

# The Protection and Promotion of Civic Space

Strengthening Alignment  
with International  
Standards and Guidance

**HIGHLIGHTS**





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## HIGHLIGHTS

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## Chapter 1: Overview of the OECD's approach to the protection and promotion of civic space

**Civic space is a cornerstone of functioning democracies. It is defined as the set of legal, policy, institutional, and practical conditions non-governmental actors need to access information, express themselves, associate, organise and participate in public life. Protected civic space is anchored in international and national legal frameworks and benefits the whole of society.**

When civic space is protected and promoted, it facilitates participation in public affairs, which is a fundamental right. It allows citizens<sup>1</sup> and civil society organisations (CSOs) to engage with governments, have a say in policy and decision making, and provide oversight of government activities. By promoting and protecting the civic freedoms that are at the core of protected civic space (i.e. rights related to freedom of expression, peaceful assembly, association, and privacy) and providing concrete opportunities for engagement at national and local levels, governments can, in turn, better align policies, laws and services with societal needs. Maintaining a healthy civic space, both online and offline, is thus a prerequisite for good governance and democracy.

The research underpinning this first OECD comparative report on civic space was undertaken by the OECD Observatory of Civic Space. The OECD's civic space work is anchored in the OECD Recommendation on Open Government, the only legal instrument of its kind in this area (OECD, 2017). The report offers a baseline of government data on the protection and promotion of

civic space, drawn from verified government survey responses collected from 33 OECD Members and 19 non-Members. It captures the evolving reality of the legal, policy and institutional frameworks and practices that governments have put in place in four key areas: the protection of civic freedoms, access to information, media freedoms and civic space in the digital age, and an enabling environment for CSOs (see Figure 1). The report draws on a range of perspectives, including those of CSOs, research institutions, UN bodies and academia, making reference to key international standards and guidance throughout.

### THE STATUS OF CIVIC SPACE IN OECD MEMBERS

Government initiatives, policies and laws, coupled with powerful and dynamic civic activism, social movements and public pressure, have strengthened civic space in many OECD Members in recent years. Many of them consistently occupy top rankings in related international indices, whereas a minority score lower in particular areas, or across a range of indicators.

### Box 1. THE OECD OBSERVATORY OF CIVIC SPACE

The OECD launched an Observatory of Civic Space in 2019 with the following aims:

- Monitor the legal, institutional, and policy frameworks in which CSOs operate in OECD Members and non-Members;
- Promote and protect civic space and citizen engagement and support countries in this endeavour;
- Provide a platform for dialogue between the OECD's Working Party on Open Government (WPOG) and key civil society actors.

