



## ECNL Submission to OHCHR survey for the civic space report (2021)

*In your experience, which specific barriers and challenges to meaningful participation in national and local decision-making processes has civil society faced during the COVID crisis? Are you aware of efforts to include civil society in designing strategies to respond to the pandemic, in the context of vaccination campaigns, etc.? Has the Government adopted any measures to ensure safe and inclusive online participation and reach groups that were previously underrepresented? Can you provide examples of specific challenges and promising practices?*

In answering this question regarding challenges to meaningful participation in national decision-making in the context of the pandemic, we describe trends based on the following analysis and resources. These resources are focused mainly on European countries.

- [Activizanship #5 - stories from the lockdown](#), Civic Space Watch report 2020;
- Specific case study: [Participation of CSOs in the preparation of EU national recovery and resilience plans](#) (January 2021);
- [Public participation in crisis response](#) (May 2021), ECNL, in particular pages 7-10 and 17-20;
- [Protecting civic space in the EU](#) (September 2021), European Union agency for fundamental rights, in particular pages 46-50;
- ECNL regional consultation on participation in Europe to feed into the OHCHR report on challenges and good practices in using the Participation guidelines (Annex I);
- ECNL's [CSO meter updates](#) on Eastern partnership countries.

### Meaningful participation since the start of the pandemic

The exceptional circumstances triggered by the COVID-19 health emergency created huge obstacles for the proper functioning of civil dialogue. Institutions needed to act quickly and effectively to slow the spread of the virus and reduce the heavy impact that the restrictions had on the economy and the population. The increased workload, coupled with social distancing and telework, greatly affected the capacities of institutions to respond to the increased number of requests for dialogue and consultation.

Generally, across Europe, the emergency procedures reduced the opportunities for consultation and influence by shifting the power from the legislative branch to the executive one. Additionally, the closing of the public space together with the



overwhelming presence of COVID-19 news on the media made it difficult to get other messages across and created new challenges for civil society to put pressure on governments when institutional frameworks for dialogue were not respected, not available or restricted.

Even in European countries with a relatively open dialogue between civil society and governments, the quality and the impact of the exchanges depended on the relevant ministries in charge as well as on previous relations between the individual civic organisation and authorities. Bigger networks of civic organisations were in a better position to be taken into account, while smaller or more critical organisations found additional difficulties to influence policy making. Additionally, consultation processes at national levels did not always lead to a concrete impact on policies and sometimes civic organisations were left with a feeling that the civil dialogue was a mere ticking-the-box exercise.

In some countries, civil society reported that the time available for consultation was shortened or suspended in disregard of institutional frameworks of civil dialogue and thus policies were adopted without proper participation. Lack of meaningful dialogue with the sector is deemed to be an important factor for lack of reactivity of the government to many societal emergencies. Additionally, as a general trend, civil dialogue is particularly rare on European matters. This was true also during the pandemic.

In some countries, authorities not only disregarded civil society but also made moves that will affect the quality of public participation *in the future*. Among the issues that made civil dialogue and civil society's advocacy more challenging in times of crisis was access to information, especially concerning fast-track, continuously changing legislation (for example Ireland and Czechia<sup>1</sup>). In some countries, governments suspended transparency legislation or parts of it (Hungary, Italy, Spain, Bulgaria<sup>2</sup>).

One overarching observation from ECNL's recent regional consultation on participation in Europe is that **the participation trends reported since the start of the pandemic – as summarized above – are still ongoing in 2021**. This is contrary to the fact that by now states know more about the Covid-19 virus and how to manage it and we see other segments of societies opening up more and more again. Nevertheless, the rules and policies imposing those restrictions on civil society to participate are not withdrawn. Also, it should be noted that in most of these countries ongoing trust between authorities, general public and (critical) CSOs (often human rights organisations) is still lacking, which is an overall hinderance to partnership between different stakeholders in society. All this has detrimental effect on public participation in recovery efforts.

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<sup>1</sup> [Activizenship #5 - stories from the lockdown](#), Civic Space Watch report 2020, pp. 69-72 (Czechia)/ pp. 119-122 (Ireland)

<sup>2</sup> *Ibid.*, pp.35-36.

## Online participation

In some European countries, the government and parliament activities, such as public hearings or committee meetings, have moved online as physical gatherings were (and in some countries still are) not possible. CSO representatives that participated in ECNL's recent regional consultation on participation report that in principle they find this a good practice for utilizing ICT tool and provides more transparency on the process and discussions. However, only 'broadcasting' these discussions do not leave space for back and forth dialogue and meaningful feedback between authorities and civil society.

Furthermore, these European CSOs almost all confirm that their authorities have national (and some local) E-platforms set up that provide opportunity to see all the legislative drafts and decisions produced by the government and for other stakeholders to provide comments. Nevertheless, there are still challenges to participation in this context as well. It is reported that often these webpages are difficult to navigate. For example, it is not always clear which documents are the most recent and/or for what topic as all documents related to legislative and policy efforts of the government are put on one page. This leads to practical accessibility problems for civil society as it is not clear how far the process is and, if applicable, what the input deadlines are. This is especially the case for already underrepresented groups. Also, in case of any type of input by civil society, there are no feedback channels available about how the input is taken into account. This is also often linked to the fact that by the time documents are published, the decision is already final and there is no room for changes.

## Promising practices of online participation in government response to the pandemic

Despite the worrying trends, there have been some promising efforts to include civil society in designing strategies to respond to the pandemic as well. In many countries governments made efforts to include CSOs in forming policies for the pandemic. (e.g. Ireland, Spain, Italy, Romania, France, Austria and Latvia). The national platforms of CSOs reported appreciation for the attempt to listen to and include civil society's recommendations in the policies passed, especially with regard to public funding to the sector. In Ireland and Latvia, positive steps were announced to strengthen the civil dialogue.<sup>3</sup>

ECNL also observed and listed some promising practices in its 2021 analyses on public participation in crisis response. Some countries established platforms through which the public can give input to governments. For example, in France, over 60 senators of the parliament launched a platform to collect citizen opinion on the post-COVID-19 world. Similarly, in Kenya, the Senate committee overseeing COVID-19 responses invited public submissions regarding key issues relating to the pandemic and considered this input in drafting a pandemic response and

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<sup>3</sup> [https://civic-forum.eu/wp-content/uploads/2020/11/INT\\_ACTIVIZEN5\\_BAF.pdf](https://civic-forum.eu/wp-content/uploads/2020/11/INT_ACTIVIZEN5_BAF.pdf)

management bill. There were also some practices that enabled a better public oversight. For example, in the UK, the Joint Committee on Human Rights called the public to submit evidence on the impact of emergency measures on human rights.

