

ifa Edition Culture and Foreign Policy

# Understanding Civil Society in Europe

A Foundation for International Cooperation

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and Rupert Graf Strachwitz

ifa

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Strachwitz

with a contribution by Peter Fischer



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**List of Abbreviations**

COE	Council of Europe
CS	Civil Society
CSO	Civil Society Organisation
ECJ	European Court of Justice
EEA	European Economic Area
EESC	European Economic and Social Committee
EU	European Union
NGO	Non-governmental Organisation
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union

## Acknowledgements

This study was compiled by researchers of the Maecenata Institute for Philanthropy and Civil Society, Berlin, on behalf of the *Institut für Auslandsbeziehungen* (ifa), Stuttgart. The Maecenata Institute extends its thanks to the ifa for providing the opportunity to carry out this systematic research on how civil society is understood in Europe.

The Institute is pleased to have gained the support of Professor Peter Fischer, former Presiding Judge of the *Bundesfinanzhof* [Federal German Fiscal Court], who contributed a special article on civil society within the meaning of European Community Law, a topic we considered to be important in the context of this subject. We would like to thank him especially for his contribution.

In general, the study was drawn up on the basis of an extensive and thorough review of the literature. Furthermore, information was obtained in individual countries to verify the statements and backgrounds of various colleagues. The authors are particularly grateful to Theresa Gehringer, Sotirios Petropoulos, Paul Dekker, Matthias Freise and Hakan Johansson for the information they gave so willingly.

## Foreword

Europe is a common economic area, but it can only grow together as a living place of cooperation through its civil society(s). However, the understanding of civil society has been shaped through different historical and regional influences within Europe. A sensitivity to these contexts is necessary for international cooperation. Understandings differ in terms of sectoral logic, as well as normative evaluations. Last but not least, clarification is also relevant for a common European foreign culture policy with third countries.

Therefore, the present study focuses on answering the following questions: What, historically and systemically, different understandings and workings of civil society exist in Europe? Where do different understandings become a problem of cooperation? What is the international definition of civil society as a basis? How can national and regional differences be used constructively?

I would like to thank the authors of this study, Siri Hummel, Laura Pfirter, Johannes Roth and Rupert Graf Strachwitz, for their excellent work and commitment to this research project. In addition, I would like to thank my ifa colleagues Sarah Widmaier and Anja Schön for their work on the conception, coordination and editing of this project.

Within the framework of ifa's Research Programme "Culture and Foreign Policy", experts investigate current topics of foreign cultural and educational policy (AKBP) and formulate recommendations for action for actors of the AKBP. International cultural relations must be systematically examined in order to develop viable future strategies for transnational cultural exchange.

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**Abstract**

The study on 'Understanding Civil Society in Europe' attempts to give a brief and condensed insight into the composition of civil society in Europe. In particular, it assesses whether there is a European civil society and to what extent it is visible and active in the European public sector. Despite the striking differences with regard to functions, parameters, relationship with the State and the market, and current trends, neither the existence of a European civil society nor its sustainable positioning in the public sphere can be denied. In addition, the issue which movements, organisations and institutions are to be considered part of civil society must be regarded as largely and transnationally settled. Currently, the potential of a dynamic civil society in the defence and further development of an open, cosmopolitan, and democratic society appears to be of particular importance.

## Executive Summary

Civil society as one of the three arenas in the public sphere is a phenomenon which was already known in antiquity. In its current meaning, however, the term is relatively new and has been used more frequently since about 1990. At the same time, it can be said that at a global level there is both quantitative and qualitative growth as well as a consolidation of existing structures on the one hand and an expansion to informal structures on the other.

Previously, the participation of civil society in Germany's foreign policy played a marginal role at best. In view of the significant increase in Germany's responsibility in the world and in the light of the second half of the year 2020, when Germany must take over a position of moderation and leadership such as it has not experienced for decades<sup>1</sup>, it appeared appropriate to provide decision makers and elected officials as well as the media, the interested public and civil society itself with a brief overview of how civil society is perceived in Europe. The key focus was on the development of the following questions:

1. Is there a term for 'civil society' in Europe and beyond its borders which appears to be essentially capable of consensus within Europe and possibly beyond its borders?
2. Are there striking differences in Europe with regard to understanding, mission and focus in civil society?
3. Does the topic of civil society appear to be suitable for enriching Germany's foreign cultural and educational policies?
4. Is there a need for action with regard to an enhanced dialogue with civil society and its increased involvement in the analysis of political changes and the discussions to prepare political decisions?
5. Does civil society appear to be suitable to play an active role in the defence and further development of an open, cosmopolitan and democratically structured society?

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<sup>1</sup> German Council Presidency in the EU (July-December 2020), Chairmanship of the Committee of Ministers of the Council of Europe (November 2020-April 2021), Member of the United Nations Security Council (until December 2020; Chairmanship in July 2020), Presidency, Financial Action Task Force (2020/2021).

**Ad 1: Accepted working definition of Civil Society**

Irrespective of ongoing academic debates and widespread unawareness, it may be assumed today that there is an internationally accepted working definition of civil society. According to this definition, civil society includes numerous movements, organisations and institutions differently composed, and with differing objectives and sizes but nevertheless sharing common characteristics which make them appear different from the state and the market. These characteristics include self-empowerment, self-organisation and voluntary development, a subjective concern for the public interest, a lack of achieving profits as a priority, the prohibition of members to participate in any possible economic success as well as to abstain from exercising any form of governmental authority.

Within Europe, this analytical definition is uncontended, despite the existence of hybrid organisations, and is also applied by the intergovernmental European institutions.

**Ad 2: Differences in understanding, mission and focus**

It comes as no surprise that striking differences exist within Europe, arising from different historical traditions, parameters and perceptions of the state as well as actual needs. For example, the scope of welfare in civil society depends significantly on how the state welfare system has been established, while on the other hand the protest culture of civil society correlates with the culture of participation in the public sector. However, these differences appear to be decreasing. Political movements, especially those in which the informal civil society is involved, have long been transnationally aligned with regard to their focus, organisation (essentially via social media) and objectives. Across Europe, if not worldwide, they are similar. In addition, the different functions (services, advocacy, watchdog, intermediary, community building, self-help, political participation, personal growth) in individual organisations are increasingly being performed as multiple rather than sole activities.

Moreover, at EU level, a joint civil society is gradually developing, mainly due to legal and executive action, while the Council of the European Union continues to attempt to slow this development down. The increasingly numerous European civil society organisations have as yet been unable to make any substantial changes to this.

**Ad 3: Relevance for a Foreign Cultural and Educational Policy**

While for example, the German Federal Ministry of Defence has been dealing with civil-military cooperation for decades, Germany's foreign policy up to now has only marginally addressed the dialogue with civil society. This said, a strategic dialogue with some foundations is now underway, and actively promoted in the Cultural Section of the German Federal Foreign Office. This makes sense because, like cultural and education policy, civil society policy is one of the 'soft powers' in foreign policy which are of significant importance, particularly for Germany. In addition, the Section thus fills a gap in responsibilities, which can only be regarded as positive, especially since civil society policy is not coordinated within the German government and the policy approaches of individual ministries have barely crossed the threshold from a regulation, control, contract, and support mode to a dialogue mode.

**Ad 4: Need for action for increased inclusion of civil society**

A need for action with regard to an enhanced, institutionalised and sustainable dialogue with civil society at a sub-national, national and European level is clearly recognisable. However, this must not be restricted to established organisational structures, as they tend to emphasise their organisation's lobbying agenda. Instead, well-informed experts must be consciously identified and consulted.

The practice of some European countries that use a "carrot and stick" approach to divide civil society into a compliant sub-sector which is financially rewarded and an independent one which is barely functional must, however, be clearly rejected.

Overcoming the as yet significant lack of knowledge in the state sector by offering appropriate information and training at all levels appears to be important.

Establishing a coordinating responsibility for cooperation with civil society also seems desirable.

A clear and public political commitment to a dialogue with civil society on a level playing field and with appropriate operative consequences may significantly prompt such a dialogue. This also applies to the European level, at which the concept of civic dialogue appears to have been gaining special attention since 2019. This would only make sense, however, if a procedure specifically suitable for this were selected, a very concrete topic were offered and the impression avoided that this was being used to mask the expertise of organised civil society.

**Ad 5: Civil society for an active democracy**

It has often been observed that although the current crisis in democracy and the national state as well as the market-based system has been reinforced and made more visible by the COVID-19 pandemic, nevertheless it certainly existed previously. Society as a whole will be faced with challenges on an unprecedented scale which will definitely not be overcome by means of technical adjustments. On the contrary: on the one hand, thinking processes must be initiated and carried out; on the other hand, citizens must be taken on board; thirdly, the trust between them and the “political-administrative system” which has been badly damaged must be restored. This cannot be achieved in Europe and beyond its borders without a strong and independent civil society, a self-confident civic space and an active deliberative democracy (Bessette 1980)<sup>2</sup>. Historical examples such as the environmental movement and the transformation process in Central and Eastern Europe prove that civil society is prepared and able to perform.

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<sup>2</sup> The term ‘deliberative democracy’ was first introduced by Joseph Bessette (1980) and made known by Jürgen Habermas, among others. Cf. A. C. Grayling, *The Good State* (2020), who refers to James Fishkin and the Center for Deliberative Democracy at Stanford University, of which he is the Director (p. 190).

## 1. Civil Society in Europe

In modern society, civil society organisations (CSO) perform an increasingly pioneering role, irrespective of the decision-making authority of parliaments, governments and courts as well as commercial enterprises. This is true for both Europe and every other region in the world. However, there is a particularly remarkable feat about civil society to do with the European process of unification: on the one hand, an active civil society forms the prerequisite for a functioning democracy (cf. Putnam 1993); on the other hand, in Europe as in any new development, citizens must be taken on board. In other words, Europe cannot be created by means of negotiation or administration, and certainly even less so since this Europe cannot become the “United States of Europe” based on a model of the 18th century. Instead, an entirely new structural model needs to be developed (cf. Strachwitz 2016 / 2020) which must necessarily include non-state actors and a system of multiple identities and loyalties. Arguably, the significance of communities of choice in this system will far outweigh communities of fate, i.e. those a person is born into (Khanna 2011, 291/293).

Thus, by way of summarising, the public sphere can no longer do without civil society (CS). This will not change for a long time to come, and is particularly evident when CSOs take over those responsibilities which cannot be carried out by other actors. We were able to observe this, for example, during the 2015 refugee crisis, which could only be overcome with the assistance of volunteers and CSOs. On the other hand, civil society actors have always attracted great attention when active in protest movements. ‘Fridays for Future’ is a case in point. In actual fact, both the responsibilities and the self-perception of CS in the 21st century must be defined much more broadly. Increasingly, these actors are involved as partners in shaping the public sphere. More and more, they are also competitors for the sovereign claim to do so, i.e. a power factor. In this connection it must be of interest whether and to what extent a joint understanding of civil society exists within Europe. This does not imply congruent volumes, fields of activity and self-perception; rather, it merits attention whether the term is comparable, i.e. whether we can identify a European civil society at all. In view of the fact that we most definitely speak of a ‘European culture’, the question arises whether a governmental foreign cultural and educational policy must engage with this issue.

The following is an attempt to give a systematic overview of European CS. While it appears that gaining such an overview is more necessary than ever, this is complicated by the fact that research has only begun to address the topic of civil society intensively in the past 30+ years. The *Johns Hopkins Comparative Nonprofit Sector Project*, which began in 1990,

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is still the largest systematic empirical study on the scope, structure, financing, and role of the non-profit sector today. It has enhanced the perception and self-perception of this sector. In the meantime, a great deal more empirical and theoretical literature is available. The 'Atlas of Civil Society', a report on the worldwide situation of CS which is published annually by the NGO 'Bread for the World', and the *Civicus Civil Society Monitor*<sup>3</sup>, published by the global network CIVICUS (with analyses on space for action and the threats to civil society in approx. 195 countries), are examples of continuously updated databases, but also of the fragility of much of the data found in the public domain.

The public and political discourse is also reluctant to take note of the existence of a European CS as an independent arena in addition to the market and the state. Even today, many political decision-makers and their advisors, as do the media and other multipliers and intermediaries consider it to be marginal, a passing fad of no political relevance. By ignoring an important actor which is often decisive in determining development, as clearly demonstrated by the civil rights movements before the central/eastern European transformation process, for example, the debate is in danger of distorting reality.

Thus, this study also attempts to use insights into history, legal framework, empirical evidence, focus of work, and self-perception to identify the similarities and differences in the European understanding of CS. Nevertheless, this study can only give a very cursory account of the extremely diverse traditions on which European CS can draw today. These range from centuries old charities<sup>4</sup> to the first legal regulation in England (1601) and civic and, on the other hand, workers' clubs throughout Europe, the large welfare organisations (particularly in Germany since the 19<sup>th</sup> century), the numerous trusts and foundations everywhere in Europe, some of which date back to the Early Middle Ages, popular movements such as the suffragettes in England, Poland's 19<sup>th</sup> century freedom movement and the new social movements since the 1960s, to the human and civil rights groups arising in Central and Eastern Europe from 1975 onwards as a result of the Helsinki Final Act.

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<sup>3</sup> 'Civicus Monitor' is a platform which provides information on the current state of civil society and civil freedoms in 196 countries. The data is generated in collaboration with over 20 research institutions. Civil societies are then rated on a scale of 5 (1=open, 2=narrowed, 3=obstructed, 4=repressed, 5=closed).

<sup>4</sup> The *Venerabile Arciconfraternita della Misericordia di Firenze*, probably the world's oldest welfare organisation still in existence, was founded in 1244 and is responsible even today for rescue and ambulance services in Florence, Italy.

## 1. Civil Society in Europe

The focus of this study is not limited to the European Union (EU): ten country clusters were formed, each of which is presented in a chapter. In each cluster, one country was analysed in more depth. For reasons of economic research efficiency, it was not possible to take all of the Member States of the Council of Europe (COE) into consideration. No very small states (Andorra, Liechtenstein, Iceland, Malta, Monaco, San Marino, Cyprus) could be included.

Some methodological difficulties need to be pointed out; in particular, no one congruent, universally accepted definition of the term 'CS' exists, neither throughout Europe nor in each individual country. For example, the European Commission has a pluralistic understanding of CS while the governments of the EU member states represented in the European Council base their understanding on differing concepts. It is, for example, controversial whether political parties, trade unions and religious communities should be included in CS or not.

In-depth or current studies on civil society which are mutually compatible are not available for all countries. Furthermore, despite recommendations from the UN Statistical Commission, each country handles the collection of statistical data on its civil society differently. The figures set out in the tables below regarding the scope and function of CS in each country are, therefore, only comparable to a limited extent. For example, it is often unclear what is regarded as 'voluntary work': does this also include informal voluntary work or only that which is institutionalised? Does it include activities such as home care for the elderly, the preservation of nature or donating blood? Is purely active commitment included or also passive support? This list could be extended at will.

Despite these difficulties, it may be assumed that there is a definition for CS which is largely supported and applied by the majority of researchers. It is explained below and uniformly applied in the reports on the different notions of CS in Europe. It may also be assumed that both European and non-European CS will continue to remain an important and influential arena in the public sphere. Thus, it can only be recommended that it continues to receive the necessary – albeit critical – attention.

## 1. Civil Society in Europe

Civil society itself has long surpassed national boundaries. Movements such as 'Fridays for Future' underpin that CSOs can adjust very quickly to different national frameworks, enabling them to carry out a unified European mission. The communication revolution of the past decades and rapid enhancement of digitalisation ensure unhindered communication, as does the matter-of-fact use of English as a lingua franca, now taken for granted even in France and Spain. It is always the mission which takes first place and very rarely the nationality. Even traditional CSOs have long since developed European organisational structures. However, many of them suffer from a lack of financial resources.

## 2. What is Civil Society?

### 2.1 Civil society and other arenas in society

Today, CS is designated as one of three arenas of collective action in society beyond the immediate personal sphere. This includes the individual person with his or her unmistakable singularity and dignity, plus the family into which he or she was born and grew up in, and his or her immediate environment. The three arenas in which the individual acts collectively, into which he or she may choose to enter or leave, are CS, the market and the state. Specific tasks are performed for society as a whole in each of these arenas. Each arena has collective actors who vary greatly in size and function but also share common characteristics.

The state arena includes the nation states, regional and local communities, and transnational contractual systems as well as other institutions and organisations commissioned to carry out public regulatory tasks. Their common denominator is their participation in exercising public authority. Only the state, for example, may collect compulsory taxes while, on the other hand, forcing people to do or refrain from doing certain things as required by law.

The market arena includes companies engaged in producing raw materials, products and services, ranging from multinational, global corporations to small and even minute production, skilled crafts and trading companies. Their common characteristic is their intention to achieve a profit by selling goods and services.

The civil society arena includes movements, organisations and institutions that also engage in and for the general public, but for whom other characteristics are of prime importance<sup>5</sup>. These include,

- volunteerism,
- giving empathy, time, ideas and assets,
- a subjective interest in the common good,
- a primary orientation towards a predefined target, and,
- refraining from distributing profits to members and/or owners.

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<sup>5</sup> Civicus, a global civil society alliance, defines CS as follows: *Civicus, [...], constitutes an influential network of organisations at the local, national, regional and international levels, and spans the spectrum of civil society. CIVICUS includes the following in its definition of civil society: civil society networks and organisations; trade unions; faith-based networks; professional associations; NGO capacity development organisations; philanthropic foundations and other funding bodies.*

### 2.2 The term Civil Society

The term 'civil society' has become generally accepted to designate the third arena beside the market and the state. The collective actors belonging to it are referred to as civil society organisations (CSOs). These terms have come to replace older ones such as the Third Sector, NGO, NPO, charitable organisations, etc.

With few exceptions, there has always been a civil society (CS) in history – and in every cultural context. It is not a product of liberal “western” democracy, while such a democracy would be unthinkable without CS. CS has only recently (for about the span of one generation) been recognised as an arena with common characteristics, the term having been used differently over a long period of time. Even today – in Germany more so than in other countries – there is discussion about what CS is and who belongs to it. This applies, for example, to religious communities, trade unions and political parties. While religious communities have long seen themselves as organisations in CS and are increasingly being regarded as such by outsiders (cf. Strachwitz 2019/2020), trade unions were prone to see civil society with scepticism until recently, even though being regarded as CSOs i.e. by the European Economic and Social Committee (EESC). Currently, a shift in opinion appears to be taking place, with trade union leaders actually relishing being regarded as civil society actors. On the other hand, at least for Germany, it appears doubtful, whether political parties should be regarded as CSOs. This is due both to their funding structure and to their immediate involvement in political decision-making processes (by selecting candidates, forming parliamentary groups, and developing positions for decision-making).

CS may be stronger or weaker; its work focus may vary; its relationship to the other arenas may be cooperative or conflictual. In any case, however, CS participates in the battle for the distribution of power in society just as the other arenas do, and thus certainly entails a political dimension. To this end, it commands fewer material resources than the others and generally no instruments of force; but it can today mobilise far more attention for and reactions to a challenge, an emergency or a shortage than the others. It forms the arena of civic engagement and volunteerism, i.e. the civic space.

### 2.3 Distinguishing features

CSOs can be classified by different aspects:

1. functional (N.B.: many actors hold multiple functions)
  - services (e.g. aid for the socially vulnerable)
  - advocacy (e.g. for the preservation of nature)
  - watch dogs (e.g. consumer protection)
  - intermediaries (e.g. foundations)
  - self-help groups (e.g. patient self-help organisations)
  - community building (e.g. amateur musicians)
  - political participation (e.g. protest movements)
  - personal growth (e.g. religious communities)
2. by their relationship with society
  - loyal (e.g. supplementing / replacing state action)
  - exit (e.g. minority associations)
  - voice (e.g. human rights groups)
3. by their relationship with the other arenas
  - corporatist (part of an overarching system, often associated with dependencies)
  - pluralistic (acting independently)
4. by their organisational structure
  - associative (heterarchical) organisations (associations)
  - bound (hierarchical) organisations (foundations)
  - organisations owned by outsiders (companies)
5. by their goals, e.g.
  - social welfare
  - research
  - education and training
  - culture
  - the preservation of nature and the environment
  - sports
  - human and civil rights
  - religion

## 2. What is Civil Society?

6. by their level of organisation
  - spontaneous civil society
  - movements
  - organisations
  - institutions.

