

Civil society and the Council of Europe – a discussion paper

September 2023

This paper is about improvements that can be achieved in the relationship between the Council of Europe and civil society, with mutual benefits in achieving more effective promotion and protection of human rights, democracy and human rights. It wants to contribute to the “review and further reinforcement of the Organisation’s outreach to, and meaningful engagement with, civil society organisations and national human rights institutions” that the [Reykjavik Summit](#) called for. This is a two-sided process. On the one hand, this paper concludes that civil society should deepen and widen its engagement with the Council of Europe. On the other hand, such a development can be stimulated and assisted by changes in the way the organisation relates to and interacts with civil society.

The paper is based on analysis and proposals in CURE’s [Campaign Manifesto](#) of 2022 and in [The Hague Civil Society Declaration on Council of Europe Reform of 2023](#), issued by a ‘Civil Society Summit’ convened by CURE and the Conference of International NGOs (CINGO), the body in which all NGOs with [participatory status](#) granted by the CoE take part. Much of the information comes from the overview provided by the [Civil Society Portal](#) that was launched by the Council of Europe last year, but as the Reykjavik Declaration says, further reinforcement of civil society engagement is important.

1. Input on standard-setting

Civil society representatives can take part in meetings of [Inter-governmental Committees](#), that often set up drafting or expert groups to look into specific issues. As this page of the Council of Europe’s website says, “Work in committees lies at the heart of the Council of Europe. It allows the direct participation of governmental and independent experts in our work.” [Participation rules](#) for civil society are described in the Civil Society Portal. NGOs can take part as representative of the Conference of International NGOs (CINGO) or admitted directly as observers (usually by consensus), which may lead to exclusion of pertinent and valuable voices) by the respective inter-governmental Committees. No financial support is available for NGO expenses on their participation. In practice, the extent of NGO participation varies considerably, with little apparent logic. **Identifying best practices and hurdles for NGO participation in inter-governmental Committees, and defining future practices that can be extended to all SCs should be part of the review announced in Reykjavik.**

Another mode of requesting input from civil society and other interested parties is by means of a public consultation. Such a consultation was [undertaken recently](#) by the Steering Committee on Media and Information Society on the draft Recommendation on Countering SLAPPs (Strategic Lawsuits against Public Participation). Such public consultations not only can improve the product itself, but also the awareness among civil society of its existence and the likelihood of future interest in monitoring how states comply with it (see section 2). **The use of Public Consultations should become a standard mode of requesting input. They should be accompanied by feedback on the outcome of the Consultation and its impact on the final product.**

There are greatly varying practices of reporting back by civil society representatives on Steering Committees to the wider NGO community – either inside CINGO or beyond CINGO (since many NGOs with a potential interest are not directly represented in CINGO). **Easy-to-access and attractively written reporting on standard-setting developments relevant to civil society should be developed (see also section 4).**

Some important developments of Council of Europe activities take place with little civil society accompaniment, also in cases where this would be desirable. An example is the Ukraine Register of Damages – discussions around which damages will be registered, how a future reparations scheme can be shaped and where funds will be coming from are typical issues on which civil society should be able to contribute. **Both Ukrainian civil society and colleagues from states that are party to the Register should closely follow progress and provide advice and advocate on how to come to an effective and fair reparations program.**

2. Implementation of standards

Once standards have been agreed, the key issue becomes their implementation. Many NGOs take part in submitting complaints to the ECtHR on violations of the European Convention on Human Rights. Over the last decade the **implementation of ECtHR judgments** has gradually received more attention, with civil society given the opportunity to make submissions on (lack of) implementation (Rule 9.2 submissions). Civil society has self-organized on this activity in the [European Implementation Network](#). Also, a number of members of the Conference of INGOs have a special role in the **submission of collective complaints under the European Social Charter**.