There are also joint efforts by governments and civil society to provide solutions to dealing with the pandemic. For example, in the Netherlands, university researchers have developed and used a tool to gauge citizens opinion about restrictions (i.e. emergency measures) and a number of possible policy options, including its effects. The developers use this tool for the purpose of public participation, policy evaluation and policy contribution and report their findings to the government.<sup>4</sup>

*How have emergency or other measures imposed by the Government in the context of COVID-19 affected your work (for example, your ability to freely express your views, including critical views and feedback, access to information, associate with others)? Have there been reviews to establish whether these restrictions are/remain necessary and proportional to the threat? If so, has civil society been involved in the reviews? Can you provide examples of specific challenges and promising practices?*

## Obstacles to day to day operations

Measures taken to tackle the COVID-19 pandemic have put obstacles to the day-to-day operations of CSOs. Restrictions in free movement, social distancing and travel bans have made it difficult for several CSOs to reach out to their beneficiaries and ensure the continuation of service provision. This situation has mostly affected the more vulnerable communities without access to internet. Project implementation and activities such as campaigns have also been hindered due to restrictions in movement and assemblies. Responds to a consultation conducted by the Fundamentals Rights Agency showed that 90 % of respondents said they had to cancel or postpone activities, events or campaigns ‘every time’ or ‘often’, and 35 % said they faced legal problems with keeping deadlines for project implementation ‘every time’ or ‘often’.<sup>5</sup>

Furthermore, many CSOs instead of carrying out their regular tasks like advocacy and policy work, they had to change their focus and redirect their limited resources to providing humanitarian assistance to the community and wider population.<sup>6</sup> This shift in focus takes place in a context where funding for advocacy is already limited and a challenge in many European countries<sup>7</sup> and is aggravated by the fact

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<sup>4</sup> For more promising practices see: [Public participation in crisis response](#) (May 2021), ECNL, in particular pages 17-10 and 17-19;

[Participation champions repository](#), also includes some practices we observed since the pandemic (not all).

<sup>5</sup> [Protecting civic space in the EU](#) (September 2021), European Union agency for fundamental rights, p. 18.

<sup>6</sup> See for example the LGBTI case study in the [Activizanship #5 - stories from the lockdown](#), Civic Space Watch report 2020, pp. 59-67.

<sup>7</sup> See for example Czech, German and Irish case studies in the [Activizanship #5 - stories from the lockdown](#), Civic Space Watch report 2020, respectively pages, 69;87;119.

that, in some countries, the public funding to respond to the COVID-19 crisis is redirected to service provision.<sup>8</sup>

## Freedom of association

The restrictions on movement limited CSO ability to have in person meetings of members of government bodies. Some countries, like Turkey however, adopted measures that specifically restricted members of CSOs to physically meet, including their board and/or general assembly meetings. Specifically, the circular on coronavirus measures temporarily postponed all meetings and activities of CSOs that bring people physically together, including trainings, workshops, and general assembly meetings.<sup>9</sup>

Another limitation related to the pandemic is the dissolution and deregistration of associations. For example, in Cyprus the parliament adopted a law on registration of CSOs in 2017. The implementation of the law, led to the deregistration of many CSOs. While this is not directly related to the pandemic, some CSOs highlighted that they were facing challenges to with complying with the provisions because of their inability to hold general assemblies during the Covid-19 pandemic, and that they had no access to an effective remedy against the decision.<sup>10</sup>

## (Digital) Surveillance measures and right to privacy

Another worrisome trend causing a chilling effect on CSOs is the adoption of surveillance measures disproportionately intruding into the right to privacy. According to the ECNL/ICNL tracker, since the beginning of the health crisis, 50 countries have adopted measures that are likely to affect privacy, from tracing contact app, use of cell-phone data to “cyber patrols of social media” by the ministry of security, geolocation to enforce lockdown measures or electronic bracelets for those in quarantine.<sup>11</sup>

Decision makers around Europe have adopted legislative measures allowing public authorities to intrude into individuals’ privacy under the pretext of tackling the health crisis. For example, the emergency decree in Armenia obliges electronic network operators to provide state bodies with information on the customers' location and phone numbers the customers' have contacted, including dates and duration of phone calls. This information is further connected and analysed with the personal data of the tested, infected, treated patients, as well as those that had contact with the infected persons. The emergency law adopted in Bulgaria enabled police to monitor everyone's mobile phone traffic metadata and internet contacts without a court order to trace people that have violated their quarantine.

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<sup>8</sup> [Activizeship #5 - stories from the lockdown](#), Civic Space Watch report 2020, pp. 37

<sup>9</sup> [COVID-19 and civic freedoms in Europe in 2020](#), ECNL.p.4

<sup>10</sup> [Protecting civic space in the EU](#) (September 2021), European Union agency for fundamental rights, p. 34.

<sup>11</sup> [Civic Space in the era of securitised COVID-19 responses](#) p.12

Some authorities have also resorted to derogating from their legal regulation on protection of personal data. For example, in Hungary, the government restricted data protection rights as stipulated by the General Data Protection Regulation. This allows the Government to use the personal data of individuals without clear regulations about when they can use it, and for what purpose. In Ukraine, derogations from the Law on Personal Data Protection providing data privacy guarantees have been introduced for the period of a “quarantine regime”. Some of the derogations include loosened requirements for collecting and processing of sensitive health data without the data subject's prior consent.<sup>12</sup>

Additionally, there is a serious risk that data collected could be used beyond the tracking of the spread of the virus. The NGO Fair trial raised the concern that this kind of data collected could be used in criminal proceeding enforcing COVID-19 restrictions and others. These developments could have serious consequences on civic space. For example, when data are collected in the context of public demonstration, like identification in public protests, this can constitute an obstacle to public participation, especially for communities facing the risk of marginalisation.<sup>13</sup>

## Access to information

Another challenge faced by CSOs triggered by COVID-19 emergency measures, is restrictions to access to information. One trend ECNL observed based on the [ECNL/ICNL COVID-19 Civic freedom tracker](#) in 2020 concerns the monopolization of the right to information and expression by state authorities. Access to information of public interest has been limited with the reasoning that it may jeopardize the completion of tasks required by the emergency situation<sup>14</sup>

Several countries have introduced limitations on sharing the information about COVID-19, rationalizing it as the fight against the “spread of false information”. Some of these countries established a complete ban on information about COVID-19 that has not been published by government agencies (Armenia) or following its strict guidelines (Moldova). Others have adopted measures that provide for prosecution of media outlets or individuals for spreading information vaguely described as “false” or “disinformation” (Hungary, North Macedonia, Turkey), or with a potential to harm the life and health of its citizens (Azerbaijan).<sup>15</sup>

Furthermore, the CIVICUS Monitor data shows that censorship related to the COVID-19 pandemic occurred in 28 countries globally between January 2020 and February 2021. Most of the violations were reported at the start of the pandemic and occurred in countries where civic space is rated as closed, repressed or obstructed. Censorship and access to information violations took different forms, including suppression or

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<sup>12</sup> [COVID-19and civic freedoms in Europe in 2020](#), ECNL, p.3.

<sup>13</sup> [Activizenship #5 - stories from the lockdown](#), Civic Space Watch report 2020, p. 30.

<sup>14</sup> [COVID-19and civic freedoms in Europe in 2020](#), ECNL, p. 3-4.