Many CS actors believe that only CSOs with characteristics similar to their own are members of CS. The public also often sees only actors as belonging to CS. However, this is incorrect. CS comprises very heterogeneous actors; the transitions are often fluid.

### 2.4 The added value of civil society

It is no coincidence that serious academic study of civil society and the beginning of a development phase which has significantly strengthened it took place at the same time as the transformation process in Central and Eastern Europe. Following the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE: Helsinki 1975) independent, self-empowered human rights groups began to form, especially in Poland and what was then Czechoslovakia, somewhat later also in the GDR, in Hungary and other socialist states; they prepared the ground for the transformation process. There can be no doubt that the fall of the Berlin Wall was essentially caused by the increasingly strong civil rights movement. It is no exaggeration to say that this was a triumph for civil society. It presents a perfect example of how every society lives from the fact that its members have a positive relationship to their society and are involved in shaping it. Both can take on very different forms. However, any attempt to organise and develop a society while renouncing consensus and participation will always be doomed to failure just as no form of participation which takes place by order can be successful. It should not be overlooked that the criticism of the system of representative democracy, unmistakable during the past few years, has its breeding ground here.

This is the point where CS's self-perception sets in. Her players act fundamentally by self-empowerment and self-organisation. In doing so, they generate the creativity and wealth of ideas that society requires for its development while, on the other hand, they attach no expectations of any kind of material gain to their actions. This does not, however, imply that the legitimacy of the approaches applied by the other arenas is questioned. However, they do need to be complemented by the civil society approach. Furthermore, an active CS is an expression of individual responsibility and participation in the overall responsibility of all the members of a society. In addition, the social capital required by the state and the market, and which they cannot generate by themselves, is generated in civil

## 2. What is Civil Society?

society. Finally, an active CS promotes social cohesion and promotes social change (cf. Putnam 1993).

That is why attempts to set up a state-controlled civil society cannot succeed in the long term. They will either die due to lack of volunteers or liberate themselves from such dependence in order to survive.

### 2.5 Good civil society?

All over the world there is an ongoing discussion on whether CS, by definition, follows normative criteria, i.e. whether it is necessarily “good”. This is not the case. On the contrary, we must make a difference between the question whether an organisation can be assigned to CS and the question whether its activities are to be approved. From the wording of the second question it becomes clear that an answer can only be subjective.

We must distinguish between

- a) a degree of disapproval due to differences of opinion on a specific issue, and
- b) fundamental disapproval due to fundamentally different positions.

While in both cases respect for other actors and their positions is a feature of good CS, the assessment of an actor as good CS reaches its limits where the actor does not recognise the basic principles of human co-existence, for example

- human and civil rights (according to the standard of international agreements),
- the rule of law,
- the plurality of civil society actors,
- public accountability of all actors in the public sphere, and
- the principles of an open society.

### 2.6 European civil society

The democratisation of many European nations took place far earlier than in some other parts of the world, enabling the sustainable development of civil society structures. Contrary to other regions in the world, CS is traditionally established in Europe and enjoys widespread acceptance and reasonable freedom of action. Nevertheless, it should not be ignored that this freedom of action has also been subject to restrictions in European states, particularly during the past few years, not only in countries where more authoritarian structures have developed, but also in the classic West European democracies.

By international comparison, the financial situation of European CS is relatively good, but there are great differences between individual countries, and the fact that numerous civil society actors exist in a systemically precarious situation notwithstanding, since they are generally prevented from earning an income through some form of economic activity. Donations are often received irregularly and public contracts and subsidies are not an option for many organisations for fundamental or objective reasons. At this point, European Community Law comes into play: it attempts to avoid distortions of competition caused by the unequal treatment of providers competing with each other.

In common with other intergovernmental organisations, the working relationship of the EU (and similarly the Council of Europe) with advocacy and watchdog organisations is better than that of national governments. This is due to the fact that such organisations provide the EU with information which differs from that provided by the governments of its Member States. On the other hand, intergovernmental organisations shy away from cooperating with service providers from CS tending instead to rely on for-profit organisations and fearing distortions of competition. By comparison, national governments, that are always suspicious of advocates to a certain extent, appreciate the services offered by civil society providers, which are often more effective and cheaper too, due to the commitment of volunteers. A typical German example is provided by the social welfare organisations, known also for having invoked the principle of subsidiarity for more than a hundred years<sup>6</sup>. The EU's fundamental interest in CS may also be seen, for example, in the founding contracts of the European Economic Area (EEA), signed with Iceland, Liechtenstein and Norway, under which these countries are not only obliged to contribute a fixed

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<sup>6</sup> This and old traditions mean that, for example, about 50% of all hospital beds in Germany are operated by CSOs while about 35 % are run by commercial hospital operators.

## 2. What is Civil Society?

amount to reduce social and economic disparities in Europe, but have also pledged to do so by promoting CS in the 15 countries eligible for support<sup>7</sup>.

There are country-specific disparities in the self-perception, fields of activity and organisational structure of the civil society actors which depend on their history, civil society tradition, their state model and, last but not least, existing financial structures. Despite the increasing influence of the EU, CS in many countries is still predominantly embedded in national patterns. The civil and fiscal law framework for civil society actions, over which national governments continue to claim sovereignty, also contributes to this. Countless specific differences as well as the following example illustrate this:

In Europe, the fiscal treatment of donations to CSOs is regulated in six fundamentally different ways:

- deduction from taxable income up to a maximum amount (e.g. in Germany);
- deduction from tax liability (in Germany for contributions to political parties, in France in general);
- surcharge on net donations from tax revenue based on the donor's tax liability (in Great Britain);
- no deduction possible, with minor exceptions (e.g. in Austria);
- possibility to appropriate tax shares in favour of eligible CSOs up to a maximum amount (e.g. in Italy and several Central and Eastern European states);
- CSO is taxed on donations received (in Greece).

Drafts for a European association or foundation law have not to date been accepted. Attempts did not gain a majority in the Council of the European Union and are currently not being pursued any further. Aspects such as identity, religion and culture also still serve as important points of identification for the activities of such organisations, and these necessarily result in different understandings of civil society. Thus, at a European level, there exists a complex mix of cooperation and conflict between different, national, regional and local, more rarely European, civil society actors (Anheier 2019). Nevertheless, a transnational, European CS is taking shape. Not only have European organisational structures been developing for decades. Younger organisations in particular, while being

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<sup>7</sup> See the Agreement on the Establishment of the EEA between the EU and its Member States on the one hand and Iceland, the Principality of Liechtenstein and the Kingdom of Norway on the other (originally concluded in 2004, the 2016 version currently applicable), art. 115, 116, 117. This resulted in the so-called *Iceland-Liechtenstein-Norway Grants* on the one hand and the *Norway Grants* on the other. Part of these contributions (2014-2021: € 200 m) have been set aside for the development of CS in the 15 countries and are distributed through the *Iceland Liechtenstein Norway Active Citizens Fund*.

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obliged to come to terms with their respective national legal framework, consistently operate transnationally. An extreme example of this may be observed in protest movements, where national citizenship of those involved is of no consequence whatsoever.

### 3. The European Civic Space

CS's opportunities for development are basically determined by how civic space is defined, determined by the constitution and put into practice. Contrary to other cultures, Europe has a tradition of a standardised civic space which goes back as far as antiquity. This goes for Greece<sup>8</sup> as well as for the Roman Republic and the subsequent Roman Empire<sup>9</sup>. Consequently, European society is and has been, both in the past and today, determined by the interaction between rulers, whether democratic, based on violence or theology, and a civic will articulated in a civic space, be this in an institutionalised or a revolutionary way.

Today, stereotypical phrases such as a 'free and democratic order' or '*the will of the people*' cannot conceal the fact that a permanent conflict exists between a necessary order exercised by power, and a more desirable disorderly freedom: the balance and dominance of either side is continually up for change. Even in a dictatorship there exists an albeit clandestine civic space which may possibly be in a position to overthrow the dictatorship. On the other hand, even in a well-functioning European-style democracy, the civic space is exposed to hostilities which may erupt into serious, even violent conflicts. The current example of the so-called 'yellow vest' (*gilets jaunes*) movement in France demonstrates the sheer force which an attempted (re-)capturing of the civic space can generate. Individual, very often spontaneous movements are indicators of how CS can, nevertheless, develop sustainably in the civic space. The existence of a vibrant, sometimes even explosive civic space has actually become an indicator of the quality of European democracy. This space provides basic rights such as the freedom of assembly and association, as well as religious freedom and freedom of the press. Any restriction of these rights is a source of concern for the civic space. The European understanding of civil society is characterised by this basic paradigm. The quality of civic space as specified here is the indicator of this understanding. Thus, the desire to reduce the scope of civil society to the provision of services with the aid of volunteers or the organisation of leisure activities does not comply with European tradition, offers no permanent promise of success and cannot, in theory, be legitimised.

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<sup>8</sup> The Athenian model of democracy was completely based on the political right to participation of all free (male) citizens in the *polis*. The translation of Aristotle into Latin completed in Italy in the 15<sup>th</sup> century first introduced the term *societas civilis* (as a translation of *polis*) into the European political debate.

<sup>9</sup> The term 'civil society' comes from the Latin *civilitas*, which does not refer to a civilised or civil behaviour, and certainly not to anything civil in contrast to something which is military. Instead, it refers to something which is civic, which is connected with citizenship and includes rights and obligations. Rome's first emperor, Augustus, often used the expression to state, "We are all citizens together."

### 3. The European Civic Space

It is, therefore, not surprising that in its worldwide 'Monitor' Civicus issues the European states with a relatively good (although not unqualified) report on the state of their civic space and thus CS. No European country, with the exception of Azerbaijan (Group 5), Belarus, Russia and Turkey (all Group 4), has been categorised in Groups 4 (repressed) or 5 (closed). However, the report for 2020 assigns the following status to the remaining 45 European countries:

Group 1 (open):	21
Group 2 (narrowed):	21
Group 3 (obstructed):	3

In view of Europe's history, it comes as no surprise that a relatively strong divide from North-western to South-eastern Europe is clearly visible. But this must not detract from the fact that large classic democracies must also be regarded as endangered. Both France and Great Britain have been downgraded in recent years.

In the last 30 years or so, European CS has undergone strong changes. On the one hand, for numerous reasons, it has gained more consistency and strength, become more consolidated and increasingly achieved a joint understanding of civil society. On the other hand, it had already been reduced to the role of spectator in the 1990s, when there was a massive shift of power from governments to markets. After 9/11 it was wrongly branded as a hotbed of activities which were harmful to society<sup>10</sup> and for the past ten years or so it has been experiencing various forms of harassment from national governments around the world, albeit to varying degrees. Some European countries are extensively involved in these incidents. In particular, they have attempted to suppress the influence exerted by foreign advisors and sponsors. The catchphrase 'foreign agents' has become a synonym for nationalist and/or authoritarian attempts at repression.

The expressions '*shrinking civic space*' and '*shrinking space for civil society*' have become the standard term for the repression of CS, while the expression '*contested space*' might actually be more appropriate in view of its ongoing expansion and change; in some countries, '*narrowing*' or '*closing space*' might in fact be appropriate. Even in classic democracies such as France and Great Britain, critical voices from civil society are being dealt with in

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<sup>10</sup> See also, for example, the original version of the 8<sup>th</sup> recommendation of the *Financial Action Task Force (FATF)*, an intergovernmental organisation whose purpose is to combat money laundering, tax evasion and terrorism, in which non-profit organisations are portrayed as particularly vulnerable to misuse for terrorist financing and money laundering. Only in 2016 was it possible to enforce a weaker version of its wording.

### 3. The European Civic Space

an increasingly repressive manner which should not be overlooked. Freedom of the press, of assembly and association are being curtailed on all kinds of pretexts. As the number of authoritarian governments increases, the possibilities for CS to participate are being restricted; ethnic and religious minorities are no longer being sufficiently protected; actors find themselves delegitimised and their scope of action amended to their disadvantage. This is also being realised by using a carrot-and-stick policy when granting subsidies. Normally, the objective of all such measures is to discourage or completely prevent civil society actors from exercising any political influence. Finally, civic space can also experience threats from civil society. In some countries, an increase in the approval for nationalist authoritarian concepts of order has been observed. Suspicion and even threats from some parts of society towards civically active people are increasing. Public political discourse is becoming increasingly polarised; in quite a few countries there is talk of a democratic crisis.

Furthermore, it cannot be overlooked that developments caused by an erosion of the milieu and changes in life styles as well as individualised value sets are jeopardising traditional organisations in particular. The lifelong affiliation with a religious association such as the Kolping Family, likewise to the Red Cross or the local fire brigade, frequently encountered in the past, is rarely found today. On the other hand, parts of CS which for a long period of time tended not to meddle in politics have been emancipating themselves, becoming advocacy organisations. In addition, new CSOs are opening up new possibilities for participation: the communication revolution has recently encouraged the development of a spontaneous CS independent from organisations and particularly from umbrella structures.

It is not least these developments, but also the threats experienced by open, cosmopolitan society, liberal democracy, the rule of law which protects ethnic and religious minorities, human and civil rights and other cultural traditions worth preserving in recent years in Europe, which have led CS more than ever before to become a guardian of these principles, while undeniably some CSOs contribute to the elimination of their peers. CS has not been spared by nationalism, authoritarianism and majority-based populism.

### 3. The European Civic Space

Combined with the possibilities offered by modern communication to publish fake news in such a way that it is difficult to recognise, there is, on the one hand, a need for increased vigilance; on the other hand, the complexity of civil society actions has increased significantly. The interest of the great majority of citizens is shifting from protecting CS as an independent arena in society to defending an open society and further developing the existing social order by means of joint action based on a partnership of the actors in all arenas. Civic space has become the space for debate and controversy between an open, cosmopolitan society, and one that is closed nationally restricted<sup>11</sup>.

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<sup>11</sup> The expression 'open society' was taken from Karl Popper's famous book, "The Open Society and its Enemies", first published in 1945, and is regarded today as the generic term for a liberal, cosmopolitan social order committed to human and civil rights, freedom, the protection of minorities, rule of law, democracy, and cultural traditions.

This expression was included in the designation of the Open Society Foundations (initially called the Open Society Institute) founded by the Hungarian-American financial investor and philanthropist George Soros from as 1979. They include a network of foundations which maintain branches of different sizes and with different remits in Barcelona, Belgrade, Berlin, Brussels, London, Pristina, Sarajevo, Skopje, and Tirana, among others. They also include further legally independent facilities such as the Central European University (Vienna/Budapest), the Stefan Báthory Foundation (Warsaw), the Open Society Institute Sofia (OSIS), and others.

## 4. Country Reports

### 4.1 The Balkans: Albania, Bosnia-Herzegovina, Montenegro, Northern Macedonia, Serbia<sup>12</sup>

The countries in the (Western) Balkans, the former Yugoslavia and Albania experienced a fundamentally different historical development during the time in which the transformation process was completed in Central and Eastern Europe with the help of CS. While these countries, notably Albania, were able to rid themselves of the socialist system, the region was first taken over by nationalist movements, a period connected with bitter conflicts which hardly offered CS any room for development. Although most of these countries are meanwhile on their way to becoming Member States of the EU, their ethnic, religious and national conflicts have not yet been solved.

Initial improvements for CSOs were already experienced in the 1980s, especially in Croatia and Slovenia. The Yugoslav War, however, also had a negative influence here on CS and its work. Nevertheless, CS played a role in humanitarian aid for citizens not be underestimated. The period after the Civil War was characterised by political instability and social conflicts. During the War, many CSOs were supported by foreign donors, most especially the EU and the USA. As a result, each of them was regarded critically by the other groups. Furthermore, parallel civil societies developed, especially in Serbia and Croatia, along the same lines as in Western Europe. Independent CSOs representing liberal values and opposing the government are set against corporatist CSOs working closely with the government.

Contrary to the effects observed in other East European EU states, the establishment of closer relations with the EU has not led to extensive improvements in the legal situation for CSOs. However, in the meantime, all of these countries boast CSOs that encroach nationality and religion and are attempting to achieve reconciliation and create a sense of community through joint actions. In Bosnia-Herzegovina, there is now a self-confident, if not very strong CS which includes all groups and confronts the political groups which continue to be hostile.

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<sup>12</sup> Civicus Monitor 2020: Albania: 2, Bosnia-Herzegovina: 2, Montenegro: 2, Northern Macedonia: 2, Serbia: 3.

### 4.1.1 Focus on Serbia

#### Historical Development and Traditions

The first legal foundations were laid for CS in Serbia at the end of the 19<sup>th</sup> century, when CS consisted mainly of local agricultural associations and church actors. Several civil society actors were also able to establish themselves in authoritarian Yugoslavia. They actively promoted both various political as well as cultural issues and were mainly supported by younger citizens who were critical of the government. During this phase, oppositional alliances received vital support from dissidents living abroad, who supported the organisations both ideologically as well as financially while in exile. One integral element was popular culture in Yugoslavia, the development of which was in no way unequal to that of American and European trends in the 1970s and 1980s, and served as an important civil and cultural “window to the world” for people in South-eastern Europe (Dzihić/Radunović 2016).

The break-up of Yugoslavia did very little to promote the development of CS in Serbia. In the regime under Slobodan Milosevic, CS was given no prominent position within the social and political sphere and, as a result, could not play any important role during the transformation and democratisation of the Serbian state. During the winter of 1996-97, there were mass protests against the regime by activists, student associations and other opposition groups after it was suspected that the election had been rigged. The massive support given by civil society enabled the opposition to replace the regime after the elections in 2000. This ignited the process of democratisation in Serbia: some of the CSOs which played an active role during the protests transformed into political parties. Despite this deeply interwoven history between CS and politics, it has still not been possible to develop any sustainable opportunities for participation by CS. The start of EU accession negotiations in 2012 can also be regarded as a success for CS; however, since then, the government has largely undone the successes achieved with regard to freedom of expression and the protection of human rights within the process of democratisation by implementing restrictions (Vandor et al. 2017).

#### Function / Scope

Serbia’s civil society is very heterogeneous. Although CSOs that are politically active and act as advocates represent only about 8 % of all CSOs in the country, they enjoy a comparatively large influence and are perceived more clearly within society (Spasojević 2017: 275). Most of these CSOs, which tend to be small, were founded during the phase of political transformation at the beginning of the 1990s.

#### 4. Country Reports

Many CSOs that are politically active and act as advocates consist of only a few people. Volunteer involvement is limited almost exclusively to students, taking the form of either internships or similar forms of temporary unpaid employment. These CSOs are primarily committed to issues revolving around democracy and human rights, environmental and climate protection, and the fight against corruption.

CSOs have a long tradition of providing social services to supplement those offered by the state; it already existed when Serbia was part of Yugoslavia. This sector also represents a large proportion of CSOs in Serbia and enjoys financial support from the state. The austerity policy in recent years has also enabled CSOs to take over the provision of many social care services which were formerly run by the state. Social service providers have a great many members. They are also highly dependent on volunteers. The cultural and sports sector is also regarded as one of the central fields of activity for civil society organisations. Contrary to social service providers, however, it receives less attention from the media (More-Hollerweger et al., 2019)

#### **Legal Basis / Financing**

From a legal point of view, the work of CS is based on the fundamental rights guaranteed in the constitution as well as freedom of expression, assembly and association. The Associations Act adopted in 2009 enables CSOs to apply for state grants without having to overcome too many bureaucratic hurdles. Practice shows that these privileges are, however, largely restricted to organisations which are not critical of the government. Altogether, Serbian funding programmes demonstrate only a limited degree of transparency, many important political decisions being subject to the influence of oligarchic structures.

Contrary to the tax framework in other countries, there is no form of tax deductibility for private citizens in supporting CSOs. Only businesses may forward up to 5 % of the income tax they owe as a donation to certain civil society actors (Vandor et al. 2017). This tax model can be seen as systematic discrimination of politically active CSOs in Serbia, as these are not permitted to receive any donations from companies. While organisations active e.g. in the health, education and sports sectors, benefit from this method, CSOs advocating political issues are excluded from such support. Donations to CSOs operating in the cultural sector are only permitted after these have been vetted by the Ministry of Culture. Thus, the majority of politically active CSOs are dependent on support from foreign donors.