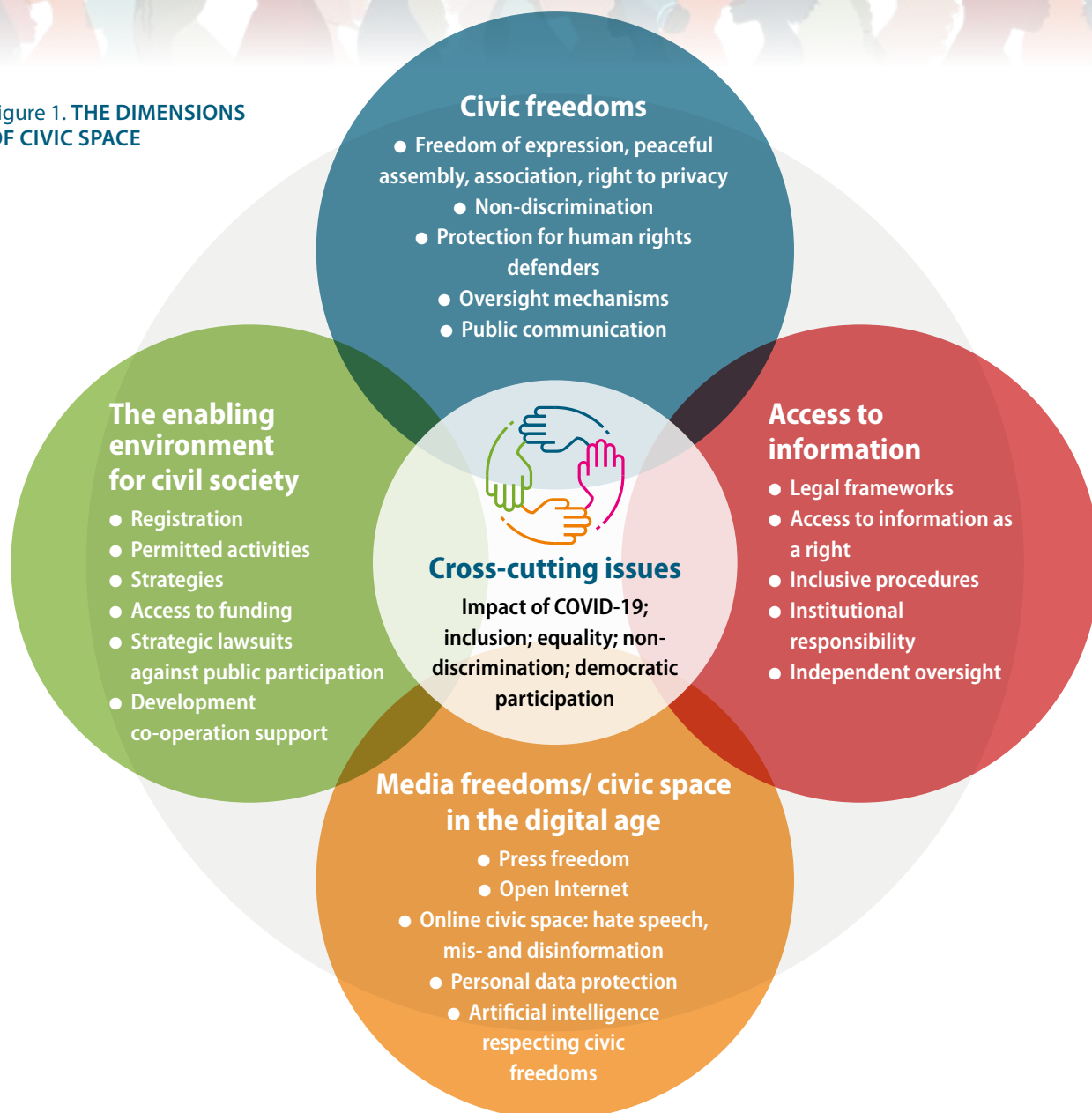
The Observatory of Civic Space receives strategic guidance from an Advisory Group composed of representatives of the OECD, its funders and strategic partners.



1. For the purposes of the report the term "citizen" is meant as an inhabitant of a particular place and not a legally recognised national of a state.



Figure 1. THE DIMENSIONS OF CIVIC SPACE



However, despite the strong bases for protecting civic space in OECD Members, challenges remain. Data from CIVICUS show a decline in eight OECD Members with regard to freedoms of expression, peaceful assembly and association in 2022, compared to 2018 (see Figure 2). In 2022, the organisation reported that civic space was “open” (meaning that the state enables and safeguards the enjoyment of civic space for all) in 42% of all 38 OECD Members and “repressed”, “obstructed” or “narrowed” in the remaining 58%. In 2018 these proportions were 53% and 47%, respectively. Echoing this trend of approximately 20% of OECD Members experiencing a decline in different areas, the Varieties of Democracy (V-Dem) Institute’s scores for OECD Members,