<sup>15</sup> Ibid.

imposition of content relating to COVID-19, the suspension of media outlets due to their COVID-19 coverage and the adoption of restrictive legislation restricting access to information on the pandemic.<sup>16</sup>

***What barriers and challenges have you experienced with regard to access to funding and resources, and have additional restrictions been imposed during or as a result of COVID-19?***

Difficulties in accessing resources including public funding, have been reported by CSOs in recent years, but the year 2020 was particularly challenging due to the pandemic. These ranged from “the diversion of public funds to pandemic-related priorities to a decrease in private donations, the inability to organise fundraising events and a decline in material contributions through volunteering.” In total, 60 % of CSOs participating in FRA’s civic space consultation had difficulties finding adequate funds in 2020,<sup>17</sup> and 42 % of respondents to FRA’s Covid-19 impact consultation indicated that they were facing “financial difficulties” as a “direct result of measures related to the Covid-19 pandemic”.<sup>17</sup>

In addition, in some countries, the economic difficulties caused by the lockdown in most EU countries have been exacerbated by the decision of public authorities to shift the priorities of national and EU funding for CSOs to tackle the health emergency. Also, in countries where support to the civil society sector was given, it often arrived quite late with many governments prioritising funding for businesses first. This had a direct impact on the CSOs’ ability to respond to societal needs during the lockdown and will affect their capacities in the future.<sup>18</sup>

Moreover, this decrease in financial resources for the sector also further strengthened competition among CSOs for limited funds. Obstacles to access to funding can also occur due to limited administrative capacity to apply for funding, lack of transparency and fairness in funding allocation, and restrictive eligibility criteria<sup>19</sup>. As the FRA report indicates, advocacy organisations were generally affected more than CSOs providing services in most Member States in 2020, with funding being more focused on service provision than on advocacy.<sup>20</sup>

***Has civil society generally been able to safely voice critical or dissenting opinions, and debate the effectiveness of measures taken in the COVID-19 context? If any, what restrictions were imposed online and offline? Were there cases of threats and targeted***

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<sup>16</sup> [Freedom of Expression and the COVID-19 Pandemic: A Snapshot of Restrictions and Attacks](#) CIVICUS Monitor, May 2021

<sup>17</sup> [Protecting civic space in the EU](#) (September 2021), European Union agency for fundamental rights, p. 39-42.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

***attacks against civil society for voicing opinions or questioning decisions by authorities?  
How did State institutions respond?***

The number of repressive measures taken by countries since the start of the pandemic, including those listed throughout this submission, has not been beneficial to voicing critical or dissenting opinions.

Noteworthy to mention in regards to this question are the following trends identified by the CIVICUS Monitor:

- The use of restrictive legislation to silence critical voices, including through the proposal, enactment and amendment of laws on the basis of curbing disinformation.
- Censorship and restrictions on access to information, including through the suppression or imposition of content relating to COVID-19 and the suspension of media outlets due to their COVID-19 coverage.
- Attacks on journalists over their reporting of the pandemic, including physical attacks, harassment, intimidation and arbitrary detention.<sup>21</sup>

Furthermore, in total, 25 % of respondents to FRA's civic space consultation indicated that they were facing difficulties in regard to freedom of expression in 2020. Provisions criminalising certain forms of expressions are considered to have a potentially chilling effect on free speech in some EU Member States. The urgency to contain the spread of disinformation and fake news in connection with the Covid-19 pandemic raised issues linked to the criminalisation of certain forms of expression.<sup>22</sup>

As a result, people in those countries have enjoyed fewer opportunities to draw informed conclusions on whether governments have been telling the truth and doing the right things to combat the pandemic. These restrictions have produced a further chilling effect on free expression, often leading to self-censorship. Adding to existing problems with freedom of expression in a number of EU countries, the restrictions adopted during the public health emergency may have a broad and long-lasting impact on free and pluralist expression in the EU.<sup>23</sup>

***Looking forward, what are key-recommendations to authorities to preserve and expand civil society space in the context of COVID-19 and beyond? Please be as specific as possible.***

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<sup>21</sup> [Freedom of Expression and the COVID-19 Pandemic: A Snapshot of Restrictions and Attacks](#) CIVICUS Monitor, May 2021

<sup>22</sup> [Protecting civic space in the EU](#) (September 2021), European Union agency for fundamental rights, p. 31

<sup>23</sup> [Locking Down Critical Voices](#), Greenpeace European Unit and Civil Liberties Union for Europe, September 2020, p.19



## General Recommendations

- Governments should work with civil society to undertake a human rights impact assessment to ensure that the measures taken to tackle COVID-19 do not fail to comply with human rights standards and fundamental freedoms.<sup>24</sup>
- The international community should work to safeguard civic space and uphold democratic norms, including by ensuring that civil society has the resources it needs to advocate for laws and policies that protect fundamental rights and freedoms.<sup>25</sup>
- Governments should take into account reports and evidence by watchdogs, CSOs, HRDs and reassess restrictions imposed due to the pandemic and lift them if found disproportionate.<sup>26</sup>

## Participation

- Governments should engage civil society in the inception, development, implementation and evaluation of emergency related and recovery measures.

## Enabling CSOs' Operations

- Authorities should ensure that CSOs continue to provide their vital services to the community, for example by exempting from restrictions of movement and travel bans.<sup>27</sup>
- Authorities should show more flexibility to CSOs in terms of obstacles to their operations, with the relaxation of requirements relating to reporting, organizational governance, and tax obligations.<sup>28</sup>

## Access to Information and Freedom of Expression

- Governments should take action to support public access to information through independent media outlets and online platforms.<sup>29</sup>
- Authorities should support and facilitate CSOs working for press freedom.
- Governments should promote free expression abroad and stand up for activists and others who raise concerns about government policies and practices related to COVID-19.<sup>30</sup>

## Digital Surveillance

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<sup>24</sup> [Pandemics and Human Rights](#), (March 12, 2020), Doug Rutzen and Nikhil Dutta

<sup>25</sup> [Top Trends: COVID-19 and Civic Space](#), International Center for Not-for-Profit Law

<sup>26</sup> [Locking Down Critical Voices](#), Greenpeace European Unit and Civil Liberties Union for Europe, September 2020, p.30

<sup>27</sup> Ibid

<sup>28</sup> [Positive Government Responses to COVID-19](#), International Center for Not-for-Profit Law, last update June 2020

<sup>29</sup> Ibid

<sup>30</sup> Ibid

- Norms should be created on the responsible use of surveillance technology, both in times of emergency and non-emergency, such as deleting data regularly.<sup>31</sup>
- Responses to COVID-19 involving government use of personal data should be developed through broad public consultations and implemented in an open and transparent way.
- Collection, use, sharing, storage, and processing (including algorithmic processing) of personal data should be limited to what is strictly necessary to respond to COVID-19, based on determinations by privacy and public health experts. Moreover, there should be sufficient safeguards in their use, such as anonymization, secure storage and access only to those necessary for the purpose of tackling the pandemic.
- Governments should regularly assess the effectiveness of the use of surveillance technology as part of COVID-19 responses.<sup>32</sup>

### Access to Funding

- Expediting funding procedures and reducing administrative burdens  
Reduction of administrative burdens and expedition of funding procedures can increase efficiency without compromising accountability. Moreover, funding priority should be given to Local organisations they are best positioned to identify and implement locally effective programming to help communities recover.<sup>33</sup>
- The EU Commission should include meaningful financial support for grassroots CSOs among the priorities of relevant EU funding programmes under the Multiannual Financial Framework and COVID-19 recovery fund.<sup>34</sup>
- Public funding for advocacy work of CSOs should not be put to a halt in order to prioritise service provision. (see above Obstacles to day to day Operations)

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<sup>31</sup> [Can civil society survive COVID-19?](#) January 13, 2021, Ellie Page and Simona Ognenovska

<sup>32</sup> [Positive Government Responses to COVID-19](#), International Center for Not-for-Profit Law, last update June 2020

<sup>33</sup> Ibid

<sup>34</sup> [Locking Down Critical Voices](#), Greenpeace European Unit and Civil Liberties Union for Europe, September 2020, p.32



## Annex

# Regional consultation on the UN Guidelines on Participation

Thursday, 7 October 12.00-13.30 CET

## Questions

### Pre-conditions for participation

1. Is there an institutional framework for participation in public decision-making in the making? Or does it already exist in your country/the countries you work in?
  - a. e.g. legal framework, strategies, policies, action plans, etc.