Beyond this, a large number of other treaties exists, setting standards on aspects of human rights, the rule of law and democracy. The level of monitoring of states' compliance with these treaties varies greatly. Some treaties have their own monitoring committees but most don't. In addition to treaties, a great number of soft law standards (usually called 'recommendations') have been produced by the CoE. Yet other processes are providing expert advice based on the state of the art in certain fields – for example the work of the Venice Commission on the rule of law. **CURE asks for all these other standards to be taken more seriously and for continuing and evident lack of compliance by member states to be put on the agenda of the CM. All of the Council's treaties should have a monitoring mechanism, and also the level of follow-up of its soft law 'recommendations' should be recorded. Monitoring committee could create their own accreditation mechanisms for NGOs. On many points, civil society can endeavor to set up its own reporting processes, but the clearer it is that these will be taken serious in Strasbourg exchanges, the more likely this is to happen.**

The latter points are particularly relevant for the 'democracy' field, which has little well-codified standards at treaty level, in contrast to the 'human rights' field. **The Reykjavik Summit's emphasis on democracy, among other things by pronouncing the Reykjavik Principles will only attain meaning by steps to monitor and scrutinize implementation of standards** such as the [Principles for Good Democratic Governance](#) that were adopted by the CM this month. This also applies to standards that underlie the proper democratic functioning of society, e.g. the [Charter on Education for Democratic Citizenship and Human Rights](#) of 2010, the implementation of which was reviewed in 2012 and 2017 but not since then.

3. Protection of civic space

The Council of Europe works in a number of ways for the protection of freedom for people to discuss and organize. Verdicts of the Court correct governments that impose too stringent limitations. The Commissioner for Human Rights pays a lot of attention to the freedom of [human rights defenders](#) to carry out their work. The Conference of INGOs is also active, through country visits and reports of its Expert Council on NGO Law. PACE monitoring rapporteurs, and some of its thematic monitoring, often provide explicit observations and recommendations on civic space. [At the moment](#), 11 countries are subject to 'full monitoring', three to 'post-monitoring dialogue' and all other countries are covered by a standard review. **It would be important to require from states that they respond in a meaningful way to the reports of PACE monitors, surely after they have been endorsed by PACE. A procedure for follow-up of both recommendations by the Commissioner and by the PACE should also include steps by the Secretary General and/or by the Committee of Ministers.**

The Declaration on Council of Europe Reform that was issued on 1 March 2023 by The Hague Civil Society Summit, suggested "developing a special monitoring tool for freedom of association and the situation of human rights defenders, modelled on the CoE Platform for the Safety of Journalists." This would lead to the creation of one central, forceful presentation on civic space in Europe that is easily accessible and where government responses on their policies that affect civic space would also be recorded. **CoE mandate holders should use (and be seen to use) this information when they carry out country visits.**

4. National-level attention and support for the Council of Europe

One of the roles that the participatory status of the Council of Europe assigns to NGOs is "to make known the work of the Council of Europe to society". Since only international NGOs can get participatory status, reaching societies in the CoE member states mean that national chapters or members of these INGOs must be activated. It is probably fair to conclude that this does not work very well; there usually isn't a direct channel from a Strasbourg INGO representative to national NGOs that could [possibly be interested. To deal with this, Irish president Michael Higgins in an address to PACE in 2022 argued for the creation of "associations of the Council of Europe" [and the UN] that would "deliver the debate and the options and the discussion to the street".

Alternatives to the creation of new organisations could be explored, such as the creation of national NGO platforms to support the CoE and its standards. Many of these national NGOs would probably be member also of one the INGOs that has participatory status, but a more direct avenue to inform any interested NGO of relevant Council of Europe developments seems to be needed. A monthly newsletter for example could inform them about developments in standard-setting, timelines for monitoring of standards, and advocacy initiatives which they can join. At the same time, the Civil Society Portal should be continuously kept up-to-date, a calendar of civil society engagement opportunities could possibly be added.

Ideally such an information and engagement programme would be run by civil society itself and be insulated from interference of member states who may have their own interests in promoting or repressing certain pieces of information or certain advocacy priorities. **The review of civil society relations that the Reykjavik Summit called for should take up the need to reach out to and activate national civil societies more directly and in more appealing ways, and propose ways to independently finance civil society work related to the Council of Europe.**