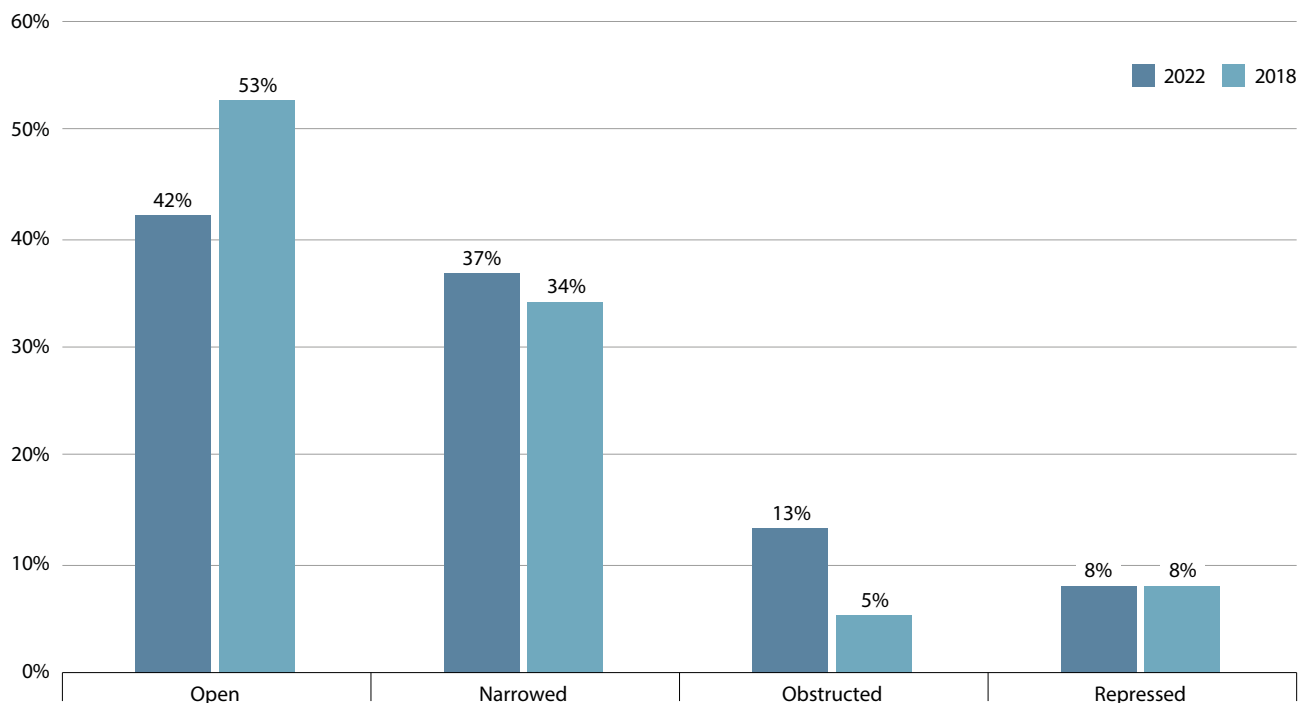
ranked according to a wide range of democracy indicators, show a decrease “substantively and at a statistically significant level” in seven OECD Members between 2011 and 2021 (V-Dem Institute, 2022). V-Dem’s civil liberties index, which is a component of the above, also shows a statistically significant decline in a range of indicators, including related to media, expression and CSOs, in about 20% of OECD Members between 2011 and 2021.

This report serves to support OECD Members and non-Members in protecting and promoting civic space by providing an overview of its different dimensions and current government practices, coupled with a wide range of recommendations and measures to safeguarding it.



Figure 2. CIVICUS MONITOR OF CIVIC SPACE, 2018 COMPARED TO 2022

Percentage of all OECD members by Civicus category



**Note:** The CIVICUS Monitor assesses civic space within countries and over time, looking at respect in policy, law and practice for freedoms of association, peaceful assembly and expression and the extent to which the state protects these fundamental rights. Several independent sources are combined and analysed, resulting in a country rating. Each country's civic space is rated in one of five categories: open, narrowed, obstructed, repressed or closed. All 38 OECD Members are included in this graph. No OECD Member was rated as closed.

**Source:** CIVICUS Monitor, <https://monitor.civicus.org/>

## Box 2. METHODOLOGY

The Survey on Open Government, on which this report is based, was launched in 67 OECD Members and non-Members in November 2020, including all 38 OECD Members. A total of 52 central governments (33 of which are OECD Members) responded to the survey between February 2021 and May 2022, with OECD data validation taking place over the same period. The main content for the report was developed between March 2021 and March 2022, followed by an extensive internal OECD review process. Four CSOs – the Mo Ibrahim Foundation, Reporters Without Borders, the International Center for Not-for-Profit Law and the European Center For Not-For-Profit Law – contributed content, in addition to the EU Agency for Fundamental Rights.

The Survey on Open Government focused on *de jure* aspects of civic space, and the responses provided by governments are complemented with data and desk

research on implementation, including from independent sources. Unless otherwise stated, all percentages in this Highlights document are based on data from respondents to the survey. “OECD” refers to the percentage of OECD Members that responded and “all” refers to both OECD Member and non-Member respondents. Limited sources are provided in this Highlights document but are available in the full report.

The report was part of the Programme of Work of the OECD’s Public Governance Directorate. The chapters of the report were reviewed by Delegates to the Working Party on Open Government and approved for publication by the Public Governance Committee in November 2022.