**Luxembourg:** There is no institutional framework typically targeting civil society participation in decision making processes in Luxembourg. In the field of Human Rights and Development cooperation, there is an act having the effect of including explicitly the topics of ‘human rights’ and ‘participative democracy’ as transversal issues in the approach of Luxembourg NGOs working on development cooperation and humanitarian action. Also, it set up a government fund to develop NGOs and clarified the rules regarding who can obtain such a statute and benefit from government funding. The role of NGOs is mainly consultative, as they can take part in negotiations being held in political working groups. They do not possess any participative role in decision making processes, only in the consultation, elaboration and implementation phases of given legislation.

**Georgia:** Georgia has an institutional framework for participation in public decision-making processes on central and local levels. On central level, the Government decree #629 on the Rules of Procedure for Development, Monitoring and Evaluation of Policy documents (adopted 20.12.2019) establishes an obligation

*This event is organized as part of the “United Nations: Greater Protection And Standards Setting” regional project, managed by the European Center for Not-for-Profit Law Stichting (ECNL). The project is made possible by the International Center for Not-for-Profit Law (ICNL) through the Civic Space Initiative, financed by the Government of Sweden.*

of public consultation in preparing policy documents. Besides, the Rules of the Procedure of the Parliament of Georgia defines citizen participation mechanisms in the law-making process, including providing comments on the draft laws, submitting legislative proposals and participating in committee hearings. Furthermore, the citizens are able to submit petitions electronically to the Government (I-Change.gov.ge) and to the Parliament ([www.parliament.ge](http://www.parliament.ge)).

On the local level, the Local Government Code (Section IV, Chapter XI) guarantees the forms of citizen participation in the decision-making process, including a general assembly of settlement, a petition, the council of civil advisors, participation in the sessions of the Municipality Sakrebulo and the sessions of its commissions, hearing reports on the work performed by the Mayor of the Municipality and by a member of the Municipality Sakrebulo. In addition, a municipality may determine the other forms of citizen participation in local government that do not contravene to the Georgian Legislation. Under this provision, some Self-governing cities and municipalities implement participatory budgeting in practice (Kutaisi, Batumi, Akhaltsikhe).

Furthermore, the Georgian government, Georgian Parliament, Tbilisi City Hall and some Municipalities have adopted Open Government Strategies and Action Plans, which includes numerous commitments on public participation.

**Kosovo:** Participatory decision making is regulated through the legal framework - the Regulation on minimum standards and criteria for public participation in decision making processes in the central level of governance. Also, there is another Administrative Instruction that regulates participatory decision making in the local level of governance. Furthermore, this topic is pushed forward through the Government - Civil Society Sector Strategy for cooperation. Still, even though the legal framework is in line with best international practices and standards, implementation lags behind, especially during the pandemic crises.

**Republic of Moldova:** There is a Law on Transparency in Decision-making (since 2008) + mechanism for public consultations with the civil society in the decision-making process (since 2016) with steps and timeline. There is a web platform where public authorities place announcements and drafts for public consultation: <https://particip.gov.md>.

**Poland:** Since 2015, the Polish Constitutional Court and the National Council of the Judiciary no longer play their usual roles, but are treated as an organized system that puts political pressure on judges and contributes to the disintegration of the discursive community of law. As a result, during the last 6 years, important draft Bills have been pushed without any public consultation, thus, state sovereignty has enabled the political majority to impose unlimited change on the judicial system. Although some judges as a counteract are willing to educate Polish society through

public debate outside of the courtroom, they are limited to only typical judicial activities. For that reason, citizens cannot fully exercise their right to participatory decision-making or advocate for an institutional democratic change. At the same time, although there is Article 4.1 of the Law on Freedom of Assembly and Article 3.1 of the Law on Association, amendments should be made to include persons with disabilities.

**Bulgaria:** there is a law on normative acts that regulates the public participation in legislative process. It provides 30 days for consultation (or at least 14 days) but there are possible exceptions to it. There is also a website where draft laws and policies are published - [www.strategy.bg](http://www.strategy.bg)

**Montenegro:** There is institutional framework that regulates all questions regarding CSOs participation and participation of public in large. Although the process prescribed by law is generally respected, there is a clear lack of interest of the state in the real involvement of civil society, which is reflected in disregard for comments and suggestions of civil society, election of NGO representatives in working bodies who do not have adequate knowledge to substantially contribute to the process. Unfortunately, this process has regressed even more since the change of government in Montenegro, so in this mandate, the Government has so far submitted 48 draft laws to the Assembly, and only for 6 of them public debate have been held.

**Hungary:** There is a legal obligation for certain kinds of legislative bills to be made public by their initiators for “social consultation”. This means usually that gov- initiated bills are shared at an earlier phase by the Ministry preparing them, and those interested may send in comments via email etc.

**Armenia:** There is a law on Normative Legal Acts which indicates the obligation for conducting public consultations for all legislative drafts, except for the draft laws on ratification (joining) an international treaty. Recently, an amendment was adopted to allow that legal acts related to the state of emergency are not subject to public consultations. In addition, the government has adopted a procedure for organising and conducting public consultations, which guide the consultation processes for all the government agencies. In particular, the procedure indicates the electronic platform of publication of legal acts - [www.e-draft.am](http://www.e-draft.am) - as a main tool for organising consultations for the government-initiated drafts (not only for laws but also by-laws). Additional tools involve public discussions/hearings and surveys, but they are not mandatory in contrast to the publication in the electronic platform.

**Bosnia and Herzegovina:** Public consultation and discussion is defined within the legal framework on entity levels and the legislation obliges realization of public consultation for citizens. However the participation of CSOs in low and insufficient

and their role in decision making process is underdeveloped and have low influence in decision making

**Croatia:** Normative framework for the implementation of consultations with the interested public in Croatia is governed by: the Act on the Right to Access Information and the Code of Consultation with the Interested Public in Procedures for Adopting Laws, Other Regulations and Acts. In the past years there were no public initiatives or policies adopted that would aim at strengthening civil society development in Croatia. Since the National Strategy for the Development of Civil Society expired in 2015, Croatia has been without a defined public policy for creating an enabling environment for the development of civil society for six years now. The process of drafting of the National Plan for Creating an Enabling Environment for the Development of Civil Society from 2021 to 2027 is ongoing.