### **Possibilities / Conditions / Participation / Perception**

Serbian CS is not widely developed and has made little progress since the beginning of the 2000s. This is especially apparent in the lack of opportunities for citizens to participate in political decisions and the limited access to financial support from the state.

Altogether, public perception of CSOs is very limited in the media and still suffers from the consequences of the Milosevic regime. The belief that CSOs represent foreign interests through their work and destabilise society in Serbia remains prevalent. Many CSOs have not succeeded in demonstrating their value as representatives of Serbia's citizens. This is also expressed in a general lack of trust in CSOs as compared, for example, to trade unions, which are commonly regarded as an extension of political parties. Churches have little influence on CS; however, what they do have has a negative effect on representatives of CSOs such as those in the LGBTQ sector (More-Hollerweger et al. 2019).

### **Trends**

During the past few years, the Serbian government has implemented various measures which have continuously increased its influence. This process could continue during the coming years, further reducing the political influence of non-state actors. The reason given for the shifts in the balance of power is the decline in foreign support, which is becoming increasingly marked. As previously stated, numerous Serbian CSOs are dependent on foreign donors. However, it is assumed that there will be a decline in support from foreign actors, because it has been possible to achieve a certain level of democratic and human rights standards within the country and these donors now expect Serbian CS to find its own means of financing.

The CSOs are hoping that the accession negotiations will bring about a more transparent policy and better opportunities for political participation. Professionalised processes are expected to increase as the country moves closer to Europe and Serbian as well as other European CSOs continue to grow. Furthermore, it is assumed that CS can play an important role in the European integration process (Vandor et al. 2017).

#### **4.1.2 Trends in the Balkans**

In the Balkans, as elsewhere, too much was expected from CS during and especially after the transformation process (Dzihić/Radunović 2016), even if it played a central role as a democratic corrective measure.

#### 4. Country Reports

“Research into civil society shows us that in areas with weak or dysfunctional forms of government, where issues of sovereignty and imminent problems such as unemployment, poor social conditions and poverty prevail, civil society takes a back seat. In the Balkans, the nationalistic madness of the 1990s dealt the final blow to the citizens’ civil self-perception. This final blow was all the more tragic as in Yugoslavian state socialism, the phenomenon of ‘citizenship’ was merely derived from its affiliation with the notionally Marxist working class that prevailed at that time.” (Dzihić /Radunović 2016).

In the Balkans, evidence also suggests that the mere existence of an NGO on paper is not synonymous with a functioning civil society. The explosive growth in the number of NGOs after the wars and the resulting “NGO-isation” of civil societies created an “NGO dog-eat-dog world”.

The past few years, however, have seen the emergence of a new quality. Social protests, which we have also witnessed recently in the Western Balkans, are the most important development of democratic politics in the region in the past two decades. Part of the process of growing up and emancipation of (civil) societies in the Balkans is the action taken by the citizens of many states in the region, who are vociferously telling irresponsible politicians that they will no longer tolerate political injustices, taking to the streets to protest against elite-dominated and corrupt, yet seemingly democratic regimes, exposing problems and those responsible for them, and trying to combat them (Dzihić/Radunović 2016).

The political establishment, however, is fighting back against these new social movements with all its might. Protests in Macedonia, Bosnia and Herzegovina are just the beginning of a process of critically questioning and challenging bad politics in the Balkans, which can ultimately lead to more freedom and a better life in the region.

#### **4.2 The Baltic States: Estonia, Latvia, Lithuania<sup>13</sup>**

Contrary to the other Northern European countries, the history of the three Baltic States is strongly characterised by discontinuities, constantly changing foreign (including Polish, Swedish, Russian and German) influences and, most recently, massive Soviet influence. For a long time, the relationships between political leaders and citizens were characterised by a strong division and an imbalance of power. In addition, while these countries were part of the USSR, the propagated ‘dictatorship of the proletariat’ left little room for inde-

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<sup>13</sup> Civicus Monitor 2020: Estonia: 1, Latvia 2, Lithuania 1.

pendent CSOs. Thus, the first non-governmental organisations were founded in the leisure, sports and cultural sectors. However, from 1975 until 1990, these were in fact often human and civil rights organisations in the so-called 'Helsinki Process'. The experience of Soviet rule in these countries, characterised by the suppression of divergent opinions and the discouragement of civic action, is, however, still making itself felt today. Although the CSs in these three countries are on the rise compared with other European countries, they are still relatively weak.

In the Baltic States, the term 'civil society' is still strongly associated with the period of transformation and the independence movements from 1989 onwards. It should be remembered that transformation and national independence from the Soviet Union occurred simultaneously in these countries. At that time, self-organised groups and institutions were formed in all of these countries. They wished to help shape the public sphere and support the process of democratisation, had a strong national character and, wherever possible, connected to the period of independence before 1941. In particular, the transformation in Estonia was prepared, triggered and effected by a wide, very specific civil society movement which, on the one hand, was able to develop from initially unpolitical organisations, particularly amateur music, but which regarded itself, on the other hand, as an exceptionally political CS. Since then, CSOs have become a counterweight to the governments.

CS in the Baltic States was also strengthened in the course of European integration and their accession as members of the EU (2004). They are accepted in society and politics, but this acceptance needs to be developed. Many public services and other social or cultural facilities continue to be managed by the state, whereby a positive trend is noticeable, both with regard to financing and a willingness of policy-makers to work together more closely, as well as with regard to the degree of organisation. Baltic societies also profit from their relative homogeneity (with the exception of Russian minorities) and the smaller size of the countries without additional regional traditions and structures.

### **4.2.1 Focus on Lithuania**

#### **Historical Development and Traditions**

In Lithuania, social movements based on ethnic-cultural lines of conflict had already been founded before 1980, contrary to Estonia and Latvia, where this took place somewhat later. These movements were decisively involved in the country's independence process at the beginning of the 1990s. Nevertheless, even after the restoration of independence fol-

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Following decades of Soviet rule and economic hardship, CS in Lithuania is still weak, under-financed and badly organised. The standard of living is so low that civic engagement suffers from this. In Lithuania, even more than in the neighbouring Baltic States, the state still handles most public services in the sectors of health protection, education, social welfare, and culture, and is the predominant force in shaping society.

##### **Function / Scope**

Most CSOs in Lithuania work in the field of health and social welfare (2007: 55 %), followed by the sports sector (2007: 13 %), whereby the majority of CSOs in the country have a religious background (GHK 2009: 5 et seq.).

Civic commitment is rather less pronounced and hardly found in state facilities. Up to a certain point, many CSOs are in competition with state facilities; financially and structurally they are at a disadvantage to the latter. Accordingly, the number of CSOs and their share of GDP is low. Independent, pluralistic organisations are also rare.

##### **Legal Basis / Financing**

One of the problems in Lithuania is the fact that the legal definitions governing the concepts of an NGO or a non-profit company are very complex. Although there were reforms in 2013, these did not go far enough, nor was a clear definition of CSOs established. Currently, organisations must only register officially, selecting the legal status of a person under public law, in order to profit from tax benefits arising from their legal status as charities and as recipients of donations. Their focus in public welfare is not investigated and this sometimes leads to abuse of the system.

Tax concessions are granted as follows: profits of up to about 8,000 euros on incomes of less than approx. 300,000 euros are not taxed; all further profits are taxed at 20 %. All profits on incomes of more than approx. 300,000 euros are taxed at 20 % (GHK 2009: 12).

As a whole, Lithuanian CSOs have hardly any access to state funding. Citizens' willingness to give donations is low, due mainly to citizens' incomes. Generally, the financial situation is very precarious, although in 2003 a law was amended with the objective of achieving an improvement. Since then, tax payers may donate 2 % of their income tax dues to a CSO or to facilities such as schools, kindergartens and hospitals. Even today, foreign subsidies are indispensable. CSOs in Lithuania thus benefit enormously from the *Iceland Liechtenstein Norway Active Citizen Fund* (see above). It promotes civil society projects in Lithuania by paying out up to 9 million euros per year. For some CSOs, this is the only

means of finance. This funding is, however, generally only for a limited period and is not guaranteed.

#### **Possibilities / Conditions / Participation / Perception**

For a long time, due to Lithuania's history, there was little exchange between CSOs and the state, as a result of which the opportunities for actors to exert an influence on politics were very limited. It took decades before any form of cooperation could be implemented, whereby neither the state nor the CSOs took the initiative. Both sides view close collaboration or cooperation critically. Thus, the collaboration between CSOs and local governments tends to be fragmented and often only temporary. Accordingly, public support for civil society actors is minimal. The state is regarded as the primary problem-solver; the population identifies more strongly with it than with CS. The people continue to regard participation in politics, in the strict sense of the word, as more efficient to promote changes to an extent which goes beyond any citizens' initiative.

#### **Trends**

Nevertheless, the opportunities for action which are open to Lithuanian CS are increasing. One positive step was the agreement reached on 1 March 2019 between CSOs and political parties. It obliges the political parties to strengthen CS, promote its participation in forming policies more dynamically and attempt to involve the citizens residing in Lithuania more strongly in public life. There have also been positive developments in the financial sector. For example, a national fund for funding civil society activities is to be set up.

#### **4.2.2 Baltic Trends**

Although CSOs in all of the Baltic States continue to be on the rise, they are facing an increasing number of problems. As in other European countries, they are struggling with financial and administrative hurdles as well as with attracting volunteers. CS actors are faced in particular with problems arising from the reduction, to some extent, of state funding. Foreign, including European, grants are often their only chance to obtain any form of longer term funding.

While this represents the general trend in all transformation states, it is particularly surprising in Estonia, which continues to be firmly rooted in amateur music. CS in Latvia under the government of Māris Kučinskis was limited in its capacity to act; its integration in the political process was greatly reduced. Therefore, in 2019, CIVICUS reduced the rating for CS in Latvia to "obstructed". The situation appears to be improving since the change in government in 2019.

### 4.3 The Benelux Countries: Belgium, Luxembourg, the Netherlands<sup>14</sup>

After World War II, the Benelux Countries developed a strong welfare state. Different levels of emphasis were placed on subsidiarity and a central public administration. In all three countries, however, CS played an enormous role in the development of the social state; there was intensive collaboration with state actors.

All three countries are monarchies, but organised democratically and politically stable, relatively affluent and strongly determined by their integration in Europe. The monarchs often speak up as defenders of CS against the dominance of political parties. All countries enjoy a modern society which is, to a great extent, politically educated. The relationship between the state and CSOs continues to be characterised by corporatism and mutual respect, so that CS plays a central role in the social and political sphere. In all three countries the growth of the welfare state has been accompanied by the growth of CSOs. Accordingly, the countries display a relatively high proportion of public funding on the one hand and civic engagement on the other. The participatory and emancipatory function of CSOs is outweighed by a management and service logic. The dismantling of the welfare state has resulted in increasing pressure on CSOs to adapt.

#### 4.3.1 Focus on the Netherlands

##### Historical Developments and Traditions

Like their neighbouring countries, the Netherlands have a pronounced civil society tradition and a very strong CS. At the same time, the country is traditionally divided along religious and normative lines of conflict. There is a decreasing, but still noticeable tendency towards a pillarisation of society<sup>15</sup> with three 'pillars': a Catholic, a Protestant and a liberal one. In addition to the development of the Dutch welfare state, this fragmentation in particular was important for the foundation of many organisations. After the founding of the state in the 16<sup>th</sup> century, corporatist self-organisations such as religious associations and professional organisations were gradually formed in the Netherlands. From the 18<sup>th</sup> century onwards, the policy of compromise and consensus was the most dominant decision-making form, because at that time the country had no head of state and was governed by municipal regents. The religious communities took care of the poor and were responsible for health and education.

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<sup>14</sup> Civicus Monitor 2019: Belgium 1, Luxembourg 1, the Netherlands 1.

<sup>15</sup> *Pillarisation* describes the idea that society is divided into pillars. A pillar links people who have a common view of the world, an ideology or denomination; this leads to a strong social identification within the pillar and a segregation from the rest of the world (cf. Zimmer 2013). The Pacification of 1917 was a political agreement which recognised these pillars as a socio-political structural principle in the Netherlands.

It was only in 1848 that the state began to play a more important role in the social service sector. The welfare state was established in cooperation with existing organisations, whereby today the state is regarded as responsible for dealing with social issues. The oil and financial crisis in the late 1970s represented a decisive cut for CS. The welfare state was streamlined and liberalisation processes were used to increase the pressure on CSOs to raise efficiency and lower costs. Together with the democratisation and secularisation of society, which took place at the same time, many of the traditional CSOs disappeared (particularly the *pillarised organisations*). Nevertheless, CS was also comparatively large during this time; there was a very wide range of political commitment. For example, from 1965 onwards, new social movements such as women's and environment movements were formed; the eroding pillars were used as a base for founding opposition movements within organisations or new associations and parties. CS was modernised and adapted to the shift in values within post-industrial society. Despite this, in the years following the crisis both the social partnership as well as CS were significantly weakened by the deregulation and privatisation of public services. Consociational democracy which, not unlike the associative democracy developed in former West Germany, attempted to involve as many actors as possible in preparing decisions, appeared to have come to an end. However, by the 1990s it was celebrating its comeback, especially in the fields of labour market and social policies, and was legally institutionalised, e.g. in the form of consultation and opposition proceedings. The political culture of compromise, also known as "*overleg*" (exchange of opinions, negotiation), still remains in place today. Very close cooperation is the norm, especially in the social services and educational sectors. Civil society stakeholders are also important counterparts for state actors in many other sectors.

#### **Function / Scope**

In the Netherlands, CS is remarkably large. In terms of its share of total employment it is the world leader. The reason behind this is that, in collaboration with the welfare state, CS is responsible for the integration of the different milieus in the Dutch population. There is a strong tradition of private action for the common good. Thus, the landscape of CSOs is accordingly pluralistic. It includes very different organisations, from neighbourhood initiatives to professionalised umbrella organisations, and from advocacy networks to charitable trusts. One special feature of the Netherlands is that the majority of schools offering general education are operated by civil society institutions (religious and others). The strong civil society awareness of the Dutch population is presumably also due to the fact that over 60 % have attended a private, i.e. civil society school.

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However, most CSOs operate in the sectors of health and social services and in the sports sector, whereby for a long time the state organised the volunteer organisations in the nursing care sector. This has changed due to the state's austerity policy and neoliberal developments. Since 1970, the welfare organisations with connections to the pillars have developed into professional and functionally structured combined organisations. The percentage of state subsidies has declined and the state now applies a semi-corporatist model. This is another reason why hybrid organisations have formed in the social sector, operating between CS and the economy.

The 9/11 attacks as well as the politically motivated murder of the right-wing politician Pim Fortuyn in 2002 and the murder of the artist Theo van Gogh in 2004 by an offender with a migrant background shook the Netherlands to the core and enabled a new line of conflict to develop around the topic of migration. As a result, new CSOs formed which work intensely in the fields of asylum, integration and Islamic policy. At the same time, right-wing populist organisations have been formed.

Civic engagement is deeply rooted in Dutch society. Contrary to other countries, such commitment is often long-term; there is no general lack of volunteers. Nevertheless, Dutch CSOs also have problems finding qualified volunteers. The demands made on them have increased, while the pressure to be more professional, particularly on CSOs in the welfare sector, has risen. At the same time, the percentage of employed staff in CSOs has also increased.

#### **Legal Basis / Financing**

In the Netherlands, CSOs have received a great deal of public funding for decades. State subsidies are still their main source of income. In line with the subsidiary principle predominant in the Netherlands, local authorities play a significant role in awarding public funding.

Those organisations in particular which are closely linked to the public sector have been affected by the latest cutbacks there. The increasing commercialisation of organisations in this sector also ties in, whereby they are (having to) intensify their sponsoring and commercial activities. However, the population's willingness to give donations is very high, which can make up in part for some of their financial losses.

CSOs receive tax benefits provided they have been granted a CBWF label (*Charity Quality Label*, issued by the *Central Bureau for Funding*). These organisations are exempt

from taxes on profits and net wealth. Organisations without such a label profit from an exemption from corporate tax only up to an annual surplus of 7,500 EUR if the profits are solely for charitable purposes. Periodic donations from private persons to recognised charitable associations are fully tax deductible. Donations from companies of at least 227 euros can be deducted up to a maximum amount of 6 % of the company's taxable profit. Dutch law differentiates between foundations and associations. The former may apply for so-called ANBI status, the latter for so-called SBBI status. Foundations and associations which have the necessary status are exempt from tax payments on donations they have received.

#### **Possibilities / Conditions / Participation / Perception**

In relation to state actors, CS in the Netherlands swings between cooperation and conflict. Charitable organisations which depend on public subsidies and market income are generally not perceived as part of CS in the Netherlands, even if they depend on the work of volunteers. Thus, civil society actors are regarded as being integrated in government policy, especially in the fields of welfare, social services and education. As a result of such cooperative relationships, many citizens perceive them as having lost their independence and their philanthropic-normative orientation. In other areas, however, such as environmental protection and development aid, state actors only work together with CSOs up to a certain point, relying on the self-regulation of these organisations. This is where CSOs act more independently. Civil society initiatives such as neighbourhood assistance or refugee aid are, therefore, normally regarded as a part of CS.

In 2007, a new act of parliament was passed on social support (*Wet maatschappelijke ondersteuning*) which defines the responsibilities of the municipalities in the social sector more clearly, thus harmonising their collaboration with CSOs. The objective of this change in law was to promote an independent CS and collaboration with it; at the same time, voluntary work was to be strengthened and promoted, so as to achieve a more efficient and cost-effective provision of welfare. The federal principle entrusts the municipalities with the coordination and financial promotion of CSOs in the corresponding sector. At the same time, the act radically reduced public funding and created new administrative hurdles. The organisations affected by this had to reorient themselves, not only financially.

#### **Trends**

Dutch citizens continue to be characterised by a strong political conscience and social trust. CSOs receive strong backing, and participation and financial support continue to remain high. However, as a result of amended frameworks, the dismantling of the welfare

state, reduced public funding, and changes in public administration CSOs must increasingly adopt coordination mechanisms, rationalities and intervention logic from other sectors, especially the economic one. This is accompanied by a professionalisation, hybridisation as well as an adaptation of the market logic of competition and efficiency, which could possibly reduce the degree of acceptance. At the same time, politicians are dismantling the state in favour of CS, with the support of public opinion. In 2013, the King officially announced the end of the public welfare state. The latest Dutch political concept for a participatory society (*participatiesamenleving*) envisages strengthening the individual responsibility of citizens, intensifying their participation in public matters, reducing the pressure on the welfare state, and restoring social capital by reducing the participation of the state while, at the same time, stimulating organised CS.

#### 4.3.2 Belgium and Luxembourg

Belgium and Luxembourg differ from the Netherlands in that they have a much more recent national history, a republican tradition which is much less distinct, and have often adopted French traditions and statutory regulations which are much more sceptical towards an independent CS. Furthermore, in Belgium, CS has always been linked to the regional disputes based on the Flemish or French language groups. Thus, regardless of the existing close ties – the three states have formed a close economic union since 1958 – their understanding of CS differs. The comparatively easier registration procedures in the Netherlands have led some European civil society associations (e.g., the European cultural heritage association Europa Nostra) to set up their registered offices there, even though most of their work is carried out in Brussels.

#### 4.4 The British Isles: England and Wales, Ireland, Northern Ireland, Scotland<sup>16</sup>

In two respects, Great Britain has a particularly close relationship to CS: on the one hand, during the reign of Queen Elizabeth I, the English Parliament passed the Charitable Uses Act<sup>17</sup> in 1601, the principles of which continue to apply even today. On the other hand, the Scottish philosopher Adam Ferguson published his widely acclaimed work, *An Essay on the History of Civil Society*, in which he used the term ‘civil society’ in a somewhat different meaning than is common today, but nevertheless laid the foundation for a theory of CS<sup>18</sup>. The citizens of Great Britain have had an influence on politics from an early stage in the

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<sup>16</sup> Civicus Monitor 2020: Great Britain: 2, Ireland 1.