## KEY TAKEAWAYS

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- The foundations for the protection of civic space in surveyed OECD Members are strong. Aspects of civic space have been strengthened in many of these countries in recent years by government initiatives, policies, laws, and institutions, coupled with powerful and dynamic civic activism, social movements, and public pressure. The necessary legal frameworks are well established. Governments are increasingly using digital tools and platforms to inform and engage with citizens and CSOs. Most surveyed OECD Members have independent public institutions that address complaints regarding civic freedoms, and almost half have institutions that specialise in discrimination cases and promoting equality.
- Exceptions, legal gaps and implementation challenges remain in surveyed countries, partly due to external factors. Changing demographics, tensions related to immigration, polarisation, mis- and disinformation, and threats such as COVID-19 are compounding challenges to civic space. When responding to the pandemic, many governments resorted to extraordinary tools, including invoking emergency powers that led to (temporary) restrictions on civic freedoms and a halt to participatory processes, with reduced democratic safeguards and oversight. Nonetheless, there has since been a clear trend towards ending these measures over time.
- Many of the OECD's 38 Members consistently occupy the top rankings of international indices related to civic space, while others score lower on specific aspects or across a range of indicators. About 20% of OECD Members are experiencing a decline in areas related to the protection of civic space. Research shows that all countries face at least some challenges in protecting their civic space, particularly for minorities and marginalised groups.
- With rising vilification, violence and harassment of journalists, media freedom has seen a significant decline around the world. Data show that the proportion of OECD Members where the situation is favourable for journalism has halved in the space of six years. Freedom of expression and other fundamental rights are also threatened by attacks against human rights defenders in some countries.
- Online civic space, which has vastly expanded governments' capacity to engage with citizens, is increasingly affected by the prevalence of mis- and disinformation and hate speech designed to exclude and silence people, especially women and minorities. There is an overwhelming trend in surveyed OECD Members to prohibit hate speech as a widely recognised form of discrimination; two-thirds have introduced reporting and complaint mechanisms and provide support for victims.
- Most surveyed OECD Members permit and facilitate peaceful assembly. But insufficient protection of protestors by law enforcement, as well as police violence used against protestors in some contexts, have raised concerns about respect for this right. Court decisions and legal changes have been introduced in some countries to reduce and control the use of force by police during protests.
- The enabling environment for CSOs is comparatively robust in surveyed OECD Members, where they are largely free to operate and criticise the government without fear of harassment. A majority have strategies to support their CSO sectors, including through funding. OECD governments also work extensively to protect the enabling environment for civil society in partner countries, with approximately half having a dedicated policy or strategy to promote CSOs as part of development co-operation.
- However, contrary to international guidance, CSOs must register to operate in many OECD and non-OECD respondents. Administrative procedures remain burdensome in some, and access to government funding is generally seen as a significant challenge. National security and counter-terrorism laws are having a tangible impact on the financial sustainability of CSOs via legal restrictions on access to funding, coupled with bureaucratic reporting requirements that can slow down or obstruct their work. Smear campaigns targeting CSOs and restricted space for those that engage on particular issues – such as the environment and migration – present ongoing challenges.





- CSOs, activists, and journalists are increasingly targeted by strategic lawsuits against public participation (SLAPPs) that aim to silence people who publicly criticise or investigate powerful individuals, companies or interest groups. Survey data suggests all countries could make greater efforts to assess the prevalence of SLAPPs in their jurisdictions and further protect civic space by introducing legislation to counter them.
- Strong oversight mechanisms help to protect civic space. However, basic disaggregation of data by public institutions that address complaints regarding civic freedoms remains rare, hindering the development of prevention and response initiatives targeting affected groups.

### Box 3. HIGH-LEVEL RECOMMENDATIONS

Alongside a wide range of detailed policy measures for OECD Members and non-Members to consider, the report proposes the following ten overarching high-level recommendations on protecting and promoting civic space, in line with international standards and guidance:

- Protect and facilitate **freedom of expression**.
- Protect and facilitate **freedom of peaceful assembly** and the right to protest.
- Counter the **discrimination, exclusion and marginalisation** that disproportionately affect certain groups and hinder equal participation in public life.
- Safeguard and protect **human rights defenders, journalists, whistle blowers**, and other at-risk groups.
- Foster a **public interest information ecosystem** that protects independent media and promotes access to information.
- Protect **online civic space**, including by countering hate speech and mis- and disinformation.
- Respect **privacy** and ensure **personal data protection** to avoid arbitrary intrusion and interference in public life.
- Foster an **enabling environment for civil society organisations** that facilitates their positive contribution to society.
- Protect civic space both domestically as well as through development co-operation as part of a **coherent policy approach**.
- Systematically protect and promote civic space as a precondition for **citizens and stakeholders to engage** in public decision making to foster more open, transparent and accountable governance.