Consultations with the interested public with respect to draft legislation are regulated by the Act on the Right of Access to Information (OG 25/13, 85/15) and the Code for consultations with the interested public in procedures of passing laws, other legislation and acts. They are implemented through the central web portal “e-Savjetovanja” (e-Consultations), through which citizens can directly comment on law proposals, other regulations, strategic documents etc., with all comments being immediately visible to the general public. It provides easy access to all open consultations in one place and citizens can easily track the quality of response of governmental bodies on all submitted comments and suggestions. Web portal “e-Savjetovanja” is available on the following link: <https://esavjetovanja.gov.hr/ECon/Dashboard?StatusFilterId=&organizationFilterId=&TextFilterValue=direktiva&WasOpenedDate=>

There is an institutional framework in place for dialogue and consultation with civil society in Croatia. The Government Office for Cooperation with NGOs performs expert work with regards to creating conditions for cooperation and partnership with non-governmental, non-profit sector, especially with associations in the Republic of Croatia. The Office closely cooperates with the Council for Civil Society Development, to which it offers technical, administrative, professional and financial support. More information about the Office is available here: <https://udruge.gov.hr/about-us/86>

The Council for Civil Society Development is an advisory body to the Government acting towards developing cooperation between the Government and civil society organisations in Croatia. The Council participates in constant monitoring and analysis of public policies referring to and/or affecting civil society and cross-sector cooperation, expresses opinions on legislation drafts affecting the civil society development in Croatia, and participates in organisation of engagement of CSOs in discussions about regulations, strategies and programmes affecting the development and functioning of civil society both on the national and European level. Information about the Council for Civil Society Development is available here: <https://udruge.gov.hr/the-council-for-the-development-of-civil-society/163>

In the new convocation of the Council from May 2020, CSO representatives in the Council have limited influence on the decisions adopted by the Council because a majority of Council members come from various Government departments which limits the opportunities of CSO representatives to influence the priorities and policies of the Council. This resulted in the election of a president of the Council who for the first time did not get the support of the majority of CSOs represented in the Council.

## **2. Access to information: what are the challenges and issues? – are there any good practices?**

**Luxembourg:** In theory, information is accessible, decision making processes are transparent and consultation open. In practice, consultation is sometimes illusory and participation of NGOs is light. Information is not always accessible as decision making processes are sometimes very hard to penetrate. Luxembourg being a small country, the good practices are made possible by the high proximity of actors, the accessibility of decision makers and the restricted field of political action. If I may quote the example of Business and Human Rights, NGOs are a central actor of the political working group on Due Diligence legislation. The consultation is structured, well informed and regular, even if the negotiation processes tend to be slow (Business and NGOs fighting for different objectives).

**Georgia:** The legal framework on access to public information in Georgia requires improvement to respond to the modern challenges, because it was adopted in 1999 (last amendment 2018 on proactive publication) and does not include some important provisions, such as public interest test and harm test, as well as State Supervisory Body on implementing public information legislation (Public Information Commissioner). The draft law on public information has been prepared in 2015 by active participation of civil society organizations, which covers all necessary and innovative provisions in compliance with the best international standards. However, it has not been initiated by the Government yet.

Access to information seems to be quite a challenge, both for NGOs and Ordinary citizens. State has taken a position of animosity towards any side it deems not to be in alignment politically, most of the time they do not deny information requests, but give out information late or incomplete. State also rarely proactively releases information. E.g to ensure citizen participation in the exercise of local self-government, municipal bodies shall be obliged to take measures to inform the population of the municipality of their activities and on the possibility of citizens to participate in the exercise of local self-government.

Issues relating to the publicity of the activities of municipal bodies and institutions, as well as of legal entities under private law financed from the municipal budget,

including the publicity of a session of a collegiate body, as well as issues related to the release of public information, shall be regulated by this Law, other legislative and subordinate acts of Georgia, and by the resolutions of the municipality Sakrebulo adopted on their basis.

Municipal bodies shall be obliged to publish adopted administrative-legal acts, their draft versions and other public information in cases and in the manner determined by the legislation of Georgia.

**Poland:** Poland's Council of Ministers has adopted a resolution on the GovTech Polska Program, which has the goal of increasing the "development of innovative models for obtaining information about the needs of the citizens and suggestions for satisfying them from citizens within public institutions." However, information access has been limited and these gaps are being filled by organizations like Watchdog Poland, which created a Non-governmental Centre for Access to Public Information; and Never Again, whose mission is to promote multicultural understanding and contribute to the development of a democratic civil society, its Brown Book and Reading Room projects have served to document acts of xenophobia and advocate against racism in Poland.

**Republic of Moldova:** Public authorities are not very proactive in providing public info on their web pages. Requests of info is a problem: Authorities often delay or refuse provision of public info on grounds of personal data protection or commercial secret. During pandemic terms for resolution of information access request – were tripled (March-May 2020) and doubled in April 2021.

**Croatia:** There is a negative trend of illegal decisions on denying the right of access to information, public authorities ignoring the publicly available and standardized practice of the Information Commissioner and the High Administrative Court and administrative silence, i.e., failure to resolve requests for access to information within the prescribed period. The frequent use of the provisions of the GDPR to deny requests for access to information is present. In more than 60% of cases in 2020, public authorities unjustifiably withheld information on the basis of personal data, which has had a negative impact on the right of access to information

**Kosova:** A very decent legal framework in place with advanced legal requirements and forms. Public institutions should answer a request for access to public information/documents within seven days. Nevertheless the practical implementation lags behind. For the record, last year's data tell that from more than one hundred CSOs surveyed only 48% received data on t

**Hungary:** Social consultation is in most cases purely formal: most typically, bills of 40-50 pages worth are put up on a ministry homepage at best on Friday at 4pm,



the deadline for sending in comments is Monday 8am, etc. It is extremely rare that really important legislation is up for consultation with a deadline that allows for meaningful participation / commentary by relevant stakeholders. Even this way, bills or initiatives up for comments are somewhat difficult to find: they just appear somewhere hidden on a given ministry's home page.

Also informal (not legalized, institutionalized) procedure: the government regularly launches “national consultations”, which are essentially polls / questionnaires that are sent out to every adult citizen, with questions that have 2 response options (not open-ended). The agenda of these consultations is heavily determined by the government, and there is no evidence that the agenda reflects anything else but government political priorities (e.g., anti-civil society policies, protecting the family = anti-LGBTQ propaganda). The questions are formulated in extremely biased ways which do not allow meaningful participation.

Generally, during the state of emergencies (we still are in it), the usual deadline (30 days) to respond to a freedom of information act (FOIA) request is extended to 45 days, but the responding authority may extend it by an additional 45 days. This means that, e.g., data related to the pandemic or its management can at best be access in 90 days = 3 months, by which time it is entirely outdated.

Even more generally, government officials tend not to respond to interview requests or even FOIA requests by the independent press – i.e., whom the government perceives as “the opposition media”. So, citizens are also put in a difficult position to access information necessary for informed participation of any kind, even if they read the press / follow media.

**Montenegro:** A legislative framework for free access to information has been established but implementation is still not adequate. Although there is an obligation to proactively publish data, this process has not yet taken root in practice, and the processing of requests for free access often takes too long, sometimes more than a year.

**Bosnia and Herzegovina:** The Freedom of Information Act is a law that largely helps gather information from public institutions. This law largely helps to obtain certain information at the state level. However, in addition to the specified deadline for providing information defined by law, the information is received after the due date (this fact does not apply to all institutions). The reasons are fewer services working on these issues, too many requests for delivering certain information, etc..

**Armenia:** There is a legal framework in place: the law “On Freedom of Information” regulates the procedure of sending the inquiries to state bodies and defines 5 working days for the government feedback (allowing extension to 30 days

if additional research/analysis is needed to respond). In addition, there is a procedure adopted by the government decree defining details for getting and receiving information. The law also obliges state bodies to publish information proactively on specific themes. The law on local self-governance defines a large list of information that communities should publish.

On the level of practice, there are a number of challenges related to the delay of responses to inquiries, evasive or partial responses, as well as failing to publish information in a timely and sufficient way.

### Different stages of decision-making process

#### 3. To what extent are public decision-making processes and the different stages (before, during, after) accessible in your country?