<sup>17</sup> *Charitable Uses Act*: The preamble listed the objectives which were to be recognised as charitable. Although it was repealed in 1888 by the *Mortmain and Charitable Uses Act*, essential parts still remained in the new Act.

<sup>18</sup> In German translations, Ferguson’s term ‘civil society’ is usually translated as ‘bürgerliche Gesellschaft’. However, through the association with Hegel’s notion of civil society, this is a serious misunderstanding.

country's history, even if this influence was always restricted. The country perceives itself as the oldest established, albeit not particularly deliberative, democracy in the world. Even today, Great Britain still provides by the bulk and most important research on CS within Europe. Independent, well-developed research centres in a variety of disciplines exist at numerous universities.

Historically, the British Isles are closely interconnected. Until recently, 'England' and the 'United Kingdom' were practically synonymous for most British people. A strong tradition of self-help and local initiatives exists everywhere. Religious organisations dominated in CS for a long time, especially the Quakers and the (Anglican) Church of England. They work in the fields of health, education and social welfare.

#### **4.4.1 Focus on England and Wales<sup>19</sup>**

##### **Historical Development and Traditions**

An English sense of community as opposed to a Scottish or Welsh one exists at best in a few, relatively new approaches. Sovereignty is not invested in the people, but in Parliament. This system of government, often termed the 'Westminster system', is not predestined to achieve close civil society cooperation and subsidiarity. Basic civil rights, e.g. the rule of law, freedom of assembly and association were, however, legally guaranteed early on and are generally respected and upheld.

During the past decades, the manner in which CS was dealt with has depended on the governing majority in Parliament, and has fluctuated significantly. In the 1980s, the Conservative Government in power attempted to privatise public sector activities, promoting individual and family responsibility rather than that of the state, because it believed the public sector to be inefficient in the field of social welfare. This mix of welfare economics led to an increase in service offerings from the private sector in the fields of health, community care and assisted living. Often, however, these organisations were dependent to a certain degree on public funding and, instead of acting independently, they were only an alternative service provider. When the Labour Government was voted in (in 1997) the political conception of CSOs began to change. It relied increasingly on cooperation; the wel-

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<sup>19</sup> The historical and legal connection between England and the Principality of Wales, "annexed and united to the English Crown" in 1284, is so close that it seems appropriate to include Wales in analysing England. Contrary to Scotland, most English authorities are also responsible for Wales. The Charity Commission, the regulatory body responsible for CSOs, is set up "for England and Wales". Nevertheless, a stronger sense of Welsh patriotism has undeniably arisen during the past decades, which is reflected in a number of distinctly Welsh CSOs.

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fare state was to be modernised, state funding increased and voluntary work further promoted. The *Third Way* theory developed by Anthony Giddens provided support for this. The third sector became more independent, though not financially, and was able to achieve more of its own demands in this collaboration, such as more social inclusion.

The idea of a *big society* (according to David Cameron) has dominated the political agenda for CSOs since the liberal-conservative government coalition of 2010. Though it has proven to be unsuccessful, it still has an effect even today. In essence, the free market was to be connected to a theory of social solidarity based on volunteerism and heterarchy. This, so it was hoped, would limit public debt, streamline the public sector and strengthen the principle of subsidiarity. In turn, it took (social) responsibility out of the state's hands and put it back in that of the citizen. Although this led to more independence, it also caused significant financial problems for CSOs, and these continue today.

Today, CSOs can generally act independently, without intervention from the state. Furthermore, there is a broad tradition of charity and voluntary commitment. England suffers from great social disparities with regard to income, health and trust, and CSOs are decisive for holding society together. Charitable organisations (charities) constitute a sphere of philanthropic institutions, on the one hand, and individual social responsibility on the other, which play a very important role for the public good in parallel to the system of state benefits.

Nevertheless, the Civicus Report has ranked CS in England as "obstructed". This was done in the context of the latest developments, such as increasing state restrictions on public meetings. Movements and protests are quickly denounced as "domestic extremism", which appears daunting and intimidating to participants and protesters and is intended to legitimise the often harsh, repressive action taken against these protests. In addition, the government has failed to take action against hate speech and political extremism, thus endangering the development of civil society.

Moreover, the Charity Commission, an arms' length regulatory body within the Home Office, is increasingly subject to political pressure. Since 2014, a statutory regulation has restricted the political activities of charities in a manner which has not been sufficiently specified.

### Function / Scope

English charities are mainly engaged in the social, educational and welfare sectors. Organisations which are active in the cultural sector are almost on a par. Religious programmes and facilities also continue to be important. For some time now, the number of larger CSOs has been increasing. They are better able to cope with the more difficult economic conditions. Nevertheless, the number of smaller as well as grass roots organisations far outweighs all others. About 75 % of these organisations have an income of less than GBP 100,000 per year, while only about 1 % of all charitable organisations have an income exceeding GBP 5 million per year.

For many British people, engaging in civic bodies is a matter of course, whether by giving donations or through other means. In comparison with other countries, the number of volunteers is in the mid to high range albeit slightly declining. Since 2010, the number of staff in this sector has continuously increased. Most staff work in the social and educational sector, whereby most of these organisations are active in London and south-western England; CS is generally less organised in other areas of the country.

### Legal Basis / Financing

In Great Britain, organisations that work for the benefit of society are generally (although imprecisely) called *charities*<sup>20</sup>, irrespective of their legal form. Formally, this designation assumes that they have been registered with the *Charity Commission*. Most charities are actually exempt from this obligation either because they have been set up for religious purposes or because they do not exceed a minimum size.

Charities benefit from considerable tax breaks. They are exempt from taxes on profits and net wealth. Donations also profit from tax benefits. *Payroll giving* is the most popular form of donation: citizens agree with their employers to have a monthly donation deducted directly from their gross salary. This makes donations tax-free for both donors and recipients. Donors cannot deduct individual donations, so-called *gift aids*, from their taxable income. On the other hand, the recipient charity can make a claim to recover the income tax paid by the donor.

British CSOs are mainly financed through donations; public subsidies play a lesser role. The amount of such subsidies has remained stable since 2004, but their share of the

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<sup>20</sup> *Charity* corresponds in general to the German terms *gemeinnützige Organisation* or *Körperschaft*, both of which are just as imprecise.

total expenditure of CSOs has declined since 2010. Since CSOs are suffering increasing financial difficulties, they are being forced to diversify their income structure and fall back on commercial partnerships more often. Generally speaking, they are permitted to do so.

#### **Possibilities / Conditions / Participation / Perception**

Cooperation and collaboration between the political elite and CS has changed. Although there is a general willingness to cooperate, institutionalised ways of working together and opportunities for broad political participation are lacking. The political programme around the central idea of a big society appeared to be one of the more promising newer developments, but this cooperation weakened CS, particularly financially. Social partnerships were also diluted because public orders for services were now also open to commercial providers.

#### **Trends**

While engaging in charities continues to be regarded as a civic duty and an important contribution towards continuing to hold society together, an increasing distrust of charities has become noticeable, not least due to scandals (e.g. at Oxfam), so that many citizens are now demanding more transparency. Recently, a political commitment to more deliberative processes has been seen, especially using the latest technology and concepts of subsidiarity. This is also a response to the failed ideal of big society. In 2018, the British Government passed the *Civil Society Strategy*, which was meant to promote cooperation between the government and CSOs, i.a. by means of programmes and enhanced state funding. At the same time, commitment in the subsidised housing sector (for example, community-led housing) is growing.

In 2016, the British Government and a number of CSOs in the United Kingdom launched the *Open Government Pioneers Project*, intended to help achieve the UN's sustainable development goals (the 2030 Agenda). Its aim is to strengthen CS in Scotland, Wales, Northern Ireland as well as England, to facilitate its access to decision-making processes and, finally, to contribute to its political and public recognition. The project was also developed against the background of the outcome of the Brexit vote and the resulting changes in CS's scope of action in these countries.

CS's share in the painful process of Great Britain's exit from the EU (Brexit) must also not be disregarded. Although charities are not permitted to take sides directly, the campaigns for and against such an exit often relied in many ways on civil society movements (which, for example, organised the largest Pro-Europe demonstration ever to take place: in London on 23 March 2019) as well as on traditional associations which supported Brexit.

### 4.4.2 Republic of Ireland, Northern Ireland and Scotland

To summarise, despite the old common tradition, CS in the British Isles can certainly be characterised today as diverse, whereby in Scotland and Wales nationalist, i.e. anti-English, motivations increasingly play a role. The members of the United Kingdom (England, Scotland, Wales, Northern Ireland) today see themselves much more strongly as nations, whereby England has neither a state parliament nor a state government. Their responsibilities are carried out by the Parliament and the Government of the United Kingdom. Ireland and Scotland were for a long time governed from London as parts of the United Kingdom until, in the 20<sup>th</sup> century, they successively became fully or increasingly independent.

This process started with the Republic of Ireland which, in a process of several steps which began in 1920, became a completely separate sovereign state from Great Britain. Accordingly, Irish CS also has a revolutionary nationalist tradition. However, there are still countless common traditions, links and special relationships.

For a long time, the Roman Catholic Church played the dominant role other than the state in the Republic of Ireland. It acted as a moral authority and permitted hardly any other civil society actors. It is only recently that the country has begun to develop towards a liberal democracy. Today, CSOs have a very wide range of possibilities for action and are well organised. They also receive reliable financial support from the state. As a deliberative democracy, CS in this country has, among other things, the opportunity to implement referenda (increasingly being used, and with great success) and to take part in *Citizen Assemblies*. The principle of subsidiarity is upheld and has resulted in a broad public commitment and an active society which is politically aware.

Northern Ireland has experienced a lengthy struggle in which civil society actors participated. The Civil War, which continued for decades, took place between Catholic Nationalists, who wished to join the Republic of Ireland, and Protestant Unionists, who wished to remain part of Great Britain. The Good Friday Agreement of 1998 ended this conflict. However, the tensions within Northern Ireland continue to shape the country and are threatening to flare up again after Brexit. The most distinctive feature of Northern Ireland is still the segregation of the population into two large religious groups. These circumstances and conflicts are reflected in CS. Some CSOs devote themselves explicitly to social segregation or reconciliation of the groups involved. The progress of a reconciliation policy has also opened new opportunities for CS to act. Nevertheless, it is comparatively weak and has little power to influence or shape the future.

There was relatively little conflict on Scotland's road to partial independence. Civil society has always offered the Scottish a point of identification parallel to their national society. For a long time, CS here was also characterised by civic and religious actors. One prime example is the (Calvinist) Church of Scotland which, since 1921, has explicitly regarded itself as a non-state body, i.e. CSO, and whose General Assembly long served as a substitute for the Scottish Parliament not (yet) established. *Civic Scotland* in particular designates an influential civil society.

Disassociating from England has been vital for the self-perception of the Scottish people for centuries. This disassociation is facilitated by the differences in the legal systems. The country became more independent after its own parliament was established in 1998. Since then, Civic Scotland and the many church CSOs have been supplemented by new organisations; the traditional actors in Scottish CS are becoming more irrelevant. This vitalisation of CS is due not least to the attempt of both Scotland's citizens and its CS to actively distinguish themselves from England, which is perceived as an undemocratic country (the so-called *independence of Scottish mind*). The young democracy and its new Parliament have decentralised and democratised the political process. Today, it acts in an open and transparent manner. CS has gained more autonomy in this process and meanwhile has access to a supportive political environment and close relationships between CS and the government.

#### **4.5 The Former Soviet Union: Armenia, Azerbaijan, Georgia, Russia, Ukraine<sup>21</sup>**

All of the countries in this group are united by their Soviet heritage. A strong civil society acting independently from the state and able to participate politically was not compatible with the Communist doctrine, and this is noticeable with regard to the rather limited scope of CS. This shared past is the basis for path dependencies which can still be observed today. Corporations and informal alliances played an important role in the democratic transformation phase, but this did not go hand-in-hand with any high standing or many opportunities for participation in political formative power after this phase.

CS in these countries cannot compete with most central and western European countries in terms of its size and opportunities for influence. However, they have developed differently since the end of the Soviet Union, as can be seen in the current assessment of the Civicus Monitor for this country group, which ranges from "narrowed" in Georgia to "obstructed" in the Ukraine and Armenia, to "repressed" in Russia and even "closed" in Azerbaijan.

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<sup>21</sup> Civicus Monitor 2020: Armenia: 3, Azerbaijan: 5, Georgia: 2, Russia: 4, Ukraine: 3.

In none of these countries, civil society was instrumental in bringing about the transformation. Accordingly, after the end of the Soviet Union, none of these countries was able to fall back on a strong civil society tradition or a strong sense of social commitment among its citizens. Everywhere, CS developed as a service provider, in some countries more, in others less, and this led to nominal growth. The scope of state support, relatively high in Russia, is not, however, an indicator of a CS which is diverse and capable of acting. When a large part of CS financial needs are covered by the state, this creates dependencies – like everywhere else – which often do not permit it to act as a watchdog or advocate. CSOs whose services complement the government’s social and health services benefit from government funding; those who are outspokenly critical or represent minorities experience more difficulties in obtaining funds (Stewart/Dollbaum 2017).

### 4.5.1 Focus on Ukraine

#### Historical Development and Traditions

The heritage of the USSR weighs heavily in Ukraine. Apart from the alliances of workers in sports associations and a small number of networks, incorporated forms of CS barely existed. After the end of the Soviet Union associations originating from that time, e.g. some influential trade unions, were seen by citizens as corrupt and co-opted by the ruling elite, and even today little trust is placed in them. As in other Eastern European transformation countries, from the beginning of the 1990s many NGO were founded with Western support. These are active in the fields of democratisation and social issues; for a long time, foreign countries considered them to be the Ukrainian CS. Thus, civil society actors in the Ukraine not only provided social services, but also assumed certain state responsibilities, and gained greater influence over political and social developments.

Together with the transformation process, however, a civil society service sector was also established; the number of CSOs continues to grow, especially in the fields of child and youth care, education, and also the health sector. The regional structure of Ukrainian CSOs reflects the centralised character of the Ukrainian state. The majority of organisations are located in the capital city of Kiev. In the meantime, however, some other cities have developed into centres with a larger number of CSOs, in particular Lviv, Zaporizhzhya and Odessa.

Apart from winning its independence in 1991, three subsequent political events in Ukraine were especially important in influencing the country’s recent history and the development of CS:

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- The “Orange Revolution” in 2004,
- the “Euromaidan” the winter of 2013/2014, and
- the annexation of the Crimean Peninsula by Russia in 2014.

The period between the Orange Revolution and the election of Viktor Yanukovych as president (2010) was characterised by open and fair elections and relative freedom of expression and assembly, representing a positive environment for CS. When Yanukovych’s term of office commenced there were several alarming signs regarding CS’s free sphere of action, e.g. the arrest of the then Head of the Ukrainian Office of the Konrad Adenauer Foundation and the Ukrainian security services’ interrogation of several CSO staff members who were funded by the International Renaissance Foundation (IRF)<sup>22</sup>. In addition, during protests against a new tax law in the autumn of 2010, several of the main organisers were arrested on flimsy pretexts and had to serve prison sentences. However, Ukrainian CS was further strengthened at the legislative level when the ‘Law on Civic Associations’ was passed in March 2012, Dissatisfaction with the government’s pro-Russian course and the allegation of enrichment against Yanukovych’s regime finally resulted in the ‘Euromaidan’, which was mainly supported by an opposition consisting of CSOs from different political camps as well as the Ukrainian Orthodox Church. As a result, CS has changed greatly; today, it enjoys a significantly higher level of voluntary commitment. The annexation of the Crimean Peninsula in 2014 caused the social divide in the Ukraine between pro-Russian and pro-European voices to become much stronger. Many CSOs have also been affected by this: their staff have fled from the areas of conflict; some organisations have moved their offices from the occupied territories in the Donetsk and Luhansk People’s Republics; some have discontinued their operations.

#### **Function / Scope**

According to information from the Ukrainian Organisation Register (UUNRCO) about 85,000 associations were registered on 1 January 2019, among them 1,455 foundations, 26,075 religious organisations and 18,433 charity organisations. The figure for registered organisations is continuously increasing, as is the number of people who work for them. The Counterpart Creative Center, a Ukrainian NGO, assumes however that only 5-7 % of these registered organisations actually carry out projects regularly. Most CSOs are small (up to 30 members) (Stewart 2013). Compared to its post-Soviet neighbours such as the Republic of Moldova, Georgia or Armenia, Ukraine is definitely active in the civil society

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<sup>22</sup> The International Renaissance Foundation (IRF) was founded by George Soros, who has long been at the centre of attacks made by governments which are hostile towards CSOs. For example, former Prime Minister Nikola Gruevski supported a ‘Stop Soros’ movement in Macedonia in 2017, and Hungary, the country where the U.S. billionaire was born, has enacted a ‘Stop Soros’ law.

sector. Most CSOs operate in the field of child and youth work. Between 25 and 30 % have indicated that they are active in one of the following sectors: political education, human rights and social issues (Stewart 2013), whereby most of the active organisations are located in the capital city.

#### **Legal Basis / Financing**

After pressure was applied by local CS, the EU and the COE, reforms were undertaken from 2010 onwards. In 2012, a new law reduced the legal barriers for CSOs. The *Law on Civic Associations* was drafted with the support of Ukrainian civil society experts and included several significant improvements compared to the previous legislation: a simplified process of registration, the right of a registered organisation to be active in all Ukrainian regions and the possibility of financing CSO activities through entrepreneurial undertakings. Furthermore, the *Law on Access to Public Information*, which was passed by the Ukrainian Parliament in 2011, is significant for Ukrainian CS because, for example, it assists many organisations in monitoring state activities in a sensible and efficient manner.

However, a law which has existed since 2011 continues to make it difficult to use volunteers, because it implements massive financial and bureaucratic hurdles for CSOs wishing to do so. The same applies for tax law, which does not grant all CSOs the same tax benefits and makes the tax deductibility of donations from private persons and companies complicated due to excessive red tape.

The measures set out in the *National Strategy for the Development of Civil Society in the Ukraine for 2016-2020* to simplify the registration of CSOs have, according to the UN, generally been implemented. They include, among other things, a reduction in the registration deadlines for tax advantages as well as an improvement in CSO's access to public contracts. Generally speaking, it is now easy for CSOs to register. It takes approx. three days to register a public association and one day to register a charity organisation. The registration process is free of charge.

If a CSO opts for the status of a charitable organisation, it is exempt from income tax at the rate of 18 % as long as its income is used to finance its activities. Individual as well as company donors may receive tax deductions of up to 4 % of their income from the previous year on donations to CSOs. In addition, corporate donors may claim for a tax rebate of 8 % on their income from the previous year if they support sports CSOs.

In total, both state funding as well as citizens' willingness to give donations is increasing. The dependence of many CSOs on foreign donors, which has evolved historically, especially in the field of political education and the promotion of democracy, is still noticeable.

#### **Possibilities / Conditions / Participation / Perception**

During the Orange Revolution, large parts of society experienced how they were able to bring about changes in their country's political landscape by joining forces. However, the results of this revolution left many Ukrainian citizens with a deep sense of disappointment because the structures of power and distribution remained largely (un)equal.

Despite the improvements with regard to the legal basis for the work of CSOs (in 2012) there have been reports on massive restrictions. In the period under the leadership of President Yanukovich, many civil society actors reported cases of open hostility, attempts at intimidation and intelligence investigations against them. In the phase of political reorientation after the Euromaidan, CS representatives and political activists were included in the development of reform plans which, in the following years, increased CS's opportunities to participate.

Countless initiatives founded during the Euromaidan are still active today. The Euromaidan was also a catalyst for Ukrainian CS seen from the macrosocial point of view. Previously, only 9 % of all citizens indicated that they donated money for charitable purposes; after 2014, this increased to 38 % and in 2018 it was still 29 %. The proportion of volunteers also rose (Worschech 2018).