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***“Even in mature democracies with a strong commitment to civic participation and a positive international standing in relation to civic space protection, a sustained effort is needed to maintain high standards.”***

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In the context of the OECD Ministerial meeting of the Public Governance Committee of November 2022 in Luxembourg, high-level representatives from OECD Members, as well as accession countries, reiterated a shared commitment to the core values of democracy. These were enshrined in the Luxembourg Declaration, with a reference to the importance of an “enabled and protected civic space” (OECD, 2022). Accordingly, all countries would benefit from an ongoing review of the

manner in which legal and policy frameworks governing civic space are implemented at national level. Ongoing monitoring using disaggregated data<sup>2</sup> to understand emerging challenges and gaps, and cross-government efforts to identify and reverse any negative trends, would also be beneficial. Even in mature democracies with a strong commitment to civic participation and a positive international standing in relation to civic space protection, a sustained effort is needed to maintain high standards.

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2. Data that are disaggregated (e.g. on the basis of age, sex, location, religion, or legal status) can help to identify and measure inequalities by shining a light on reported violations of civic freedoms affecting particular groups.



## Chapter 2: **Facilitating citizen and stakeholder participation through the protection of civic freedoms**

### KEY FINDINGS

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- The civic freedoms that underpin democratic life – freedoms of expression, association, peaceful assembly and the right to privacy – are generally well protected by national legal frameworks in respondents. In most countries, all individuals – including those present temporarily or irregularly in a country – are legally entitled to these rights.
- While most legal exceptions to civic freedoms are in line with international standards, some would benefit from further review to ensure that they do not restrict civic freedoms. Implementation of relevant laws is also under pressure in some respondents.
- Strong legal frameworks countering discrimination help to enable effective and equal participation in public life and these are supported by affirmative action in a majority of respondents to support disadvantaged groups.
- A majority of OECD Members have independent public institutions that address human rights complaints. In most respondents, these institutions may initiate investigations of their own accord which allows them to engage proactively in a given situation.
- Emergency measures that were introduced in the aftermath of the COVID-19 pandemic affected civic freedoms. In a positive trend, as of March 2022, over one-third of OECD Members were leading the way by ending such measures.





**THE CORNERSTONES OF CIVIC SPACE:  
KEY LEGAL FRAMEWORKS**

The protection of civic space requires that all persons are able to freely express their views in public, including to critique government actors and to hold them to account without fear of repercussions. Freedom of peaceful assembly affirms people's right to come together to advance common interests, including the right to exercise dissent through peaceful protest. Similarly, freedom of association guarantees the right to form, join and participate in associations or movements, thereby fulfilling people's fundamental desire to defend their collective interests. Finally, the state's duty to protect individuals from abuses of the right to privacy is another prerequisite for a vibrant civic space, as it helps to create the conditions for people to inform, express and organise themselves without undue interference.

Legal and regulatory frameworks play a critical role in determining the extent to which all members of society are able to freely and effectively exercise their fundamental rights, participate in policy and political processes, and contribute to decisions that affect their lives without discrimination or fear.