**Luxembourg:** Legislative activities in Luxembourg are mostly discussed in Commissions (thematic department in the Parliament) and all bound documents are accessible for citizens but it is near the impossible for them to participate in those processes or to exercise any influence of legislation negotiations.

**Kosovo:** There is a continuous trend of CSOs claiming to have not participated in decision making processes, despite the favourable legal framework in place. Compared to 2019, in 2020 there is a slight increase of CSOs claiming they have not been engaged in policy-making processes. The pandemic and the preventive measures to combat its spread have had their impact also in the public consultation process. As such, from 101 CSOs surveyed last year, eighty percent of them reported to have not been involved in the drafting process of policies/legislation during last year, neither via invitation from a public institution nor initiated participation on their own. Survey shows that public institutions have been reluctant to include CSOs in decision-making processes. Sixty – two of the surveyed organizations said they were never invited to participate in public consultations. Only 8% of surveyed CSOs said they are regularly invited to participate in public consultations, while 29% said they are invited from time to time or once in a while. *Old fashion way inviting those that they have worked with in the past - mostly well established CSOs with resources and more capacity.*

**Poland:** Poland's process of policy formulation is largely reduced to law-making, which is accompanied by a low level of interest in the use of non-legislative instruments of action. The projects of public activities are normally expressed in the form of draft legislation. They are considered by the government but also by other actors of public action, as almost the only instrument to ensure the achievement of results planned to be achieved. However, in Poland the increased role of the political class, which has an almost monopolistic position in the field of policy-making, allows it not to have to share the impacts with experts, scholars

and all the rest of various stakeholder. Consequently, the level of democratic public policies in Poland is much lower compared to other Western European countries.

**Bulgaria:** One of the problems exists at the stage of discussion of draft laws in Parliament. MPs are allowed to make changes between first and second reading but this information is not easily accessible (sometimes the period for introduction of changes is as short as 3 days) and people do not know what changes have been introduced until the draft is up for discussion for final reading in Parliament. Another problem has been the fact that laws are amended by adding proposals in the concluding provisions of 1 law that relate to an absolutely different thematic area. There was a case that the State budget Law was used to introduce substantial changes in a number of other laws (moreover, the state budget law is exempt from public consultations under the Law on normative acts). Finally, the Law on normative acts applies only to the draft laws proposed by the government. Laws introduced by MPs are subject to separate rules.

**Republic of Moldova:** The during stage is accessible in principle, but there are cases when authorities submit draft laws in urgent procedure, and allow only a couple of days for consultation – which is of course not possible and only imitation of public consultation. The during stage has another problem – when authorities do not really take into consideration the proposals of the civil society. Before and after stages are not regulated, but participation is possible and CSOs often come with policy proposals, monitor or support implementation, make evaluation reports, etc..

**Armenia:** the participation during the policy-making process is relatively better provided due to the institutional and legislative framework provided. The participation in the stages “before” and “after” is less regulated and often up to the discretion of the policy-maker. The participation in early stages is sometimes provided in the process of developing strategies, through initial consultations with organisations having expertise in the field, or through engaging consultative bodies. The participation in the implementation/monitoring of the decision/law/strategy is often initiated by CSOs themselves, who undertake monitoring initiatives or organise meetings and discussions with stakeholders. There is a good practice of involving civil society in the monitoring of the strategy implementation in case of the Human Rights Strategy.

**Hungary:** There is little “external” access to formal, legislative (or executive, governmental) decision-making processes. External input is typically not sought, and while a decade ago it was normal for civil society actors to be heard e.g. in parliamentary committees and ministries, this is out of question these days: only a handful of explicitly government-friendly actors are allowed access to create an impression of civil society backing policy.

The deterioration comes together with a generally inimical approach to independent, critical watchdog organizations and human rights organizations, and an increasing centralization of government in general. The political will is entirely missing to hear different opinions, or to take legal expertise into consideration in preparing policy decisions or law.

**Bosnia and Herzegovina:** The problem of CSOs participating in decision-making processes is continuous. On the one hand, there is lack of motivation of public institutions to cooperate with the civil sector, very weak in inviting civil society for consultation processes even in cases where civil society can contribute greatly, and there is a slight distrust or hostility towards civil society. On the other hand, there is an issue with inactivity of civil society, insufficient unification, poor response and lack of motivation to participate in consultation processes. Therefore, the problem is presented on both sides, which unfortunately results in a lack of successful partnership on this process.

**Montenegro:** The Regulation on the participation of non-governmental organizations in the decision-making process prescribes the participation of non-governmental organizations in all phases of decision-making, but this process is usually only formally respected. If we exclude the last year, in which there was almost no participation of NGOs in the preparation of amendments to the law and other public policies (6 out of 48 bills, the inclusion process is mostly respected in terms of including NGO representatives in working groups for policy preparation, but even then the proposals of NGO representatives were not considered when it comes to important issues.

**Georgia:** At the beginning of the work on the issue, a notification is sent to us by the state authorities. They share the draft with us and offer to present our ideas on the issues to be discussed. Even after receiving the issue, we are involved in the process and monitor the extent to which our views are taken into account. For example, bills are published in public, parliamentary sessions are open and we can attend them.

#### **4. Do authorities proactively reach out to solicit participation? At what stage of the process?**

**Luxembourg:**

Authorities rarely consult civil society at their own initiative. If they do, they do it in the finalizing phases, when most of the job is done, and consult competent NGOs

to have their view on a given topic, but almost never take their input into account. However, in the field of development policies and cooperation, development NGOs are considered experts or field actors and therefore, they might be more consulted and called for collaborating with authorities. Also, civil society has been called to participate in the Open Government Partnership, such as for example in the field of Human Rights in the Convention on the Rights of Persons with Disabilities (CRPD) and finally in the Inter-ministerial committees with civil society participation.

**Montenegro:** The Decree on Cooperation with Civil Society obliges all state administration bodies to publish an invitation to participate in the development of public policies, and this provision is formally most often respected, but this cannot be considered proactive action, since only legal obligations are respected.

**Poland:** On the paper, authorities are supposed to consult civil society, but in reality this scenario is scarce.

**Georgia:** Authorities rarely if not ever reach out to solicit participation. Unless it is directly obliged by international obligations, and even then very rarely.

**Kosovo:** only through the online platform for public consultation, which is mandatory to be used only after the final phase of the consultation has finished, and the layout of the draft policy has been decided. More often than not, this is a late phase where CSOs can have an impact and push forward their ideas or needs to tackle important issues for their work and enabling environment.

**Republic of Moldova:** Authorities most often only use the official platform [particip.gov.md](http://particip.gov.md), place announcements and drafts. They have to place drafts for consultations. They exceptionally address specific CSOs and ask them to join the process, after the draft was released.

**Hungary:** They do not, unless in a way that makes it impossible (deadline) but creates an impression that there was an act of reaching out that can be referred to in reports etc.

**Bosnia and Herzegovina:** Governments rarely call on CSOs to cooperate. In addition to many other cases, an example is 2020 and ways to prevent the spread of the pandemic and address the challenges in the COVID-19 post period. While the government had failed to proceed adequately the challenges caused by the pandemic, CSOs have found ways and persisted in the work and realisation of their programmes but also influenced the provision of assistance to citizens, including migrants. One of the better examples of government cooperation and CSOs is the migrant crisis where this cooperation is somewhat better when it comes to the role of CSOs in these matters

**Armenia:** as noted in the question above, the government mostly reaches out civil society in the stage of the decision-making (based on the legal obligations). Often, the finalised draft is published for comments, and it is difficult to make significant conceptual input in the drafts. However, there are instances of collaboration when the authorities discuss conceptual questions with partner /specialised CSOs.