The annexation of the Crimean Peninsula and the armed conflict between separatists supported by Russia and Ukrainian forces in the eastern Donbass region as well as in Luhansk has resulted in a large number of internally displaced persons (1.5 million people), which is, in turn, changing CS. At the beginning of the 2014 conflict, CSOs to some degree replaced the Ukrainian army, which had become practically unable to function during the Yanukovich era. Parallel to the voluntary combat units, which were usually made up of self-defence groups from the Euromaidan protests, organisations were formed with the objective of supplying the Ukrainian Army with medical and protective equipment. In the course of this conflict, CSOs were founded to offer practical assistance to internal refugees looking for work and housing, as well as psychological support. An increase in international donor funding can also be seen in this region (Worschech 2018).

### Trends

Today, most CSOs can act without fearing any influence from the state, but are often not financially supported by it either, which restricts their sphere of action. To what extent CSOs are included in the political decision-making mechanism is, however, strongly dependent on the will of the decision-maker in question and the activities of each CSO. Since a cooperation on equal terms rarely takes place, the possibilities for CS to exert any influence are greatly limited, with the exception of only a few cases. Even if it is recognised that some political representatives accuse CSOs of being 'foreign agents', such allegations are generally not supported by the media.

CS has been able to develop as an important element in post-Maidan Ukraine, but to some extent it still faces immense hurdles which particularly affect its financing and professionalisation. The 'NGO-isation' of CS by large, international CSOs is changing and declining; increasingly, informal protest movements and initiatives are appearing, supported in part by a young, political generation, and Ukrainian CS is becoming more self-confident and independent.

The fragmentation and polarisation of CS presents a huge challenge: Due to the "Euro-maidan" and the crisis on the Crimean Peninsula, many 'uncivil' and right-wing extremist CSOs have gained considerable influence and pose challenges not only for the state, but also for CSOs which advocate liberal issues. The increasing dichotomy between cooperation with the government and criticism of it will also become of increasing significance, and we can expect a balancing act between cooptation and demarcation here (Cleary 2016).

#### 4.5.2 Trends in the Former Soviet Union

The strengthening of national right-wing, illiberal forces can be seen in many of the countries in this group. This results in restrictions for CS in its possibilities to work and to participate. Generally, in all of the countries listed, CS is only partly able to take on a visible role. Inadequate financial support, legal and bureaucratic hurdles and distrust on the part of the political elite make its work more difficult. Compared to other European country groups, all of the nations in this group are fighting restrictions against their CS as well as their democratic institutions. Not one of these countries has an open, free and unobstructed CS as defined by the Civicus Monitor. Despite this, CS in this country group covers a huge range with regard to its potential and scope of action in these nations. While Georgia continues to strive for close cooperation with the EU and is thus attempting to implement European recommendations with regard to the legal framework for CS, in

Russia, the restructuring of CS into a subsidised CS which is loyal to the system on the one hand, and a critical CS which is subject to restrictions on the other hand has been largely completed (Cleary 2016).

The differences between Russia and Ukraine are clearly visible: while in Russia, the political and civically committed CSOs are subject to open hostility from politics and the media and are continuously being more marginalised, CS in Ukraine is taking on important watchdog functions and has been able to establish itself as an actor despite far-reaching problems. In Russia, the state increasingly differentiates between politically (dangerous) and socially oriented (conductive) organisations. Only the latter receive state funding; as ‘undesired organisations’ or ‘foreign agents’, the ‘politicals’ are subjected to immense bureaucratic requirements and constant meddling. Even unpolitical CSOs that work in the fields of minority or human rights, e.g. for LGBTQ, can suffer from this (Stewart/Dollbaum 2017). Despite the problems for CS in Russia, an extensive and diverse civil society has been able to establish itself there since the end of the Soviet Union and includes an increasing number of informal, politically oriented alliances.

In all of these states, a politically engaged CS is exposed to distrust from politics, the media and society, and is suspected of exercising foreign influence because of its dependence on foreign financial support. However, the effects of such distrust differ greatly from state to state. In Azerbaijan, for example, the government has almost completely cut off CSOs from foreign funding, systematically and draconically persecuting those organisations which criticise the regime. The work of German party-related foundations which are under observation in Russia is no longer permitted in Azerbaijan.

#### **4.6 Central Europe: Germany, Austria, Switzerland<sup>23</sup>**

The countries in Central Europe are united today by a strong CS, even if this differs with regard to its nature and history. In Germany, Austria and Switzerland, CSOs have a high social relevance; traditionally, they cooperate closely with state actors. In this context, the historical background of Austria and Germany, which differs from that of Switzerland, should not be disregarded. Their path into the modern world was extremely difficult, characterised by National Socialism and, in Germany, also by almost two generations of affiliation to diametrically opposed social systems. In addition, older CSOs also related to very different traditions. Labour organisations were important forerunners of an organised CS, as were church-related charitable organisations and civic cultural and patriotic

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<sup>23</sup> Civicus Monitor 2020: Germany 1, Austria 1, Switzerland 1.

associations. From the late 1960s onwards, so-called new social movements, including protest movements (against the continuation of authoritarian structures, against the Americans fighting in Vietnam, etc.) played a decisive role in the development of CS. In Germany this was also supported by theoretical approaches, in particular from Jürgen Habermas<sup>24</sup>, who coined the term of ‘deliberative democracy’, explicitly referring to a general participation in public matters, but also from Ernst-Wolfgang Böckenförde<sup>25</sup> and others.

In contrast to Austria or Switzerland, in Germany the institutionalised welfare state was built on a corporatist model from the early 20<sup>th</sup> century onwards, for which Oswald v. Nell-Breuning<sup>26</sup> and others developed the so-called ‘principle of subsidiarity’ as a theoretical foundation. Its implementation was, however, restricted to the social sector, with the state claiming a position of priority in others such as the educational sector. This model favoured the development of large civil society social enterprises, although financially these remained dependent on state contracts and grants. In Austria, the large, established organisations still hold close ties to the political parties, while these have dissolved in Germany and never existed in Switzerland. A common civil society self-perception of all the actors has only begun to develop slowly in the 21<sup>st</sup> century and is still not fully formed.

Although associations in all three countries have been given standardised consultation rights in planning and legislation procedures, resulting in the use of the term *democracy of associations*, these rights have often become rigid rituals without any participatory strength and noticeable consequences for the political processes. Mass protests against this ‘fake’ participation took place, for example, around 2010 during the dispute on the construction of *Stuttgart 21*, the city’s new train station, by the Deutsche Bahn.

### 4.6.1 Focus on Switzerland

#### Historical Development and Traditions

Civic engagement has a long tradition in Switzerland and is deeply anchored in the self-perception of its citizens. The whole founding myth of the Swiss Confederation is based on citizen action. Although the country is small, it unites four national languages and re-

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<sup>24</sup> Jürgen Habermas, “Strukturwandel der Öffentlichkeit - Untersuchungen zu einer Kategorie der bürgerlichen Gesellschaft”. Neuwied/Berlin 1962.

<sup>25</sup> Ernst-Wolfgang Böckenförde, “Die verfassungstheoretische Unterscheidung von Staat und Gesellschaft als Bedingung der individuellen Freiheit”. Opladen 1973.

<sup>26</sup> Cf. Oswald v. Nell-Breuning, *The Social Encyclical*, Cologne 1932.

sulting diverse cultures and religious communities. Not least due to the country's geological and linguistic diversity, civil society actors have always played an important role in social cohesion. Subsidiarity is very widespread, not least due to the individual cantons' and municipalities' sphere of action. This fact has a historical background which stretches back to the Middle Ages. At that time, (trading) guilds began to develop after the gentry had lost its dominant position and the urban middle classes had taken over the new dominating role. The guilds are regarded as the forerunners of modern CSOs in Switzerland: apart from responsibilities to regulate the market, they also took over many social functions. In addition, there were other formations, especially of numerous religious and charitable foundations and cooperatives. However, organisations which were active nationwide only began to develop much later, following the founding of the modern Swiss federal state in the period around 1848. Its liberal constitution promoted the emergence of the first modern CSOs, which were able to take over important social responsibilities. As a result of this liberal tradition, the state was required to refrain from action in many social sectors. Both foundations and associations have a long tradition. It is not a coincidence that the international Red Cross movement originated in Switzerland and numerous international CSOs, e.g. the International Olympic Committee, have their headquarters in Switzerland. Contrary to other countries, however, the welfare state still remains largely intact.

The mandate of today's elected parliaments, which is significantly more restricted than in other representative democracies, the right of initiative, and the possibilities for a referendum offered by direct democracy, allow CSOs a range of political opportunities for participating in the decision-making process and exerting control which is wider than in almost any other country. On the other hand, the state is occasionally responsible for restricting the rights of freedom of expression and initiative in order to protect ethnic and religious minorities. Thus, some public initiatives (for example, the initiative "against mass immigration") have not been fully implemented, despite their receiving a majority vote.

#### **Function / Scope**

Swiss CS is made up of a highly diverse structure of associations, organisations and foundations. This is visible not only in the difference in sizes between economic organisations and environmental protection groups, but also in the wide range of responsibilities and the scope of activities carried out by charitable organisations, from sports to advocacy and humanitarian aid abroad. Most CSOs are active in the social services and welfare sectors. Furthermore, the sports and leisure sector is extremely large in Switzerland. Sports and leisure organisations depend far more than others on unpaid volunteers. In 2017, more

than half the citizens over the age of 16 was actively or passively involved in a CSO; 42 % of citizens were active members. The greater part of the work of CSOs, however, is carried out by paid staff. In 2005, the employment rate for CSOs was equal to 63 % of full-time employment (Helmig 2011); most of these people worked in the service sector.

#### **Legal Basis / Financing**

According to Swiss law, associations, foundations and other legal entities may apply for tax exemption if they can prove that their activities are in the public interest (charitable, public or cultural purposes) and their activities are not intended to generate a profit. Since federal and canton taxes are levied separately, tax exemptions are regulated at these levels. CSOs are not subject to direct federal tax (profit tax), nor are they subject to canton and municipal taxes (profit and capital tax, and inheritance and gift tax) in most cantons. Donations to legal entities which are tax exempt because they are a charitable organisation or carry out public responsibilities can be deducted at the federal level and in most cantons up to a certain percentage of the donor's income or profit (generally up to 20 %).

Contrary to many other European countries, more than half of Swiss CSOs' income (2005: 58 %) arises from fees and sales. In 2005, state funding amounted to approx. 35 %, private philanthropy to approx. 8 %. The percentage of state funding is highest in the health and social services sector (2005: 45 %). This gives the impression that donations are less important for Swiss CSOs, but some organisations, especially religious ones and those providing international aid, depend on private donations for almost up to 50 % of their income.

#### **Possibilities / Conditions / Participation / Perception**

The principle of subsidiarity, which restricts state measures to those sectors which are not covered by private persons or institutions, is firmly anchored in the Swiss Constitution. As a result of this federal structure, CSOs hold an important position, as seen from the generally positive manner in which state actors treat CSOs. Contrary to other countries, the autonomy of CS has never been questioned by the state; therefore, it has not required any special protection. Thus, there is no explicit policy in Switzerland with regard to charitable organisations. CSOs are normally taken into consideration in laws as well as state (development) programmes or consulted during planning ('consultation procedure'). In any case, the right of initiative and referendum as well as the right of appeal for associations have given CSOs good opportunities to exert influence on policies and the legislative process.

Charitable and philanthropic organisations as well as leisure clubs and trade associations have considerable support from the people and there is a high degree of willingness to give donations. Organisations and initiative committees are regarded as an important corrective and counterweight to the government. On the other hand, many Swiss people have little sympathy for groups which criticise the system, radical protest movements and organisations in the educational sector. Direct democracy leads to broad support for the existing system and education is perceived as the state's responsibility.

### Trends

Similar to other countries, there has also been a decrease in federal and canton subsidies in Switzerland and hence a reduction in the financial stability of smaller and medium-sized CSOs. Technological change and digitisation have had an even stronger impact on how organisations provide their services. Thus, organisations see themselves in competition, particularly with service providers from the private sector, especially since CSOs in Switzerland are also experiencing increasing difficulties in finding volunteers who are willing to commit themselves long-term.

#### 4.6.2 Central European Trends

CS suffers in varying degrees from the polarisation of the political landscape. Threats against people who are civically engaged are increasing. In addition, public and political discourse is characterised by a growing populism. Developments in social change such as the erosion of the environment, changes in life styles and professional careers as well as values are resulting in difficulties, especially for traditional organisations, while at the same time countless new CSOs are emerging and experiencing great popularity. As in other European countries, the CSOs in the central European states are suffering from a growing pressure to be more efficient and professional, at least to the extent to which they offer services. The financial situation is perceived as strained.

In Germany and Switzerland, there are hardly any restrictions from the part of the state. This said, recent court rulings and parliamentary initiatives to reduce the political effectiveness of CSOs must be seen with concern. The situation is even more critical in Austria. Since 2017, the conditions for CSOs have deteriorated; they must increasingly fight against restrictions. Populist forces are attempting to restrict the pluralist civic space and view CSOs as political enemies. This has led to a reduction in the possibilities for political participation. The 2019 Civicus Monitor characterised the status of Austrian CS as "narrowed". In the recent past, CSOs have been noticeably less involved in legislation procedures, which been shortened, than was previously the case. In the current version of the Civicus Monitor, Austrian CS is, however, once again classified as "open".

#### 4. Country Reports

In connection with the refugee crisis of 2015, new and very often spontaneous relief initiatives have been formed in all three countries, and some of them continue to exist. In the beginning, a great sense of solidarity could be felt everywhere. In the meantime, however, the social acceptance of these organisations has decreased in all countries. Some citizens, especially in Austria, are downright hostile, in particular towards CSOs working with vulnerable groups. This development reflects the erosion of social solidarity. At the same time, however, a re-politicisation has also been observed in some parts of society.

### 4.7 The Mediterranean Countries: France, Greece, Italy, Portugal, Spain<sup>27</sup>

European and even global CS can be thankful to citizens of two of the countries dealt with in this section for essential elements of its theoretical foundation. In the first half of the 19<sup>th</sup> century, the French aristocratic civil servant, Alexis de Tocqueville, went on an official study tour of North America (to study the American prison system) and used this tour for a more intensive study on American society in general. The knowledge gained and published in two volumes<sup>28</sup> is part of the foundation on which civil society research has been built, both in the USA and in Europe. In particular, Tocqueville established that the prerequisite for a functioning democracy is a functioning (modern-type) CS. On the other hand, the Italian Marxist Antonio Gramsci, writing in the 1930s during his long prison sentence<sup>29</sup>, repeatedly discusses the *società civile* as an independent part of the superstructure (in the Marxist sense) alongside the state, thus approaching the model of the three arenas for collective social action. In so doing, he follows i.a., the concept of voluntarism as developed by the French philosopher Henri Bergson.

With the exception of France, the countries of Southern Europe are united by their intensive experience with authoritarian regimes. Under the Fascist rulers Franco, Mussolini and Salazar and during the period of the military dictatorship in Greece, CS was only able to develop underground. Thus, for a long time, only CSOs which supported their country's politics and cooperated closely with the state were able to establish themselves, while protest movements operated underground. However, in Spain and Portugal, a moderately oppositional CS began to crystallise in the 1960s and 1970s, paving the way for the democratisation of these countries. There is also a rich tradition of civil society in south-western Europe, with Italy and Spain developing an overall self-perception of civil society earlier than was the case for example in Germany. There are numerous voluntary associations, clubs and other CSOs. Many function as political actors and service providers in the social sector. Trade unions and protest culture are very strong in the southern countries, even if they have different spheres of influence. Both their degree of organisation as well as the support they receive from state actors can be designated as 'good'. Citizens' disillusion with politics has led to increasing support for CSOs, social movements and trade unions, but also to a certain disinterest in political issues and self-organisation.

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<sup>27</sup> Civicus Monitor 2020: France: 2, Greece: 2, Italy: 2, Portugal: 1, Spain: 2.

<sup>28</sup> Alexis de Tocqueville, *De la démocratie en Amérique*. 2 volumes. Paris 1835 / 1840.

<sup>29</sup> Antonio Gramsci, *Quaderni dal carcere* (written 1929-1935, first published 1948-1951). English language edition: Prison Notebooks (Joseph Buttigieg ed.) New York: Columbia University Press 2011.

Greece represents an exceptional case, because the emergence of CS was only able to begin with the emergence of the independence movement in the 19<sup>th</sup> century, which remained rather weak there as well. In addition, the Orthodox Church was and still is today significantly closer to the state than has been the case for several decades in Italy and Spain and for over 200 years in France.

### 4.7.1 Focus on France

#### Historical Development and Traditions

Since the 18<sup>th</sup> century, France has had a tradition of consciously rejecting CS on the grounds that citizens should express their collective identity exclusively within the state. From 1791 until 1901 there was no law on associations; from 1791 until 1983 no law on foundations. In practice, this model failed quite quickly. Tocqueville, who compared it to his observations in the USA, thus had a misconception of the conditions in his home country.

During the French Revolution, the country's existing network of solidarity was almost completely destroyed. The foundations for the French Republic established the state as the sole expression and representative of its citizens. There were no provisions for civil society authorities such as associations and trade unions to act as intermediaries. They were actually regarded as a hindrance to the achievement of the collective will (*volonté générale*). Until the end of the 19<sup>th</sup> century, trade unions and associations were legally forbidden. However, quasi-civil society organisms (e.g. the *économie sociale*) very quickly began to emerge in increasing numbers. Following a short interruption, the Catholic Church continued as an organism which was clearly separated from the state, but not powerless, as did a labour movement from the 19<sup>th</sup> century onwards. When freedom of association was reinstated in 1901, CS was able to develop more strongly. Since then, CSOs have preserved a legal status and relatively extensive rights. With regard to participating in political decision-making, however, no close cooperation is explicitly envisaged. Decisions are seldom reached after consulting with CS actors. Despite tendencies to decentralise, France continues to be centrally governed. But this clear division of responsibilities also offers both CSOs and opposition movements clear points for attack.

After World War II, CS began to unite in associations. In 1945, the umbrella association UNIOPSS (*Union Nationale Interfédérale des Organismes Privés Sanitaires et Sociaux*) was formed, allowing CSOs to gain more power and political influence. From the 1960s onwards, this umbrella association increasingly placed more emphasis on cooperating with

the state. CSOs were thus progressively integrated as an integral element in the institutional setting of the welfare state. Thus, they particularly profited from the expansion of the welfare state. However, the process took the opposite course to the one in Germany: while little by little the powerful welfare associations in France were forced to cede power to the state, the German state gradually granted civil society institutions a larger share of welfare production.

#### **Function / Scope**

French CS is growing. The majority of CSOs is active in the social and health sectors, followed by culture, leisure and sports. A large proportion of citizens do volunteer work and there is an upward trend in this percentage. Involvement with CSOs is often understood as also being part of the French people's self-perception of the *citoyen*, i.e. an (active) citizen. Most volunteers are active in the leisure and sports sector, whereby many organisations are small and carry out their work with only a very few paid employees. In the social sector, however, the employment rate is far higher than average. An exceptionally large part of French CS views itself as a protest movement, although empirically the figures have hardly been ascertained. Affiliation is normally spontaneous and volatile, even when centralised structures are recognisable and protest periodically flares up in a violent form. Generally, their guiding principle is their scepticism towards state authority as such.

One special feature of the French division of responsibility is the high proportion of schools offering general education which are run by CSOs. Over 25 % of all pupils do not attend a state school. Most of the responsible institutions have close links to the Catholic Church or are part of a church structure. With the exception of Alsace and Lorraine, there are no financial or legal ties between the church and the state. Accordingly, the churches are CSOs in every respect.

#### **Legal Basis / Financing**

If the purpose of an organisation serves the public interest, this results in civil and fiscal advantages. If it has been recognised as a charitable organisation, all of its revenues from and for charitable purposes are exempt from corporate and trade tax as well as VAT. In France, however, it is difficult to gain legal recognition as a charitable organisation (*association reconnue d'utilité publique*), due predominantly to administrative hurdles. As a result, many CSOs do not aspire to this status and cannot therefore benefit from tax breaks. Most organisations are set up as associations. The foundation sector is very small, due to the lack of legal regulation for foundations prior to 1983.