**ENTITLEMENT TO CIVIC FREEDOMS**

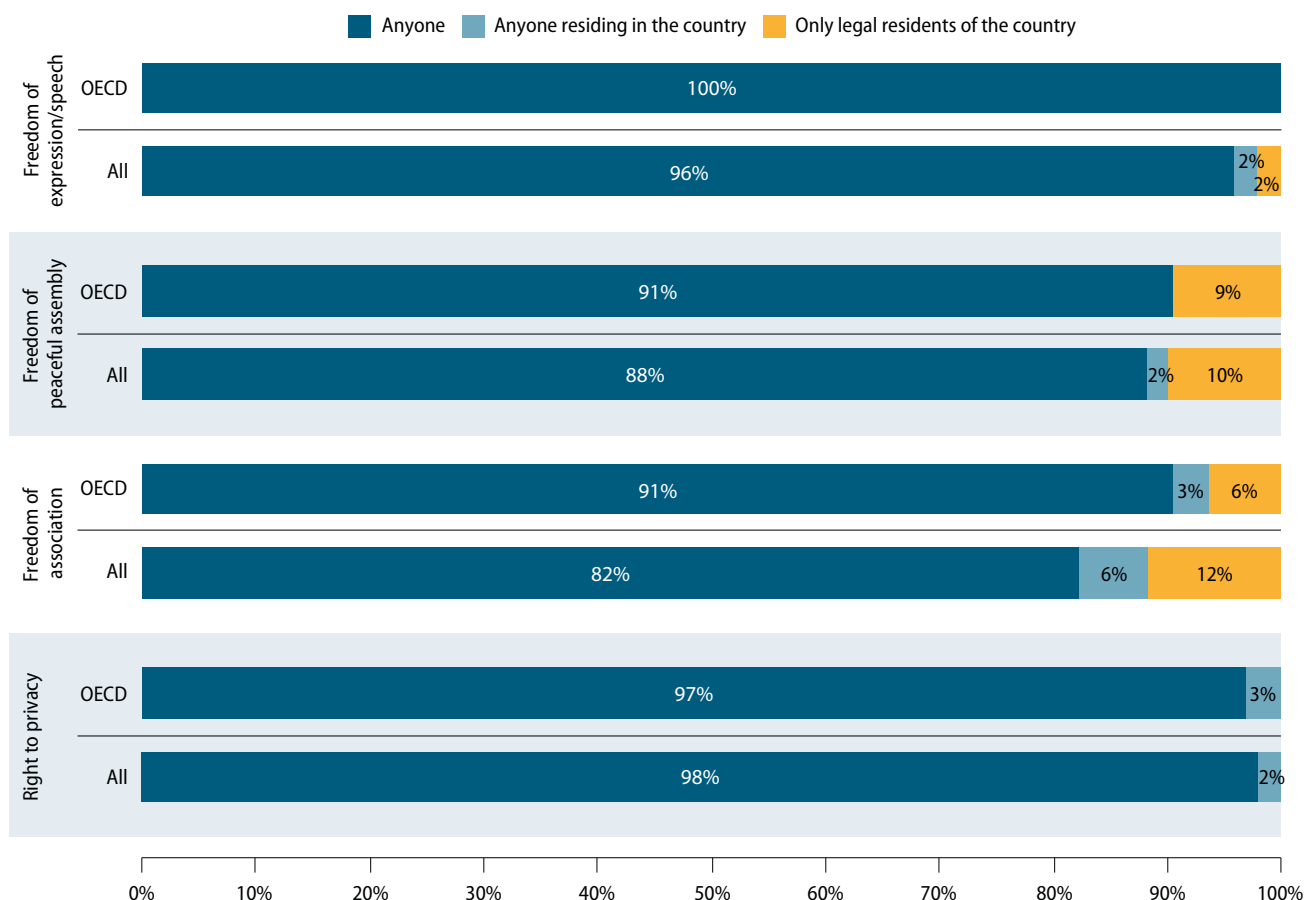
With respect to the question of who may exercise civic freedoms, relevant international human rights instruments do not distinguish between legally recognised citizens and non-citizens. While relevant national frameworks are, for the most part, far-reaching and applicable to anyone physically present in a country, in some respondents, they afford fewer rights to those who are not legally recognised. For example, all OECD Members (96% all) grant the right to freedom of expression to anyone; 91% of OECD Members (88% all) grant the right to freedom of peaceful assembly to anyone and 91% of OECD Members (82% all) grant freedom of association to anyone (see Figure 3). Entitlement to freedom of association is the most limited right, with 18% of all respondents granting it only to residents or legal residents.

***"All respondents protect civic freedoms in national legal frameworks, case law, or by direct application of international human rights instruments."***





Figure 3. LEGAL ENTITLEMENT TO CIVIC FREEDOMS IN ALL RESPONDENTS, 2020



**Note:** "All" refers to 51 respondents (32 OECD Members and 19 non-Members). Data on Canada, Guatemala and Slovenia are based on OECD desk research and were shared with them for validation.