**Croatia** Institutions publish a public call for the members of civil society to join the working group for drafting legislation. The elections of the representatives are done through public calls managed and coordinated by the Government Office for Cooperation with NGOs.

**5. Are you engaged at an early stage with all the relevant information you need to be able to participate?**

**Georgia** We sometimes have problems in obtaining public information, but we try to get all the necessary information at an early stage of decision-making and get involved in the decision-making process. More often we are allowed to participate in the decision-making process at the central level than in local governments. However, in the self-government at the regional level, we try to be involved in the processes with maximum competence.

**Republic of Moldova:** Participation is often the result of the CSOs initiative to engage. CSOs usually have to look for additional information. Usually the draft law/decision is accompanied by an informative note.

**Croatia:** Government did not have a dialogue with civil society with respect to adoption of measures related to the coronavirus pandemic. There were also no Government consultations with the Council for Civil Society Development regarding the protection of human rights of the most vulnerable groups during the coronavirus epidemic. In April 2020, the Information Commissioner noted that, since the new circumstances emerged in March 2020, duration of e-Consultations with the interested public has been visibly shortened for a number of acts, including the ones that have not been brought in an urgent procedure. Law provides for a duration of consultations with the interested public for 30 days. The Information Commissioner emphasized that deadlines could be shortened only exceptionally for urgent and justified reasons as well as that the full implementation of consultations shall be kept in the circumstances of the pandemic, especially with regard to adoption of key legislation that affects the interests of the beneficiaries.

Citizen participation in the decision-making process is relatively weak, with most institutions relying exclusively on consulting online and no longer combining consultation methods such as round tables, panel discussions, etc..

**Kosovo:** Data from the practice show that only a small proportion of CSOs get invited to participate from early phases. Out of those invited to participate in decision-making processes, 18 organizations said they received invitations in the early phases of the consultation process. Only 14 CSOs said they had been provided with sufficient information on the content of the draft policies. Nine per cent of CSOs said they were given enough time (15-20 days as stipulated by law) to comment.

**Armenia:** it is not easy to get all the relevant information in early stages. Unless there is a specific need/political will on the part of the authority, in most of the cases policies are made available after the initial stage of development is over.

**Bosnia and Herzegovina:** CSOs activity is problematic where the question of its mission is often raised. There are organisations that will not criticise the government because they depend on funding the government. On the other hand, there are organisations that are not sufficiently informed, and are not capacitated to be able to successfully influence decision-making processes. That is why we have several leading larger organizations and the rest are mostly grass root organizations that are not fully capacitated for active participation in these processes.

**Montenegro:** The Regulation on Cooperation with Civil Society obliges all state bodies to involve non-governmental organizations at an early stage of policy development, but this form of consultation is not sufficiently applied. In 2020, 32 public hearings were held, and only 19 consultations were conducted at an early stage.

## 6. Is your input then taken into meaningful consideration when a decision is being made and how?

**Republic of Moldova:** If the draft does not concern sensitive issues, such as corruption, justice, etc, the input of CSOs would be taken into consideration. The CSOs providing social services are more easy going with their input. State authorities expect their contributions. The human rights CSO or CSOs more actively involved in public agenda, are being marginalised.

**Luxembourg:** We mostly have the impression that NGO consultation is illusory, as our concerns and contributions are not considered. We sometimes have the impressions that authorities ask for our review just to validate on point on their checklist.

**Georgia** - Very rarely, if the state takes into consideration its at a very minimal level. It also depends on what the consultation is being made. About human rights, or national courts almost never.

**Poland:** The issues on human rights violations is often encountered with challenges throughout the decision-making system, but human rights CSOs push hard to provide expertise to relevant institutions.

**Hungary:** At a national level, both formal “social consultations” and the government’s own “national consultations” are a sort of black hole. There is absolutely no transparency to the results, but the government is eager to abstractly refer to these results, in justifying controversial policy (e.g., homophobic propaganda law) that this is what the majority wanted, as the national consultations have shown.

**Bulgaria:** Because of the attacks against civil society organizations by several groups (fighting against children rights; LGBTI; etc.), the government started avoiding consultation with traditional CSOs - to prevent any criticism from such informal groups that it favors traditional organizations. The government decided to revise decisions that have previously taken following really consultative processes because of criticism of such groups. One example was the Law on social services whose entering into force was postponed by half a year even though it was adopted without any opposition in Parliament a few months before that.

**Croatia:** Civil society is often involved in consultations only as a formality and consultations are often primarily formal rather than substantive. Online public consultations of draft legislative and policy acts are available through the platform “e-savjetovanja”, but the quality of participation is hampered by the fact that citizens’ inputs and recommendations are often not genuinely welcome and taken into consideration by public authorities.

At the local level, in 2020 there have been cases of omissions of civil society organizations’ remarks in public discussion reports (for example during the public consultation for the Program of the open urban-architectural call for proposals for the project Space of the center of Trešnjevka) or overly short deadlines for applying to participate in decision-making (for example in the case of the Development Agency of the City of Zagreb in the process of drafting the Development Plan for the City of Zagreb for the period from 2021 to 2027).

The Information Commissioner’s report for 2020 also states that the negative trend of shortening the consultation period has continued, still without adequate justification. Additionally, the quality of report drafting on the conducted consultations is deficient, and all received proposals and opinions are insufficiently documented, especially at the local level.

**Kosovo:** Mostly well established CSOs or those CSOs that have a history of cooperation with a public institution claim that their feedback is taken into account. The rest, from 101 of CSOs surveyed, only 6% of CSOs confirmed the previous



statement, while 62% of organizations stated that their comments were partly taken into consideration. Civil society organizations whose comments were refused received written feedback only in 13% of cases. The pandemic has only exacerbated this situation.

**Armenia:** Again, it often depends on the discretion of the authority. In case there is a political decision it is difficult to make a meaningful input. In case the draft is about social issues or other areas where the government relies on CSO collaboration, it is easier to reach agreement.

**Bosnia and Herzegovina:** As an organization, we try to be as involved as possible in the processes of public discussions or consultations. In this regard, we often invite and gather other organizations, inform them and involve them in these processes. Our activity continues by drawing up the conclusions of the discussion, proposal and direct contact of the emanating institution (in most cases, the Ministry of Justice). Our initiative is taking into account this case but much more work is needed on these issues and requiring institutions to be more involved. In addition to CSOs, the academic community is also neglected and does not refer to consultation processes, which is also problematic. That is why we are trying to initiate processes and practices involving governmental, non-governmental sectors, as well as academia and international communities. Experience so far says that such gatherings and ways influencing the decision-making processes are the most effective. This of course requires a lot of preparation and advocacy but the results are successful

**Montenegro:** Civil society is often involved in consultations only as a formality and consultations are often primarily formal rather than substantive. NGO proposals are very rarely the subject of serious consideration. Most often, explanations are not given as to why the proposals were not included in the final document

## **7. Are you also involved in the implementation and evaluation phase of this decision?**

**Luxembourg:** Not that I'm aware of. So pretty rarely.

**Hungary:** Almost never (at a national level: never).

**Republic of Moldova:** usually only if the CSO can provide resources. There is no established practice in this direction.