CSOs that provide services are largely dependent on state grants and service contracts, especially in the social services, culture, environmental protection, and development co-operation sectors. In 2011, the percentage of state funding in the health sector amounted to almost 70 %; in 2015, on average, it was about 61 % (cf. Archambault 2015). Smaller organisations composed almost solely of volunteers generally receive a significantly lower percentage of state funding, thus enabling them to act much more independently. Nevertheless, CSOs in France are also fighting financial pressure as their reliance on (long-term) public funding diminishes.

#### **Possibilities / Conditions / Participation / Perception**

France can be labelled a centralised welfare state. CSOs have only limited participation in decision-making processes; there is a lack of effective structures of cooperation. Despite its centralised character, the state does increasingly cooperate with civil society actors. In particular, CSOs play an increasing role in the welfare mix and have successfully fought for a growing say on these issues. For a long time, French trade unions also appeared to be very influential. They act as a dissenting voice on legislative changes, have a strong ability to mobilise people and also support social movements linked to trade unions. However, during the past 30 years, they have lost their ability to assert themselves politically and their vision to a considerable extent. Declining numbers of members, fragmentation and internal disputes over strategic orientation have weakened them. Furthermore, they lack answers to the current economic policy challenges; they hang on to existing structures and refuse to accept any type of reform. E.g., in 2016, the trade unions mobilised large parts of the citizenry to protest against the government's labour market reforms. Nevertheless, they were barely able to implement any political demands. Although they are loud, they are politically weak.

Civil society actors do not receive a high degree of support in all sectors. Many citizens are of the opinion that the government is responsible for dealing with social, ecological or economic problems. E.g., in comparison to the rest of Europe, the French place exceedingly high trust in their country's social security system. CSOs committed to helping minorities and migrants are increasingly experiencing hostility. Support for trade unions is restricted almost exclusively to the labour market policy sector, and here, too, this is declining.

### Trends

Despite the difficulties mentioned, CS in France is on the rise. This is also due to the collaboration which is increasingly being promoted by state actors as well as strengthening of the principle of subsidiarity. The state is handing over more responsibility to the local municipalities as well as to CSOs. This movement away from the state and towards more self-organisation goes hand-in-hand with a vitalised CS and a steady increase in civic commitment.

At the same time, French CSOs are facing great pressure, both financially and to adapt. Trade unions in particular urgently need to reform. To make things more difficult, the state is increasingly responding to critical protests with police violence and repression. This is one of the reasons why *Civicus* has described CS in France as “narrowed”.

### 4.7.2 Trends in the Mediterranean Countries

The profile of CS in Southern Europe is as high today as in Central and Northern Europe. Despite existing problems, initiatives and activities to encourage civic commitment in general have increased in the past decades. While older research opinions indicated that the Catholic faith and/or stronger family ties precluded this, this does not (or at least no longer) appear to be true. Regionalist trends are mixing with other civil society trends, particularly in Italy and Spain, but not, as far as can be determined, in Greece. The social perception of and for CS differs greatly; periodically, it is characterised as revolutionary, especially in France. Despite the fact that citizens maintain a significant distance to the state apparatus, if there is any case of doubt, the state is always placed above the interests of both the economy as well as CS. It is regarded as responsible for providing goods and services which are of public interest. The unstable political situation in some Southern European countries and the regionalism which is increasingly taking hold in France, Italy and Spain are influencing the establishment of civil society structures and, to some extent, replacing the traditional pillarisation (Catholic – left-wing – liberal). Especially the financial and economic crisis of 2008 and refugee issues since 2015, which have hit Southern Europe particularly hard, have led to the emergence of new actors and a broader mobilisation. The fact that some of these movements and organisations have become the victim of state or repressions has actually strengthened resistance. On the other hand, with the exception of Portugal, an increase in right-wing populist powers can be observed in all Southern European countries which have, to some extent, created their own civil society movements.

### 4.8 Scandinavia: Denmark, Finland, Norway, Sweden<sup>30</sup>

Civil society actors have a long tradition in the Scandinavian countries and are basic elements of society. Nordic societies have enhanced welfare and civil society components which are closely interconnected. There is trust in the interdependence between CS and the state. The presumption that a large public sector leads to a weak CS is rebutted here. Measured by the number of members and volunteers, the Scandinavian model of CS is characterised by a high level of civic participation in voluntary organisations. This is also due to the fact that organisations have long-established functioning mechanisms of inclusion and thus broad mobilisation, for example through grassroots movements. However, a peculiarity of the Nordic countries is that supporting significantly exceeds active membership, since being involved is of primary relevance, not effective commitment. In this regard, organisations today act less as dissenting voices and more as cooperative partners of government. They follow the one norm societal model which can be found practically everywhere in the Nordic countries (cf. Alapuro/Stenius, 2010: 31).

Contrary to the other Scandinavian countries, Finland also demonstrates its Russian past and the precarious political situation it experienced for a long period of time. To some extent Finland still follows a “holistic culture” which places great relevance on national identity; civic organisations are not regarded as vital for society. To be successful, the latter must submit to the national imperative, since citizens still identify primarily with the state and not a (political) movement or organisation.

#### 4.8.1 Focus on Sweden

##### Historical Developments and Traditions

Sweden’s political culture is characterised by its striking political equilibrium, which has led to its being called the ‘Swedish model’. Swedish society is defined by consensus, integration and pragmatism, not polarisation. As in all Nordic countries, CS in Sweden is strong and well organised. However, due to the state welfare system, which has existed for a long time and is almost perfectly developed, CS is only marginally involved in welfare production. It is characterised by horizontal cooperation and solidarity. CSOs act in an open social environment; they are supported by both state and social actors and can depend on a clear legal basis.

Many of today’s CSOs have emerged from social movements and this historical heritage is still strong. It influences ideas and ideals as well as the expectations placed in CS.

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<sup>30</sup> Civicus Monitor 2020: Denmark: 1, Finland: 1, Norway: 1, Sweden: 1.

### Function / Scope

Sweden's CSOs are particularly active in the leisure and sports sectors, focussing on community building. Mass and grassroots movements (*fölk rörelser*) also play an important role in the Swedish system. On the other hand, cultural organisations are barely represented. Most social services are offered solely by state organisations; there are no welfare associations comparable to the Central European model. This is also because the social democratic state is an almost universal welfare state which was developed with virtually no participation of CS. In recent years, however, involvement in the educational, social and social partnership sectors has begun to increase once again. On the other hand, next to political parties, CSOs are important actors. They take on functions such as advocacy and act as watchdogs of the political system.

### Legal Basis / Financing

In Sweden, CSOs cover the majority of their costs (approx. 62 %) through fees (membership, charitable events, entrance fees, and lotteries). A good third is covered by state funding (Alapuro, Stenius, 2010: 108). On the other hand, in the welfare sector organised by civil society, approx. 60 % of costs are covered by the state, making it significantly more dependent on the state (Alapuro, Stenius, 2010: 110). Two types of state funding are available: either short or long-term project funding, or voluntary funding. The latter is continuously declining, making it increasingly difficult for CSOs to carry out long-term planning.

Fundamentally, with the exception of few, commonly very large foundations, there is only one type of association which is regarded as a CSO, the so-called *ideell förening*. This corresponds to the German *Verein* (association), within the scope of which a number of people work together to achieve a certain purpose. Any citizen may found an association for community or private purposes.

CSOs are only taxed on income from for-profit activities; otherwise, they are exempt from taxes on any surplus. Donations to CSOs are tax deductible up to an amount of 1,500 SEK (approx. EUR 130). The financial basis and legal framework for CS may be described as positive.

### **Possibilities / Conditions / Participation / Perception**

Relations between the state and CSOs are close, and cooperation is generally very intense. The so-called *state committees* are one of Sweden's peculiarities. They are convened by the government and are meant to advise it. They provide CSOs with numerous possibilities to influence legislative processes. In Sweden, political decisions are reached in a very corporatist manner, i.e. in an intensive dialogue between the government and CSOs. Thus, the relationship between the state and CS could be characterised in a neo-Hegelian sense as a dialectic and constantly changing relationship. Their collaboration was regulated in an agreement signed in 2008 (*överenskommelsen*). It was reached in order to strengthen the relationship between the state and CSOs and clarify the roles and responsibilities of each, whereby the principle of consensus is an integral element. Nevertheless, CSOs do not have the same political status as trade unions or other political actors. In conclusion, it can be said that the relationship between Swedish CS and the state is characterised by social partnerships and corporatist decision-making processes.

A large part of Swedish CS is involved on a voluntary basis, whereby the percentage of volunteers is slightly declining. Trends show that commitment is becoming de-politicised and concentrating more and more on welfare. CS is strongly supported by citizens; CSOs are regarded as important socio-political actors. However, religious, especially Muslim, organisations are disliked. This has been evident in some recent campaigns, and follows divisions and ideological debates in Sweden in general. On the other hand, after a long period of decline, traditional Protestant organisations, including the churches themselves, have once again won the population's respect for their advocacy on behalf of refugees and migrants.

### **Trends**

The past 15 years have witnessed a shift towards the institutionalisation of informal social movements, which in turn has strengthened organised CS. Tasks relating to the provision of services are becoming more important and cooperation with state actors more intensive. CSOs are becoming increasingly more professional; their full-time staff are becoming more important than their members. In 2017, 39 % of the people working for CSOs were employed by them (Statistics Sweden). These developments have also led to a shift away from independent grassroots movements more disposed to the social democratic side of the political scale towards a political power in the centre or on the right of the scale.

## 4. Country Reports

Future challenges to be faced by Sweden's CSOs are the increased pressure to become more professional and efficient; these are the result of financial constraints and trends towards liberalisation. As in other countries, competition for public subsidies and contracts is becoming fiercer. Although most CSOs can act freely, those committed to minority issues (e.g., LGBTQ issues, gender rights, women's rights, and migration and migrants' rights) are increasingly being threatened. Some have responded to this by making it more difficult to recognise their activities, even anonymising some of their activities, and cooperating with the police.

### 4.8.2 Scandinavian Trends

Traditionally, there was always a clear division of responsibilities in the Nordic countries: CS had a strong "voice" as an entity that pools and represents the interests of others. It is only recently that CSOs have increasingly begun to play an important role in the provision of social services, for example as social security providers. The close collaboration between the state and CS is, however, increasingly being questioned as profit-oriented companies are gradually expanding into the service sector, thereby diluting former collaboration models. Roles and responsibilities of different institutional sectors and spheres are shifting, to some extent to the disadvantage of CS. Due to a tendency to commercialise CSOs, which is particularly pronounced in Norway, the responsibilities of and opportunities for organisations are changing. They are increasingly mutating into pure service providers for their members and can no longer carry out their responsibilities as independent advocates.

This goes hand-in-hand with the fact that Scandinavian CSOs' role as a counterweight to the state or as advocates is steadily declining; instead, they are increasingly assuming the role of social welfare service producers for the general public or even exclusively for their own members. This has changed the forms of organisation. On the other hand, many Nordic CSOs have discovered new fields of activity for themselves, for example in the area of asylum. Right-wing extremist civil society groups are appearing in an isolated, but noticeable manner, threatening traditionally strong social cohesion.

#### **4.9 South-eastern Europe: Bulgaria, Croatia, Romania, Slovenia<sup>31</sup>**

Croatia, Slovenia, Bulgaria and Romania are united by a Socialist past which prevented the formation of a strong CS, as well as by their membership in the EU today, which has promoted the development of a modern CS. As early as the 1980s, the two countries that were part of Yugoslavia experienced initial political openings, enabling the foundation of numerous CSOs. The development thus triggered was, however, significantly restricted as a result of the Yugoslav War, and due to their funding structures the work of CSOs in the humanitarian sector during this time was perceived as being controlled by outside forces. After 1990, a 'Westernised' civil society quickly developed in Romania and Bulgaria, but this was also often perceived as being foreign. This perception still exists to some extent even today. Reforms in the early 2000s relaunched the underdeveloped CS in Bulgaria and Romania, introducing a period in which an extensive number of CSOs were founded. This process was further intensified through the establishment of closer relations with the EU. Membership in the EU (Slovenia in 2004, Bulgaria and Romania in 2007, Croatia since 2013) and the preceding establishment of closer relations made it possible to improve the circumstances for CS in each of these countries in the long term. The reasons for this include improved legal foundations, the triggering of democratisation processes in the political institutions as well as improved access to EU subsidies.

The EU's orientation with regard to CS will also have a significant influence on developments in Slovenia, Bulgaria and Romania. In all of these countries, this sector is expected to become more professional, which will increase the influence of CS. In addition, further consolidation of the financial and legal framework is expected, thanks to the EU as well as to initiatives triggered locally. In Slovenia, it is also expected that CSOs will be even more strongly committed to providing social services since state actors are withdrawing from this field. The refugee crisis and its (alleged) consequences have, on the other hand, led to increased politicisation and polarisation of CS over the past few years. Many right-wing national grassroots movements have been founded, especially in Bulgaria and Romania, to mobilise the population against refugees and their helpers, fostering the division of CS. This has also increased pressure, in public as well, on CSOs which are active in the sector providing humanitarian aid.

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<sup>31</sup> Civicus Monitor 2020: Bulgaria: 2, Croatia: 2, Romania: 2, Slovenia: 1.

### 4.9.1 Focus on Croatia

#### Historical Development and Traditions

As in other Eastern European countries which were under the influence of Socialism, Croatian CS played only a very minor role during this period. The aspiration of the Socialist regime to determine all of public life and the restrictions arising from this for CSOs are still evident today. After the first phase of the transformation process, both the country and CS were defined by two key events: the foundation of an independent Croatia (1991) and the subsequent war (1991-1995).

CS in Croatia was able and required to redefine itself during the transformation process which began in 1989. Due to the extensive social and political upheavals, CS was mainly called upon to provide social services. This role was enhanced further during the Civil War; financed mainly from abroad during the war, CSOs provided important humanitarian aid. At the same time, organisations supported from abroad found themselves facing criticism from both the government and citizens during the early stages of Croatian independence because there was a fear of foreign interference in national affairs. However, some areas of CS which were not supported by foreign donors were hardly noticed; in the 1990s, they tended to play a more marginal role if they did not support the government's nationalism. Although the legal framework and opportunities for participation were gradually improved after Croatia became independent, the 'nanny state' continued to exist and can still be observed today. Overall, for a long period of time CSOs were not regarded as relevant actors in the political sphere. After the change of government in 2002 and in the course of turning towards a more liberal policy and establishing closer relations with the EU, efforts were made to improve the status of CSOs and were able to intensify the development of CS in general and economic activities within the sector in particular.

#### Function / Scope

Today, Croatia has very few civil society actors in the field of social and welfare services. Since they are often not granted the same legal status as organisations in other sectors, there is a lack of both financial means as well as trust from the citizens of Croatia. State service providers receive preferential treatment.

CSOs that focus their activities on community building dominate Croatia's CS. From a political point of view, they are regarded as important actors and often entrusted with carrying out local and regional events (town festivals, community cultural events, etc.). Organisations which are assigned such responsibilities are often, however, subject to political control and tend to have a quasi-monopoly in their field. This makes it difficult for other

actors who do not have the patronage of the state to play a part here. Sport associations are extremely popular; most existing CSOs are very active in this sector. Clearly, most state subsidies go to these CSOs. Nevertheless, this sector is also considered to be underfunded, as can be seen from the insufficient infrastructure and lack of human resources.

#### **Legal Basis / Financing**

The change in tax law with regard to the tax deductibility of donations at the beginning of the 2000s indicated a financial as well as legal appreciation of CS in Croatia. Nevertheless, legal restrictions, especially the unclear tax law, insufficient legal definitions of CSO status, as well as unequal and non-transparent benchmarks when awarding the status of a charitable organisation, continue to be criticised. The increase in bureaucratic constraints imposed by the state is also regarded as problematic, because it binds human resources. A law which came into effect in 2014 obliges all CSOs to register with the state, which is regarded as an excessive regulation. Clientelism when selecting which CSOs to promote prevents the transparent and efficient support of several sectors of CS and emphasises the paternalistic tendencies within the political structure.

A survey in which 170 Croatian CSOs took part shows pronounced underfunding. Just under 85 % of the organisations indicated that the lack of state funding greatly restricts their work. Over 60 % indicated that the pronounced lack of support from the private sector presented a huge problem. International donors, most especially the EU, therefore, represent an important factor for an independent CS (Bezovan et al. 2016b). Underfunding primarily results in low earning potential, reducing the attraction of CSOs as employers. Many CSOs also reported that, due to the insufficient financial situation, an above-average proportion of their resources must be invested in fundraising so as to obtain a minimum amount of funding.

#### **Possibilities / Conditions / Participation / Perception**

At the beginning of the 1990s, those organisations which were predominantly committed to advocacy experienced a boom. Despite this, their opportunities for participation were restricted for a long time. As closer relations with the EU were established, however, their opportunities for exerting influence improved, and today CSOs play an important role, especially in such fields as the environment, human rights, health, and gender as well as the improvement of political transparency and the fight against corruption. Nevertheless, it has been confirmed that perception of CS is relatively low in both public discourse and politics. This lack of a substantive debate has resulted in a lack of clarity regarding the sectors and organisations which are to be included in CS. In some sectors, such as welfare

service providers and the health sector, citizens are extremely biased towards the CSOs. On the other hand, it is often the case that political institutions do not view CSOs as serious and trustworthy partners.

### Trends

As in many other Eastern European countries that are now members of the EU, working conditions and the influence of CS in social and political life have been improved by accession to the EU and the run-up to membership. It is expected that the role of the EU as an important partner will continue to become more relevant. Furthermore, the professionalism of CS and its organisations is expected to increase in the course of improving the financial situation, as the corresponding improvements in staff structure and possibilities for investments will enable them to increase their capacities. Croatia faces demographic and social challenges and in some cases the state cannot ensure sufficient support for those affected by them. In view of this, it is expected that civil society health, social and welfare services will increase. However, improved financial support through state funding which might continue to reinforce the efforts of CS in Croatia, is not in sight.

#### 4.9.2 Trends in Bulgaria and Romania

In the past twenty years, CS has gained increasing significance in Bulgaria and Romania, both of which have faced a greater struggle with the Soviet heritage than the ex-Yugoslav countries but (at least as far as Bulgaria is concerned) have had fewer problems with national or ethnic upheavals. Despite this, the participants in the 2007 *First Central and Eastern European Rule of Law Symposium* determined that “any reform of the rule of law and the justice system can only be effective and sustainable with the participation of a well-organized civil society, operating alongside governmental institutions and protagonists, which understands and is able to implement the necessary changes” (Roos 2011, 10 et seq.). Attention has been centred on fighting widespread corruption which continues to exist and on the problems with refugees and migration, especially in Bulgaria due to its border with Turkey.

CSOs still face enormous challenges, for example low membership figures and lack of influence on political decision-making processes. In 2018, for example, the vast majority of citizens in Bulgaria stated that they were not members of any CSO (or political party or trade union). Only 22 % of all citizens stated that they trusted CSOs (in comparison: 52 % trust the Bulgarian Orthodox Church, 22 % the government, 10 % the political parties). In addition, the financial and economic crisis of recent years has had a severe impact on CS in Bulgaria and Romania. However, civil society initiatives have, in some cases, had a

great effect: in 2015, for example, they led to the resignation of the Ponta government in Romania. Romania's president, Klaus Johannis (in office since 2014) has repeatedly made use of CS to pressure the government.

In Bulgaria, a *Council for the Development of Civil Society* was founded in 2020. It is planned that the Council will have 14 member organisations and its purpose will be to function as an advisory body to the government on the development and implementation of policies supporting civil society. The Council will also issue statements on projects and documents dealing with civic associations. The first elections to select members took place in April/May 2020, with 379 charitable NGOs and 123 civic organisations standing as candidates. Overall, therefore, a positive development can be determined, whereby the difficulties and hurdles cannot be overlooked.

