.

- Do you agree with the statement "you cannot trust institutions but only persons in the institutions"? Why? (*PROMPT: What is the difference between institutional and personal trust?*)

- What is your personal experience of engaging with individuals or different units/DGs; did or do you find some more trustworthy than others? Why?

#### Case studies:

Do you recall a campaign or activity that you initiated that strengthened your trust in EU governance? The initiative could have been either in support or opposition to a EU policy development or decision.

- What was it about? (*PROMPT: background information, motivation to start it,...*)
- Why did it strengthen your trust in EU governance? (*PROMPT: response from EU institution – which?, did they show trust?, impact of initiative – why this impact?, change to relationship with person/EU institution in the long-term?,...*)

Do you recall a campaign or activity that you initiated in support or opposition to a EU policy development or decision that decreased your trust in EU governance?

- What was it about? (*PROMPT: background information, motivation to start it,...*)
- Why did it decrease your trust in EU governance? (*PROMPT: response from EU institution – which?, did they show distrust?, impact of initiative – why this impact?, change to relationship with person/EU institution in the long-term?,...*)
- If applicable: can distrust be useful in some way?

#### Civil participation mapping:

I would like to use the remaining time to discuss the current level of civil participation in the political decision-making process at EU level, and what are recommendations to improve it (if at all). For this exercise, I will draw on the Code of Good Practice for Civil Participation of the Council of Europe. Maybe you are familiar with it.

The Code specifies four levels of civil participation in the decision-making process, namely: information, consultation, dialogue, and partnership. They are indicative for low to high levels of participation.

1. **Information** refers to access to information and the one-way provision of information (from public authority to CSO/the public)
2. In **consultations**, public authorities ask CSOs/the public for their opinion on a specific policy topic or development. The public authorities initiate consultations, define the topic, and inform CSOs/the public about current policy developments.
3. A **dialogue** can be initiated by either the public authority or a CSO. The dialogue can be broad/general and refer to a (regular) exchange on mutual interests or objectives. For example, open public hearings or specialised meetings between CSOs and public authorities. The dialogue can also be collaborative and focus on a specific policy development, with the objective to formulate a joint recommendation, strategy or legislation.

4. In a **partnership**, there are shared responsibilities in each step of the political decision-making process. Partnership can include activities such as the delivery of services by the CSO or the establishment of co-decision-making bodies, for example for resource allocation. But CSOs continue to be independent.

The Code defines six consecutive steps of the political decision-making process, which are:

1. Political agenda setting
  2. Policy drafting
  3. Decision (on legislation)
  4. Policy implementation
  5. Monitoring of the implemented policy
  6. Reformulation of the policy
- Which level of participation would you like to have? Why?
  - At which step do you perceive a gap between the level of participation that you would like to have and the level that you currently have? *(PROMPT: Everyone agrees with this? Are there differences between policy fields? Are there differences between EU institutions, political groups, and/or DGs?°*
  - Should anything change in the way participation is done at the moment?
  - Can you think of good practice examples based on your experience?

To finish the focus group, I would like to ask each of you to look again at the whiteboard and tell me what it means for your trust in EU governance to have/to not have a discrepancy between the level of participation that exists and the level you would like to have.

**End:**

The time is almost over. Is there anything else that you want to add to what we have discussed today?

Thank you very much for your time. We will now write the report based on the desk research, the survey, and the focus groups. The findings will then be used to develop a manual for public authorities on civil dialogue. We will organise workshops to discuss the manual together with decision makers. If you are interested in participating, please let me know. The workshop will probably be organised in late June or in October 2023.