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NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
Subject:	Exchange of views on the EU Charter of Fundamental Rights and the Civic Space

The Charter of Fundamental Rights of the European Union (the Charter) is one of the most modern and comprehensive legally binding fundamental rights instruments. It obliges all Union institutions, bodies, offices and agencies, as well as the Member States, when implementing Union law, to respect the rights, observe the principles and promote the application thereof. This needs to be done in accordance with their respective powers and respecting the limits of the powers of the Union. All Member States have undertaken to guarantee the rights and freedoms enshrined in the Charter for all people within their jurisdiction, taking into account that fundamental rights are universal, indivisible, interdependent and interrelated.

The Charter and the Civic Space

Civil society organisations (CSOs) and human rights defenders are essential in our constitutional democratic societies. They contribute to the promotion and the protection of the values and rights enshrined in Article 2 of the TEU and in the Charter. In addition, they help ensure that the Charter is properly applied, thereby increasing the impact of fundamental rights on people's lives. They are an indispensable element in the system of checks and balances in a healthy democracy. Unjustified restrictions imposed on them can present a threat to the rule of law.

On 6 December 2022, the Commission presented its Annual Report on the Application of the EU Charter of Fundamental Rights entitled *A thriving civic space for upholding fundamental rights in the EU*. The report shows how important CSOs and human rights defenders are in protecting and promoting fundamental rights. It also shows how important this is in times of crises. For example, in response to the Russian war of aggression in Ukraine, CSOs have been instrumental in countering disinformation, mobilising support for people fleeing the war and documenting atrocities. They have also relayed information about the needs of specific groups.

In addition, the European Union Agency for Fundamental Rights (FRA) continuously follows developments in relation to the civic space. It does so, for instance, through the dissemination of a series of reports, including the 2022 report *Europe's Civil society – still under pressure*.

Protection, Support and Empowerment of the Civic Space

On 21 December 2022, the Presidency presented draft Council Conclusions on the role of the civic space in protecting and promoting fundamental rights in the EU. These were developed within the competent Council body and submitted to the JHA Council for approval (“the Conclusions”). They highlight the need to protect, support and empower CSOs and human rights defenders, so that these can contribute to the effective application of the Charter and protect fundamental rights across the EU. The Conclusions also emphasise the responsibility of the Council, Member States and the Commission in taking further steps in this regard.

It is important to ensure an appropriate environment for CSOs and human rights defenders. The reason is to enable these to pursue their activities in line with Union values without unjustified interference by the State, as required by EU and international standards. Steps should be taken to **protect the civic space** and those active within it.

Challenges relating to the availability, accessibility and sustainability of funding to **support the civic space**, can be tackled, for example, by ensuring a fair distribution of funding through transparent and non-discriminatory criteria. This may be done by publishing and broadly disseminating calls for proposals so that they are widely accessible as well as by simplifying access to flexible funding. At the same time, the funding of CSOs should not solely be dependent on public funds, so as to safeguard their independence.

Steps should also be taken to **empower the civic space**. This is to ensure the meaningful participation of a wide range of CSOs when drafting and implementing legislation and other initiatives across relevant policy areas, including when designing funding opportunities. Furthermore, civil society actors should have the opportunity to assess and express their opinion on how proposed legal and policy measures may affect them, their members, their constituencies, or fundamental rights more generally.

Building on the Conclusions, this **exchange of views** aims to identify the specific measures that can be taken to harness cooperation between Member States, the Council and the Commission on the one hand, and CSOs and human rights defenders on the other. The Director of the FRA is invited to participate in the exchange of views on the basis of this discussion paper, to set the scene on the current state of play for the civic space in relation to the Charter.

In this context, ministers are invited to reflect on the following questions:

- What specific steps should be taken to better protect, support and empower the civic space in your country, including to ensure their effective participation?
- How can EU institutions build on cooperation with CSOs and human rights defenders to improve the development and implementation of relevant legislation and other policy initiatives?