#### **4.10 The Visegrad Countries: Poland, Slovakia, the Czech Republic, Hungary<sup>32</sup>**

The group of so-called Visegrad countries, Poland, Slovakia, the Czech Republic, and Hungary, is united by the time they spent together under Soviet influence including the strong post-Helsinki human and civil rights movement, but separated by their differences with regard to their development over the past 30 years. Their joint Soviet heritage is visible, for example in a generally lesser influence of CS in comparison with other EU member states. Due to the totalitarian aspiration of the state in every sector of public life, under the Communist Regime no place was envisaged ideologically for a dominant CS. The governments of these countries commonly regarded it not just as superfluous, but indeed as detrimental, and consequently fought it. CS has recovered from this bloodletting to varying degrees in the Visegrad countries. From the 1980s onwards, an initial liberalisation with regard to the foundation of CSOs took place. In addition to this, human rights organisations began to appear in all of the countries. These were first operated underground and only came to be tolerated little by little, following the signing of the Helsinki Final Act (1975), which led to an increase in and a revitalisation of CS. CS was decisive for the transformation process in all states, in Hungary perhaps least, but then began to shrink. In the course of measures to become members of the EU, the legal foundations for CSOs were strengthened, and financial support from the EU also resulted in an increase in civil society activities in all four countries.

Today especially the social CS service providers, which expanded strongly in all four countries, are embedded in a mixed system with liberal and conservative elements, i.e.

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<sup>32</sup> Civicus Monitor 2020: Poland: 2, Slovakia: 2, the Czech Republic: 1, Hungary: 3.

with CSOs which hold a privileged position when it comes to receiving state funding (e.g. the church-related institutions in Poland), but which the state has enhanced with liberal modes of competition. It forms cooperative relations with CSOs in contracts with a fixed term.

### 4.10.1 Focus on Poland

#### Historical Development and Traditions

Polish CS is characterised by a long history going back to the 12<sup>th</sup> century. From the end of the 18<sup>th</sup> century until the beginning of World War II, CSOs (foundations, associations and other cooperative alliances) played an important role in the provision of social services and healthcare as well as education. During the partition of Poland from 1795 until 1918, CSOs also made an important contribution to maintaining Polish culture and its national identity. This explains the strong regional differences in the self-government of civil society, which goes back as far as the national division. Social activism at local level is significantly more pronounced in Galicia, Greater Poland (also known as Wielkopolska), Pomerania and Upper Silesia. In Galicia, for example, the autonomy which existed in the Austro-Hungarian Empire allowed a long-standing tradition of local associations to develop. 85 per cent of all so-called *dom ludowy* (community centres), i.e. the buildings in which meetings and festivals can be held, are still owned by municipal rural communities today.

Under the influence of the Soviet Union after the World War II, CS saw a sharp decline, as in all countries governed by a Communist regime. The great majority of CSOs was dissolved; those remaining were subjected to strict state control. The collapse of the Soviet Union marked a further turning point for Polish CS as well. The Solidarity Movement (*solidarnosc*), founded in Gdansk in 1980, played a key role during the transitional phase. Its impact in the following years remained an integral element of Polish self-perception. The founding of many new CSOs resulted in a revitalisation of CS. Despite this, the emancipatory substance of this movement could not be maintained and formalised in the long term. Basically, it was a transition negotiated between the old and the new elite.

“The (partial) transfer of governmental responsibility too representatives of the opposition led to a twofold demobilisation: both the previous motivation for political commitment within ethnic civil society as well as its solidarity against the repressive regime disappeared. In the course of this negotiated transition, political society shifted to the centre of the democratisation process while (civil) society had fulfilled its purpose and, as a reward, was allowed to recede into the background of events.” (Fein/Matzke 1997)

As a result of the transformation to a market economy which took place after 1989, the state social system quickly reached its limits. Many CSOs were founded as a replacement with the aid of foreign, especially American, support. Initially, these CSOs were mainly active as advocates; however, the service sector was gradually expanded. The CSOs became more professional and many of them began to collaborate with public authorities. Today, this makes Poland an example of a mixed, conservative-liberal version of the civil society/welfare regime, i.e. it gives CSOs a privileged role even though they are in competition with each other for state contracts. Until the middle 1990s, the number of CSOs in Poland rose significantly, but at the end of the 1990s the development of CS began to run out of steam, due not least to cuts in foreign funding which had begun too early. A new phase of growth started for CS at the beginning of the 21<sup>st</sup> century when Poland joined the EU.

In 2003, the role of CS was strengthened by the *Law on Public Benefit Activity and Volunteerism*; the possibilities to become politically active and the provisions for maintaining the status of a public benefit organisation were redefined. Thus, this law also regulated an important source of funding: the assignment of part of income tax (through the so-called tax mechanism of 1 %) to organisations designated by the taxpayer. The state decentralisation policy, increased state funding as well as extensive measures in connection with Poland's accession to the EU in 2004 also enabled CSOs to expand their commitment, especially in the sectors of education, health and further social services. The election victory of the national-conservative 'Law and Justice' (PiS) party in 2015, however, resulted in heavy cuts in grants to CS. Since then, CSOs have reported difficulties with their funding and some of the discussion fora between CS and politics have been dissolved.

#### **Function / Scope**

Compared to other European countries, Polish CS is regarded as underdeveloped; its CSOs have a reputation of being 'NGO-ised', i.e. dependent on donors, bureaucratic and apolitical (Jacobsson and Korolczuk 2017). The percentage of Polish people who take part in voting and voluntary work, are members of NGOs or participate in demonstrations is the lowest of all EU member states (BBVA International Study 2013). In 2013, only 13.7 % indicated that they were a member of "organisations, societies, associations, parties, committees, councils, religious groups of clubs", whereby religious organisations (23 %), sports clubs (15 %) and hobby groups (13 %) were mentioned most often. Only 2.5 % of Polish people belong to more than one organisation. This relative 'apathy' is generally explained by the low degree of social trust and the weaknesses of Poland's political education and participation culture.

#### 4. Country Reports

The composition and forms of participation of CS in Poland have, however, undergone continuous changes since the beginning of the 1990s. While the number of CSOs with high membership, such as the trade unions and their visible forms of protest, has declined over the years, a growing number of smaller, to some extent more informal, CSOs have emerged. These have contributed to a diversification of the civil society landscape. Today, CSOs are mainly found in the sectors of sports and leisure, education and culture as well as social services (Vandor et al. 2017).

##### **Legal Basis / Financing**

The regulatory framework for CSOs is based on the *Law on Public Benefit Activity and Volunteering* ('PBA Law') of 2003, which exists in a similar form in almost all Eastern European countries. The Church, which holds a socially very prominent position in Poland, also promotes many charitable CSOs which pursue religious objectives and are engaged in the cultural, educational or health sector. Not all CSOs are entitled to receive a share of tax. Many, especially the smaller organisations, report administrative difficulties and high bureaucratic hurdles which affect their financial situation. The main sources of CSO funding are membership fees and government grants. Nevertheless, CSOs complain of unsatisfactory, non-transparent distribution of state-controlled funds. Private donations, both national and foreign, as well as EU funds are, therefore, especially important for smaller and less well-organised CSOs. The extensive civic commitment of volunteers, who represent 37 % of all CSO staff, is also a vital support. For many CSOs, the diversification of their funding is one of their main challenges, particularly in view of the absence of state payments and increasingly difficult access to EU funds. Crowdfunding and similar innovative methods provide an alternative, especially for politically engaged CSOs.

##### **Possibilities / Conditions / Participation / Perception**

The organisations most often perceived as CSOs in public opinion are the large foundations which carry out national public fundraising campaigns and are most visible in the media. This leads to a misleading impression, that most organisations handle large sums of money. Smaller organisations report that they are not noticed by the media and only get minimal attention in public debates. Due to the absence of and lack of consistency in governmental financial support, CS is not regarded as an attractive employer, which leads to a lack of human resources. However, the increase in volunteers who are committed to various CSOs shows a trend in social commitment. Polish citizens generally entertain a positive attitude towards CS, even if they have little knowledge of what CS actually does.

With regard to opportunities for political participation, there are significant discrepancies between the possibilities provided by law and the conditions which actually exist. While CS is anchored as an important pillar in Polish democracy, *de facto* it is, largely excluded from political decision-making processes (More-Hollerweger 2019).

#### **Trends**

The refugee movement and the election of the new parliament have ensured that, since 2015, Polish CS has become more political and polarised. Both the national-conservative PiS Party and civil society actors held protests and demonstrations to mobilise their followers against migration and the influx of refugees. This was in contrast to efforts by liberal CSOs, who appealed for a culture of welcome and humanitarian commitment. In addition, those CSOs which were critical of the government were called upon to act in their role as watchdogs when, after the parliamentary elections, PiS increasingly interfered in the work of the public media sector and institutions based on the rule of law.

There has been a positive development over the past few years with regard to the scope of voluntary commitment and financial support within the citizenry. This can be attributed to the above-mentioned politicisation in particular. Furthermore, it is expected that activities and social movements taking place via social media will intensify, thus strengthening informal CS. In the last two to three years, an increase in the number of public demonstrations has been observed.

It is also to be expected that CSOs will continue to become more professional. Since extensive and sustainable financial consolidation is closely connected to support from the state, it is unlikely that under the current national-conservative government CSOs across the political spectrum will benefit equally. Rather, one may assume that the split between CSOs loyal to the system and supported by the government and critical, increasingly underfinanced CSOs will advance.

Triggered by the political shift to the right, severe restrictions for CS in Poland are emerging: the government has significantly reduced its public dialogue with CSOs. Bodies for dialogue have been dissolved and procedural changes for legislation provide for less public consultation. E.g., deliberating times have been radically reduced. At the end of 2016, leading news programmes in state-controlled public media accused some CSOs (mainly foundations) of being allies of the political opposition and misusing public funds. The prime minister and other representatives of the government stated that CSOs should be monitored more closely. In response to this, the *National Institute of Freedom – Centre for*

*Civil Society Development* was founded to centralise the distribution of all public funding as well as European and other international support for CSOs.

The activities of the government party have had a negative influence on organisations, especially those which

- receive financial support from abroad,
- deal with matters not commensurate with the government's agenda, and
- have dedicated themselves to human and minority rights (women, LGBTQ, ethnic minorities), anti-discrimination, migrants, or environmental protection.

#### **4.10.2 Trends in the Visegrad Countries**

In common with all countries formerly subjected to Soviet influence, the Visegrad countries are united by this heritage. They thus have a traditionally weak CS sector, which experienced an hour of glory during the transformation phase, was then strongly influenced by Western donors and during the past decades, has grown in particular in the social services sector, to some extent due to state co-opting of CSOs. Here, too, the general trends of a growing pressure on CSOs to be more efficient and professional as well as a strained financial situation may be observed.

The rise of authoritarian and nationalist parties, especially in Poland (PiS) and Hungary (the Hungarian Civic Alliance, *Fidesz*) where they were able to gain majorities in parliamentary elections, means that the critical CS is currently exposed to severe pressure. There is a risk that the progress made as a result of these countries' accession to the EU in 2004, which appeared to be beneficial for the work of CSOs, may be lost. Due to this political pressure, Open Society Foundations, for example, found itself forced to relocate its central headquarters from Budapest to Berlin. With the exception of the Czech Republic, all the Visegrad countries have seen a polarisation of CS, within the scope of which growing extreme right-wing movements are mobilising their members against refugees and members of other minorities.

Nearly all Visegrad countries, and especially Hungary and Poland, are increasingly facing severe restrictions placed on their CS and the threat to their democratic institutions. Only the Czech Republic has an open, free and unrestricted CS in line with the Civic Monitor. The rankings of Poland, Hungary and Slovakia have dropped over the past few years. Hungary and Poland are often seen as examples of a looming new authoritarianism in Europe. The split into a CS which is loyal to the system and one which is under severe pressure from the government is becoming apparent. The Catholic Church's influence on

#### 4. Country Reports

decision-making processes is growing, even though its membership is decreasing and the positions of Church hierarchy are increasingly being viewed more critically. CSOs which act as advocates for the rights of sexual or ethnic minorities or women's movements are facing huge problems because of this. At the same time, however, new forms of informal commitment and protest, especially among the younger generation and women, may be observed. Thanks to social media, they have a high potential for mobilisation and are thus able to oppose the dismantling of democracy.

Which direction CS in the Visegrad countries will take is closely linked to general developments within the EU. How the EU is able to deal with illiberal forces within its bodies and member states will be decisive for CSOs in these countries in the coming years. While authoritarian endeavours, especially in Hungary and Poland, make a future for a liberal and participatory CS appear unlikely, current political developments in the Czech Republic give reason to assume a positive development for CS.

## 5. The European Union and Civil Society by Peter Fischer

### 5.1 The European Legal Framework

The objectives of taking decisions “as closely as possible to the citizen” and the further enhancement of “the democratic and efficient functioning of the institutions” were expressed in the preamble to the Treaty on the European Union (TEU), commonly known as the Lisbon Treaty. TEU Art. 9 et seq. has the following official heading: “Provisions on democratic principles”. Art. 10 (1) and (2) TEU states: “The functioning of the Union shall be founded on representative democracy. Citizens are directly represented at Union level in the European Parliament.” Art. 10 (3) TEU states: “Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.” The establishment of “European openness” is to be promoted.

“Civil society” is addressed in two rules of European primary law. Art. 11 (2) TEU states: “The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.”

Art. 300 (2) of the *Treaty on the Functioning of the European Union* (TFEU) states: “The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas.”

The first sentence of Art. 9 TEU states: “In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies.” This is intended to avert the danger of considering particular and especially de facto dominating interests from one side only.

As a European legal concept, the term civil society must be given an autonomous and uniform interpretation. The presumably plural views on the ‘nature’ of CS in the member states<sup>33</sup> are irrelevant for the interpretation of EU primary law. Disappointingly, this does not provide much insight. It follows from the wording of the provisions mentioned that the term is not congruent with the “representative associations”. As set out in the wording of Art. 300 (2) TFEU, this includes, among others, the social partners, but also “representa-

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<sup>33</sup> See, for example, Norma Weiss, *Bedeutung und Funktion von Zivilgesellschaft und Öffentlichkeit im demokratischen Rechtsstaat am Beispiel der Bundesrepublik Deutschland*, *Jahrbuch des Öffentlichen Rechts*, Vol. 61 (2103), p. 15 et seq.

tive[s of] civil society [...] in socio-economic [...] areas". Thus, both the Chambers of Commerce and Industry, for example, are listed here, and – as is common European practice – commercial organisations.

## 5.2 Comments on Regulatory Developments

There is a long history behind the political will for participative elements which function as compensation for what has sometimes been assumed to be a deficit in democracy. In his speech to the European Parliament on 15 February 2000, Romano Prodi called for a "hands-on" democracy. In 2001, as a reaction to its loss of reputation<sup>34</sup>, the EU Commission<sup>35</sup> described the promotion of "NGOs", "social partners" and "civil society" as part of its governance in its White Paper on European Governance. The Commission endorsed a "code of conduct that sets minimum standards, focusing on what to consult on, when, whom and how to consult". "In return, the arrangements will prompt civil society organisations to tighten up their internal structures, furnish guarantees of openness and representativity, and prove their capacity to relay information or lead debates in the Member States." It appears to me that this link is a key element for practical implementation of participation.

A Working Group of the European Convention took up the ideas from the Commission's White Paper. It formulated the *Principles of Participatory Democracy* which were later renamed *Principle of Participatory Democracy* and reflected in Art. I-47 of the adopted draft of the Constitutional Treaty. Due to the negative referenda in France and the Netherlands, the draft never entered into force. However, this provision can be found word-for-word in Art. 11 TEU. At the same time, it was specified in Art. 10 (3) TEU that "every citizen shall have the right to participate in the democratic life of the Union". The latter regulation codifies a fundamental democratic right which includes exercising the participation provided for in Art. 11 TEU. The EU Commission's concept of governance has thus been formalised in the draft of the European Constitutional Treaty. Art. 11 (2) TEU 2 obliges the EU bodies in particular to organise and effect the participation of all EU citizens<sup>36</sup>.

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<sup>34</sup> Czauderna, 2019, p. 74 et sqq.

<sup>35</sup> EU Commission, Communication dated 2001-07-25. "European Governance. A White Paper", COM (2001) 428 final, OJ EU C 287 dated 2001-10-12.

<sup>36</sup> Czauderna, 2019.

### 5.3 Opposing Definitions of Civil Society

The EU Commission<sup>37</sup> applies a pluralistic model of CS: There is no generally recognised definition of civil society. The Commission often draws on a definition which includes a wide range of organisations representing both social and economic players.

The European Economic and Social Committee (EESC)<sup>38</sup> places civil society somewhere between the state and the market: it can contribute to a collaboration between the state and the private economic sector, make a lasting contribution and carry out a monitoring function. In its own-initiative opinion dated 30 March 2019, *Resilient democracy through a strong and diverse civil society*, the EESC<sup>39</sup> states as follows: “Individual citizens publicly engaging in civil society organisations or informal types of participation constitute civil society, which functions as an intermediary between the state and the people. In addition to the articulation of citizens’ interests, the provisions of technical expertise during legislative processes and holding decision-makers accountable, civil society contributes to community building and has an integrative function by strengthening social cohesion and creating identity. Furthermore, a rich variety of civil society organisations, most notably the social partners, is dedicated to practical non-commercial work and serves charitable or other general interest objectives, including forms of mutual self-help.” The EESC describes CS in terms of its function within the scope of democratic participation when it exercises civic commitment. The EESC’s intermediary bodies as well as the European CS networks, for example *Civil Society Europe*, are mentioned as its most important representative bodies at the EU level.

This accurate description conflicts with the recognised practice (see below) of also using the term ‘civil society’ as a synonym for the lobby and interest groups operating around the Commission, especially by categorising the Transparency Register. This is criticised quite rightly<sup>40</sup>. It is unfortunate that the (subordinate) term for a charitable NPO does not exist in primary EU law. The German understanding of CS is that it consists of numerous plural and competitive organisations and associations which have been founded voluntarily and articulate and organise their interests autonomously. The slogan that civil society means the same thing as a charitable organisation under national tax law<sup>41</sup>, as generally expressed in Germany would probably meet with incomprehension at EU level. The perception must be strengthened that public benefit organisations that aim

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<sup>37</sup> European Commission, Green Paper on the European Transparency Initiative dated 2006-05-03, COM. (2006) 194 final; OJ EU C 151 dated 2006-06-29.

<sup>38</sup> EESC, statement dated 2015-03-19, OJ EU dated 2015-08-14, C 268/19.

<sup>39</sup> OJ EU dated 2019-07-05, C228/24.

<sup>40</sup> For example, Lobby Control, EU Lobby Report 2019, accessible under <http://www.lobbycontrol.de>.

<sup>41</sup> Request from the DIE LINKE Party dated 2019-11-26, Bundestag document no. 19/15465.

neither at distributing profits nor at lobbying for particular interests, are at home in a different world from representatives of the private sector.

#### 5.4 The Transparency Register

“Whereas European policy-makers do not operate in isolation from civil society, but maintain an open, transparent and regular dialogue with representative associations and civil society”, the EU established the Transparency Register, whereby it clearly referred to Art. 11 (2) TEU, among others. Annex I to this interinstitutional agreement between the EU Parliament and the EU Commission categorises the “organisations and self-employed individuals engaged in EU policy-making and policy implementation”. Subsection “III. Non-governmental organisations” lists the subcategories “platforms, networks, ad-hoc coalitions, temporary structures and other similar organisations”. Their characteristics are described as “not-for-profit organisations (with or without legal status), which are independent from public authorities or commercial organisations, including foundations, public welfare organisations, etc.”.

This shows that the EU Commission interprets the term “civil society” comprehensively. Within the legal context of Art. 11 (2) TEU, the right of access as a representative is awarded, among others, to “professional consultancy agencies, in-house lobbyists and independent consultants, [...] including law firms, trade unions, [...] trade associations, [...] and academic institutions”. Thus, by explicitly mentioning the representative associations in Art. 11 TEU, this has been instrumentalised to factually protect lobbying under constitutional law at EU level. The result is that the Transparency Register of the EU includes more than 11,600 registered lobbyists, especially in-house lobbyists, trade and professional associations, as well as approx. 3,000 NGOs and their networks<sup>42</sup>.