**Source:** 2020 OECD Survey on Open Government.

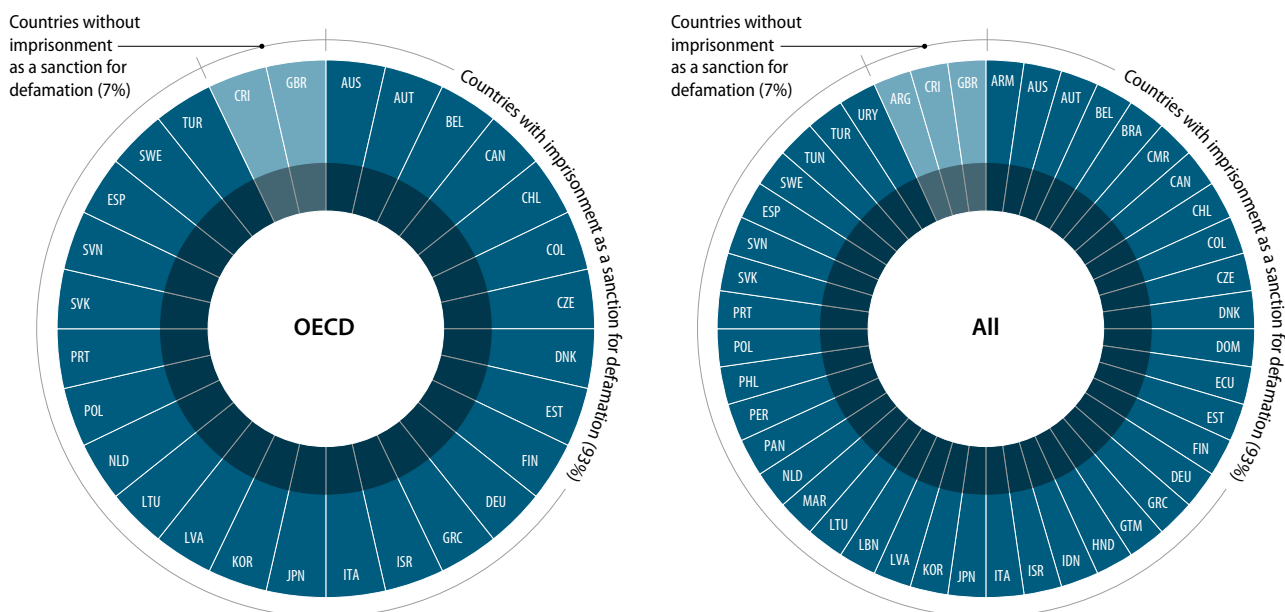
## EXCEPTIONS TO CIVIC FREEDOMS

As per international guidance, restrictions to civic freedoms in cases involving incitement to violence, threats to public safety, national security, public order, public health and public morals are considered legitimate. While most exceptions to civic freedoms in respondent countries are in line with international standards, some would benefit from further legal review and reforms, including legislation on insults to heads of state (so that these are not considered an offence and prison sentences as a possible sanction are removed); criminal legislation on hate speech (ensuring it is not overly broad and contains the elements of incitement to hatred, violence or discrimination) and laws on peaceful assemblies (so that these can be conducted in all public spaces, avoiding blanket restrictions, and that imprisonment is not a potential sanction for a failure of notification of assemblies).

Defamation laws, which are in place in all respondent OECD Members, also require attention. The OECD defines defamation in the report as a false statement made in any medium that is presented as a fact and that causes injury or damage to the character of the person it is about. Restrictions to freedom of expression are considered legitimate with respect to the rights or reputations of others. Yet, human rights bodies and courts have viewed criminal sanctions and prison sentences as having a greater potential to lead to censorship and self-censorship, and have called on countries to decriminalise defamation and avoid prison sentences. In spite of this, 88% of OECD Members (86% all) prohibit defamation in their criminal codes, while only 12% of OECD Members (14% all) foresee non-criminal remedies; and 93% of the respondents that criminalise defamation foresee prison sentences as a potential sanction (see Figure 4).



Figure 4. IMPRISONMENT AS A POTENTIAL SANCTION FOR DEFACTION, 2020



**Note:** "All" refers to 44 respondents (28 OECD Members and 16 non-Members). Data on Canada, Guatemala and Slovenia are based on OECD desk research and were shared with them for validation.

**Source:** 2020 OECD Survey on Open Government.

## Box 4. EMERGENCY MEASURES IN OECD MEMBERS

As a response to the outbreak of the COVID-19 pandemic in early 2020, most countries took immediate legal measures to protect citizens and communities, for which there was widespread public support. While such measures were deemed essential to limit and mitigate the effects of the pandemic, they also restricted civic freedoms. After an initial increase in trust in government at the beginning of the pandemic, average levels of citizens' trust decreased in OECD Members as the pandemic continued (OECD, 2021). In the majority of countries, emergency measures translated into extensive law-making powers for the executive, with reduced parliamentary

scrutiny. One-quarter of parliaments in OECD Members reacted to initially unchecked government powers by passing legislation foreseeing greater oversight powers and the establishment of special COVID-19 committees or cross-party working groups. As of March 2022, over one-third of OECD Members were leading the way by ending emergency measures that were introduced in the aftermath of the pandemic, with 11 OECD Members still under states of emergency, either due to the pandemic (eight countries) or new emergency measures introduced as a result of the Russian Federation's invasion of Ukraine (three countries).