**Georgia** - On a national level NO

**Poland:** No

**Kosovo:** - No

**Armenia:** most often - no, though there are some successful cases where civil society has been involved through multistakeholder groups.

**Bosnia and Herzegovina:** no

**Croatia:** no

**Montenegro:** No

## Use of ICT tools

### 8. How are ICT tools and online participation mechanisms, if any, utilized in your country/-ies for meaningful participation?

**Bulgaria:** There is an online platform for consultations. Also on the website of Parliament there is possibility to see sessions online, including of some committees there. But sometimes the information uploaded is overwhelming so it is difficult to find your way (one thing I find useful is to receive e-mails when new consultations are started but that means I get really a lot of e-mails that I have to go through).

**Poland:** The lower house of Poland's parliament resumed work online on march 2020, due to the coronavirus epidemic.

There are few examples of effective promotion of counternarratives specifically countering coronavirus-related hate speech. During the crisis the Polish medical authorities actively promoted verified and scientific information to counter the massive amount of conspiracy theories (e.g. through special adverts on YouTube).

Proactive actions were met within social media platforms as well. In interviews published in the Polish media, Facebook director of the public policy team for Poland Jakub Turowski declared that the social platform will help counter conspiracy theories and fake news.

**Georgia** - The online participation mechanisms are established on central and local level in the area of submitting petitions to the Government, to the Parliament and Municipalities (I-Change.gov.ge; Idea.Tbilisi.gov.ge; [www.parliament.ge](http://www.parliament.ge)). Some municipalities provide online hearings of the Sakrebulo sessions (Tbilisi City Hall, Ozurgeti Municipality). Besides, the Parliament of Georgia suggests an opportunity to the citizens to comment on draft laws and provides online hearings of committee/plenary sessions.

During the pandemic ICT tools have seen improvement, but on a minimal basis, Meetings usually happen online via zoom.

**Republic of Moldova:** There is the platform: [particip.gov.md](http://particip.gov.md) . But this platform does not allow us to follow the evolution of the drafts throughout the process. There is also the parliament's web page (which is not user friendly).

**Hungary:** No such platform / technology etc. used nationally. However, some municipal assemblies have guaranteed the publicity of their sessions via ICT means. (During most of the state of emergency, though, mayors took on all decision-making powers of municipal assemblies, and hence there were no session to ensure the publicity of.) The city of Budapest is working on implementing new online participatory measures. (With an opportunity to participate in offline ways too.)

**Kosovo:** There is an online platform for public consultation, yet its contribution to meaningful participation is limited. Even though that is extensively used by public institutions, deadlines for providing comments or publishing all needed information and draft documents, are rarely adhered to.

**Bosnia and Herzegovina:** CSOs and the public can access draft policies and laws of national-level institutions through the e-Consultation online platform. This process pertains to public consultations before policies reach the Parliamentary Assembly of Bosnia and Herzegovina, which can organize its consultations or other forms for civic input through its committees. Ministries and agencies publish their annual legislative plans alongside the majority of regulations they adopt. This platform is a mechanism for public consultations as well. The Ministry of Justice monitors this platform and conducts an annual assessment of national-level public consultations to track the involvement of other ministries, CSOs and to improve its policies. Although the existing framework has increased consultations in numbers, substantial involvement of public institutions and CSOs is still missing. [Home page \(ekonsultacije.gov.ba\)](http://ekonsultacije.gov.ba)

**Armenia:** the platform [e-draft.am](http://e-draft.am) provides opportunity to see all the legislative drafts and decisions produced by the government and provide comments, with a mandatory requirement for the relevant authority to provide feedback.

**Croatia:** Consultations on draft acts are implemented through the central web portal “e-Savjetovanja” (e-Consultations), through which citizens can directly comment on law proposals, other regulations, strategic documents etc., with all comments being immediately visible to the general public. It provides easy access to all open consultations in one place and citizens can easily track the quality of response of governmental bodies on all submitted comments and suggestions. Web portal “e-Savjetovanja” is available on the following

link:<https://esavjetovanja.gov.hr/ECon/Dashboard?StatusFilterId=&organizationFilterId=&TextFilterValue=direktiva&WasOpenedDate=>

## 9. To what extent do ICT tools strengthen equal and meaningful participation?

**Armenia:** Electronic platforms help to engage more stakeholders regardless of location and status. It is also a plus that all the suggestions are documented along with the government feedback. However, it is difficult to state that meaningful participation is empowered, as there could be evasive responses and lack of consideration in case there is no will to incorporate the suggestions. Also, since our online platform provides information on the developed drafts, it is difficult to make meaningful input when the concept is already developed.

**Republic of Moldova:** It serves for transparency. There are over 1000 articles placed on the platform each year.

**Poland:** The acquaintance to a new internet governance ecosystem brought by the pandemic, allows dialogue and participation of people in close and remote areas of Poland. The online spaces opened, thus, enabled the exchanges of experiences on key digital policy issues and activism across diverse NGOs.

**Croatia:** They provide an overview of the acts being planned and developed, encouraging participation of a wider range of stakeholders. However, as mentioned above, the comments are rarely taken into account and civil society participation remains only formally present in many cases.

**Bosnia and Herzegovina:** This is a positive change and use of information gathering and consulting. However, it needs extra time and program to educate, capacitate as well as the advanced platforms themselves to make it even more efficient. For now, the platform is a positive shift and change in the cooperation and delivery of institutions' services according to CSOs.

**Montenegro:** Portal E -participation provides an overview of the acts being planned and developed, encouraging participation of a wider range of stakeholders. However, this platform is used by a very small number of organizations and as mentioned, the comments are rarely taken into account and civil society participation remains only formally present in many cases. Also, this portal is not updated with all active public calls.

## 10. What are the challenges for using ICT tools?

**Republic of Moldova:** The functionality is limited. Once the drafts are consulted in the early stages, there is little possibility to keep track. One can easily lose track of

a draft, changes and stage of elaboration. There is a growing need for an integrated platform that will allow monitoring and input throughout the whole process.

**Armenia:** The challenge related to ICTs is lack of access for people with visual impairments. As to general challenges: after having the electronic platform for public consultations, the practice of conducting public discussions offline has decreased, which is negatively assessed by CSOs. There is no more actual back and forward discussions or public hearings.

**Georgia** - Not everybody has access to ICT tools.

**Poland:** Not everybody can easily access online meetings or receive updates regularly on the status of each meeting, report, or decisions made. Technical difficulties can intervene in the normal flow and time-span of the meetings and some of its participants.

**Kosovo:** One problem is that not only CSOs have access to ICT tools to join the Platform and add their feedback. The same goes to public officials whose capacities are not in the desired level to use the platform and adhere to its requirements in terms of deadlines and other criteria. Also, there is a tendency of public institutions to ignore inclusion of CSOs in the early stages of the public consultation process when the problem solutions are discussed and only do so later on when the draft document is drafted and only minor changes can be made through the online consultation process.

**Croatia:** Most institutions rely exclusively on consulting online and no longer combine consultation methods such as round tables, panel discussions, etc., especially since the start of COVID-19 epidemic.

**Bosnia and Herzegovina:** The time to which a response or advice is waiting, an inadequate response, the possibility of misunderstanding or incomplete information, insufficient capacity of organisations to use the platform.

**Montenegro:** The e-participation portal rarely provides information on the results of consultations. The process is one-way and after sending comments there is no feedback except in the form of a final report which are not published sufficiently.