Peter Michael Huber<sup>43</sup>, a judge at the German Federal Constitutional Court, is of the opinion that by explicitly mentioning representative associations, lobbying at the EU level has been factually guaranteed by constitutional law. However, the democratic-theoretical enhancement of lobbying only recognises what already exists in reality. Huber<sup>44</sup> adds a critical statement: The solely positive connotation of lobbying within the scope of the Principle of Participatory Democracy ignores the risks to attaining a common good which are connected to the one-sided influencing of the bodies, and the very different opportunities

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<sup>42</sup> [https://lobbypedia.de/wiki/Lobbyregister\\_EU](https://lobbypedia.de/wiki/Lobbyregister_EU). The de facto mandatory lobby register for all three institutions which was promised by Jean-Claude Juncker has failed.

<sup>43</sup> Huber, in Streinz, TEU/TFEU, Art. 11 TEU, marginal no. 18.

<sup>44</sup> Huber, in Streinz, TEU/TFEU, Art. 11 TEU, marginal no. 19.

for EU citizens and associations to make themselves heard by these bodies, institutions and other offices and agencies. This normativity of actual fact, which Huber approves, is not convincing. A comparative legal treatment of the term ‘civil society’ as used in the member states (an approach commonly used by the ECJ to find justice) would presumably not cover such a broad definition. Of course, it is hard to imagine that the term would ever be presented to the ECJ for a judicial interpretation. It would be disadvantageous – to put it diplomatically – for public perception in the charitable sector if this term could not be distinguished by the uninitiated and ends up side-by-side with commercial lobbyists. The OECD<sup>45</sup> has warned that “policy capture, where public decisions over policies are consistently or repeatedly directed away from the public interest towards a specific interest, can exacerbate inequalities”, but can also undermine democratic values and trust in governments.

The proprium of the charitable sector must be made more visible in the public eye, and especially the EU bodies must be made more aware of this in the sense that it differs from all other lobby actors because it exclusively, directly and selflessly fulfils idealistic purposes within a specific legal framework. This is of decisive importance for its positioning within European law, e.g. under the law for non-profit organisations as well as procurement and state aid law. The ‘General Provisions’ for a European legal framework for charity must be established.

### 5.5 Interpretation of Art. 11 (2) TEU

1. Until today, jurisprudential itemisation of Art. 1 (1) and (2) TEU has been rudimentary at best<sup>46</sup>. The interpretation of the many-faceted social science term “civil society”<sup>47</sup> and its overlap with “associations” poses almost unsolvable problems, also with regard to the formulation in Art. 300 TFEU. However, the commitment of EU institutions to dialogue is probably only meant to be understood in the sense of a prohibition on insufficient action. The immoderate participation of commercial lobbyists becomes questionable when the human and time resources of the institutions is overtaxed and thus CS, as it is also understood by the EESC, ‘gets a raw deal’.

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<sup>45</sup> OECD, “Preventing Policy Capture – Integrity in Public Decision Making”, dated 2017-03-30:<http://www.oecd.org/corruption/preventing-policy-capture-9789264065239-en.htm>.

<sup>46</sup> Ruffert, in Callies/Ruffert, TEU/TFEU, Art. 11, marginal nos. 1 et sqq.

<sup>47</sup> See, for example, Kohler-Koch, Die vielen Gesichter der europäischen Zivilgesellschaft, in: Kohler-Koch, Beate/Quittkat, Christine (Eds.), Die partizipativer Demokratie – Zur Rolle der Zivilgesellschaft bei der Demokratisierung von EU-Governance, 2011 p. 48 et sqq.

2. In Art. 11 TEU, the EU “institutions” are obliged to “maintain an open, transparent and regular dialogue with representative associations and civil society”. The EU’s “institutions” are those listed in Art. 13 (1) subparagraph 2 TEU. In legal literature, the EU Parliament and the ECJ are excluded “on the basis of their nature”. Of course, in the Rules of Procedure of the European Parliament for its 9th parliamentary term<sup>48</sup> the following can be found under “Duties of the Bureau”: “The Bureau shall nominate a Vice-President who shall be entrusted with the implementation of structured consultation with European civil society on major topics.” With regard to the European Court of Justice (ECJ) it is indeed difficult to determine the topics on which the Vice-President is to maintain a dialogue with representative associations or ‘civil society’.
3. Art. 11 (2) TEU specifies an objective legal duty of the EU institutions, without justifying a subjective right of participation of individual CSOs<sup>49</sup>. This provision imposes more than just an obligation on the EU institutions to provide information. The dialogue must ensure “open, transparent and regular” communication<sup>50</sup>.

## 5.6 On the Practical Implementation of Participatory Elements of the Constitution

In accordance with the terms of the EU Treaty, the provisions of Article 11 TEU merely provide a framework which must now be defined, shaped and implemented with the appropriate legal regulations and brought to life by the actors. Of course, the normative provisions of Art. 11 (2) TEU are not fulfilled if communication of legitimacy by means of participatory constitutional elements merely takes place as a proto-idea at a high and noble level of proclamation. Legitimacy must be practised. Taking into account the plural CS in 26 nations, more than 20 languages and 500 million people, the required participation must be bundled and structured. This “legitimacy through procedure”<sup>51</sup> must be organised in a focussed manner.

The EU institutions cannot be accused of not having taken action in this respect. EU Council Regulation No. 390/2014 dated 2014-04-14 established the *Europe for Citizens* programme for the period 2014-2020. Its objective, among other things, is “to foster [...] democratic participation” at the EU level.

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<sup>48</sup> OJ EU dated 2019-11-22, L 302/1.

<sup>49</sup> Czauderna, 2019, p. 84, including further evidence.

<sup>50</sup> Huber, in Streinz, TEU/TFEU, Art. 11 TEU, marginal no. 21 et sqq.

<sup>51</sup> Cf. Niklas Luhmann, *Legitimation durch Verfahren*. Frankfurt/Main: Suhrkamp 2001.

To sum up, the EU is certainly not inactive. It enables ad-hoc contacts and consults networks and advisory bodies. At the Directorate-General for Communication of the EU Commission, the 'Citizenship Policy Unit' is responsible for the dialogue with CS and the Europe for Citizens programme. About 50 European organisations which are actively involved in this programme meet regularly with the Commission for a "structured dialogue". The *EU Citizenship Portal* of the EU Commission<sup>52</sup> states: "A core element of the discussions focuses on methodological issues regarding citizens' participation. The dialogue also addresses major transversal and political issues of relevance to active European citizenship." Furthermore, according to the information on the EU Commission's portal, "specific meetings with stakeholders interested in specific actions or themes may take place as needed".

Since the EU Commission's White Paper<sup>53</sup> on "European Governance" was published, a discussion concerning a "reinforced culture of consultation and dialogue" has been ongoing. The Commission's reflections are still highly topical and worthy of discussion, but since then there has been no apparent progress in this field. In its own-initiative opinion dated 28 December 2010 on the subject of "The implementation of the Lisbon Treaty: participatory democracy and the citizens' initiative (Article 11)", the EESC<sup>54</sup> called on the Commission "to publish, following the Green Paper on the European Citizens' Initiative, a Green Paper on civil dialogue, which would cover the practical implementation of Articles 11(1) and 11(2), consider existing practice, define procedures and principles more precisely, evaluate them and, together with civil society organisations, make improvements, in particular by creating clearly defined structures".

### 5.7 On the Organisation of Civil Society at the Member State Level

The question is whether participation of organised CS is being pursued with a sufficient will to shape it creatively. There are sufficient organisations which react to the concerns of "local civil society" and could feed these into the existing structured dialogue.

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<sup>52</sup> [https://ec.europa.eu/citizenship/about-the-europe-for-citizens-programme/dialogue-with-civil-society/index\\_de.htm](https://ec.europa.eu/citizenship/about-the-europe-for-citizens-programme/dialogue-with-civil-society/index_de.htm). See also Bundeszentrale für politische Bildung [German Federal Agency for Civic Education], *Zivilgesellschaft und EU*, <https://www.bpb.de/nachschlagen/lexika/das-europalexikon/177375/zivilgesellschaft-und-eu>.

<sup>53</sup> EU Commission dated 2001-06-25 (COM (2001) 428 final).

<sup>54</sup> OJ EU dated 2010-12-28, C 354/59.

1. The Office of the Permanent Representative of the Federal Republic of Germany to the EU offers an overview of more than 400 German lobbyists in Brussels. Their participation in consultations, hearings or background discussions are an integral element of 'working in the field'.
2. The EESC<sup>55</sup> is also a possible second contact. It insists with great tenacity that "the role of civil society must be acknowledged and developed more strongly". "Civil dialogue needs to be strengthened to ensure that people, including young people and those in vulnerable situations or facing discrimination, feel that they are able to participate in the design, implementation and review of policy-making processes. The EESC is in the process of launching national debates in selected EU Member States on how to achieve better involvement of the civil society in the European Semester circle."
3. The *European Movement Germany*<sup>56</sup> network (EM Germany) is concerned with European policy in Germany "with 247 member organisations from society and the business community". On the basis of the results from the NGO Forum Riga on 2 and 3 March 2015<sup>57</sup>, it published an action plan<sup>58</sup> for the implementation of Art. 11 (1) and (2) TEU "towards better EU civil dialogue and involvement of citizens for better policy-making building". It must be determined how feasible these recommendations are.
4. European networks cited by the German Network for Civic Engagement (BBE) are the *Centre Européen du Volontariat* (CEV); *Civil Society Europe* as the largest platform to date for organised European CS which considers itself the voice for the interests of European civil society and the motor for establishing participatory-democratic procedures at an EU level as well as the *European Civic Forum* (ECF). These may be influential organisations, but in my opinion, they must also be judged by whether they manage to sustainably establish the fundamental idea and structures of civil society in Europe.

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<sup>55</sup> See also Opinions of the European Economic and Social Committee on: "The European Pillar of Social Rights — evaluation of the initial implementation and recommendations for the future" dated 2019-09-25, OJ EU dated 2020-01-15, C 14/1, under 2. 2.6.10.

<sup>56</sup> <https://www.netzwerk-ebd.de>.

<sup>57</sup> <https://europeanmovement.eu/event/ngo-forum-riga-2015/>. A discussion was held on the mechanisms to "share best practice in governance, horizontal, vertical and structural dialogue including promotion of innovative / digital tools, thus improving representative associations'/civil society organisations' (CSOs) and citizens' participation in decision making at national and EU levels and interaction among each other".

<sup>58</sup> <https://www.netzwerk-ebd.de/wp-content/uploads/2015/03/ROADMAP.pdf>.

## 6. Summary and Outlook

The Country Reports and the overview of European Community Law make it clear that, based on a relatively uniform term for civil society, there is no uniform understanding of CS in Europe. This is due to the differences in their histories, cultural traditions, focus of work, funding, scope, and self-perception. On the other hand, the terminology clarified at the beginning of this paper can be applied everywhere in Europe, with relatively few exceptions. A civil society in this sense has developed, with few exceptions. The key focuses lie far apart, and thus also the self-perceptions. For example, the focus in Eastern Europe continues to be mainly on efforts to achieve freedom, the rule of law, human and civil rights, democracy, and other socio-political objectives. On the other hand, in Western Europe, services with different prioritisations in the social, educational and cultural sectors tend to dominate. The exception is Scandinavia, where community building plays a central role. This is invariably due to developments and fractures, and often also to legal frameworks, opportunities for development and, last but not least, possibilities for funding. Nor should the civil society research landscape in several disciplines be forgotten, which only began about 30 years ago and has since developed very forcefully. It has academically supervised, evaluated and underpinned not just empirical knowledge, but also a normative legitimacy which, in individual cases, can certainly differ from formal legality. The European interplay at research level is very pronounced; the interdisciplinary one less so. In any case, this supervision and evaluation reinforces the Europeanisation of CS and reduces rather than increases differences. Furthermore, it may be determined that, while the influence of CS may vary widely, it can, in the final instance, be found in all countries with all its functions. Speaking of a European civil society certainly appears to be justified.

What is noticeable is that, in all European countries, the autonomy of CS is not recognised, let alone acknowledged or appreciated. On the contrary, the political and business sectors view it in terms of its usefulness. The state and the business sector's significantly greater access to traditional print and audio-visual media support this perspective. Generally, national governments appreciate CS's service function, which relieves the public purse because better budgeting and the use of volunteers enables significantly cheaper quotes, not to mention the dimension of empathy which such volunteers, in contrast to state employees, may generate. On the other hand, when looking at other countries, the value of an independent and strong CS is emphasised, especially when respective governments are difficult partners. Thus, German institutions that receive public funding often engage intensely with CS in Central and East European countries, offering to assist in their

development, but have no dialogue worth mentioning with CS in their own country, especially if CS is an uncomfortable presence or questions the monopoly of the state and the political parties.

The cooperation between the state and CS is intense in most of the countries considered, cooperation with the private sector tends to be less intense, and generally speaking not conflict-free. The Baltic and East European countries have some catching-up to do, while civil society actors in these regions often fear the stranglehold of the state and place less emphasis on cooperation. What is especially clear in Central Europe, namely the divide between a state-dependent, corporatist subsector and an independent, pluralistic one, appears increasingly to be developing elsewhere in Europe. This is particularly striking in regimes which have recently become authoritarian, and which consciously create and sponsor a state-dependent CS by means of so-called GONGOs<sup>59</sup>.

In most European countries, the legal framework for CSOs is specified in particular by tax law. Very few separate, summarised laws or regulations exist for CSOs. However, it should be noted that the East and South-eastern European countries with a relatively short and unbroken tradition of legal civil societies have tended to create all-in frameworks, often with advice from the Western or after analysing Western European and American models. This has not always been in accordance with and tailored to the specific situation in each country and has led to difficulties. On the other hand, such regulations are sometimes easier to handle when was applied by volunteers. In Western Europe, the relatively seamless development of frameworks over hundreds of years old has produced organic but not always systematically updated and highly complex, contradictory regulations which can be extremely difficult to apply.

In recent years, a greater political focus on CS has been recognisable throughout Europe. Political parties and public administrations have recognised the increasing force and creative power of CS and are attempting to channel, control or curb it in various ways. Beside typical state control mechanisms such as regulation, financial incentives and similar methods, one vehicle may also consist in the increased application of civic participation mechanisms. As much as civic participation can enhance and strengthen the civic sphere, it can also be misused to crowd out organised CS known for its expertise and continuity. This danger of being crowded out as yet receives far too little attention in CS.

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<sup>59</sup> GONGO = Government Organised Civil Society Organisation.

The obstruction of transnational support can be another vehicle. It is now being used in several countries, often leading to legal uncertainty for CSOs as well as their supporters. At the same time, despite all attempts to maintain civil society law as national law, European integration is changing its scope of action by means of statutory regulations and political programmes (e.g. the Europe for Citizens Programme). The strengthening of CS is anchored in the preamble to the TEU. Decisions at both EU and national level should be reached, “as closely to the citizen as possible” and democratically. The Commission supports a “code of conduct that sets minimum standards, focusing on what to consult on, when, whom and how to consult”.

Global crises such as the migration crisis and the COVID-19 pandemic have shown that CSOs are constantly undergoing transformation, that they are highly adaptable with regard to emerging circumstances, and that they must continue to be so in future. At the same time, apart from the trends mentioned, current developments such as demographic change and the political situation and incumbent national governments have an influence on how CS on the European continent will develop in future. One thing is certain: CS is not a short-lived fashion. It is part of Europe’s cultural tradition; it has a well-developed structure and legitimacy; and it will continue to be a major factor and, wherever possible, help drive European development.

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## Appendix: Statistics on Focus Countries

Country	Population (in millions)	No. of CSOs	CSO per 1,000 pop. <sup>60</sup>	Rate of involvement (in %)	Share of persons employed out of total employment (in %)	Percentage of GDB (in %)	Giving Index (Ranking / Score)
Serbia	7,2*	50.300*	6,99*	n.a.	n.a.	1,34*	123 / 19%**
Lithuania	2,7^	28.000 / 12.000 active° (2015)	10,5 / 4,5 active	11° (2016)	0,9* (2014)	n.a.	121 / 19%**
Netherlands	17^	250.000°	14,5	42° (2008)	11,5* (2014)	1,5° (2005)	8 / 53%**
England & Wales	56^	168.000° (2019)		22* monthly active (38 annually, 1,25 Mil. VZ°)	35*(2018)	0,85* (excl. volunteering)	7 / 54%**
Ukraine	42,04*	78.000**	2,86*/**	15 (2018)	n.a.	n.a.	101 / 24%***
Switzerland	8,8^	89.169 (76.000° associations 2010, 13.169°° foundations 2018)	10,1	48,2* (2018)	4,5° (2005)	6.0° (2005)	13 / 45%**
France	65,8^	1,5 Mio* (2017)	22,8	43* (2017)	8* (2015)	3,5* (2017)	66 / 30%**
Sweden	10,2^	258.000*	25,4	48,9°(2013)	4,1*(2017)	3.6*(2017)	29 / 40%**
Croatia	4,30*	57.000*	13,7*	n.a.	n.a.	n.a.	118 / 21%**
Poland	38,0*	80.000*	2,08*	n.a.	n.a.	1,4* (2017)	86 / 25%**

Sources: Serbia \*= Vador et al. (2017): 19ff., \*\*= CAF (2019): 23ff; Lithuania: \*= Enjolras, Bernard et a. 2018: 89f., °= Bertelsmann Stiftung 2018, ^= Countrymeters, \*\*= World Giving Index 2019; Netherlands: \*= Enjolras, Bernard et a. 2018: 89f., °= GHK 2009, ^= Countrymeters, \*\*= World Giving Index 2019; England/Wales: \*= Almanac, °= The Charity Commission, ^= World Population Review, \*\*= World Giving Index 2019, °= full-time employment; Ukraine: \*= statista (2018), \*\*= National State Registry of Ukrainian Enterprises and Organizations: <http://www.ukrstat.gov.ua>. (2014). / \*\*\*= CAF (2019): 23ff.; Switzerland: \*= Bundesamt für Statistik, ^= Countrymeters, °= Helmig 2010, °°= Eckhardt 2019, \*\*= World Giving Index 2019; France: \*=Archambault 2019, ^= Countrymeters, \*\*= Giving Index 2019; Sweden: \*= Statistics Sweden (2017), °= Körber Stiftung 2013: 10, ^= Countryreport, \*\*= World Giving Index 2019; Croatia: \*= Vador et al. (2017): 19ff.; \*\*= CAF (2019): 23ff.; Poland: \*= Vador et al. (2017): 19ff.; \*\*= CAF (2019): 23ff.

<sup>60</sup> Calculations by the authors.

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The study is created within the framework of ifa's Research Programme "Culture and Foreign Policy" and is published in the ifa Edition Culture and Foreign Policy.

The Research Programme is funded by the Federal Foreign Office.

The views expressed are those of the author and do not necessarily reflect those of ifa.

Publisher:

ifa (Institut für Auslandsbeziehungen e. V.), Charlottenplatz 17, 70173 Stuttgart, P.O. Box 10 24 63, D-70020 Stuttgart, [info@ifa.de](mailto:info@ifa.de), [www.ifa.de](http://www.ifa.de)  
© ifa 2020

Authors: Peter Fischer, Siri Hummel, Laura Pfirter, Johannes Roth, Rupert Graf Strachwitz

Editing:

ifa's Research Programme "Culture and Foreign Policy"

Translation: Vera Draack

Credits:

NICO BHLR, unsplash

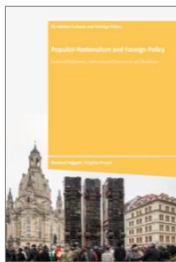
Design: Eberhard Wolf, Munich

ISBN: 978-3-948205-28-7

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## Understanding Civil Society in Europe

A Foundation for International Cooperation

Despite the striking differences with regard to the functions, parameters, relationship to the State and the market, and the current trends, neither the existence of a European civil society nor its sustainable positioning in the public sector can be denied.

Civil society is not a short-lived fad. It is part of Europe's cultural tradition; it has a well-developed structure and legitimacy; and it will continue to be a major factor and, wherever possible, a motor for European development.

Currently, the potential of a dynamic civil society in the defence and further development of an open, cosmopolitan, and democratic society appears to be of particular importance.