## REDUCING DISCRIMINATION AS AN OBSTACLE TO EFFECTIVE AND INCLUSIVE CIVIC PARTICIPATION

Equality and non-discrimination are cross-cutting themes in the OECD's civic space work, as both are essential preconditions for inclusive, responsive and effective democratic participation on an equal basis with others. Strong legal frameworks countering discrimination help enable effective and equal participation and are

supported by affirmative action to support disadvantaged groups, found in 91% of OECD Members (84% all).

Protection against discrimination on the basis of ethnicity, gender, sex and sexual orientation is on the rise, with hate speech prohibition in 97% of OECD Members (90% all). Moreover, almost half of all respondents (46% OECD, 49% all – see Figure 5) have separate institutions that specialise in discrimination cases and promoting equality.



### Groups that are particularly affected by discrimination and exclusion from public spaces and decision-making

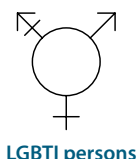
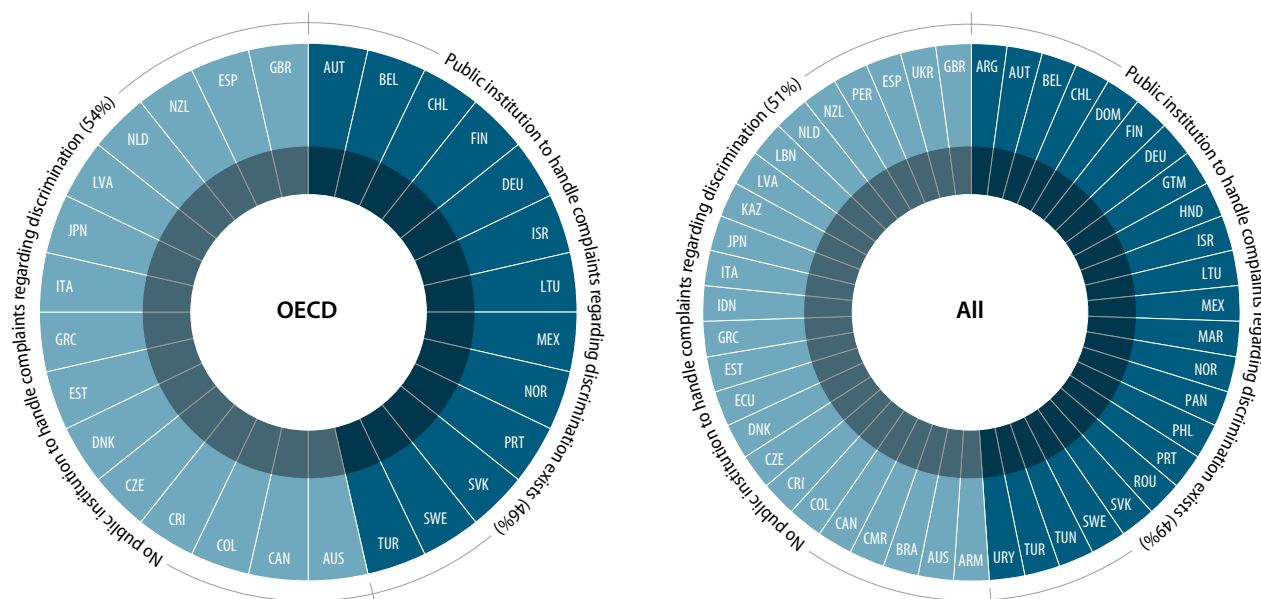


Figure 5. INSTITUTIONS THAT SPECIALISE IN DISCRIMINATION CASES, 2020



Note: "All" refers to 47 respondents (28 OECD Members and 19 non-Members).

Source: 2020 OECD Survey on Open Government.

## PROTECTING THE PHYSICAL SAFETY OF HUMAN RIGHTS DEFENDERS<sup>3</sup>

Human rights defenders (HRDs) play an essential role in promoting and protecting human rights and drawing public attention to violations when they occur. This can expose them to harm, ranging from public harassment to violent attacks and even killings. States have a responsibility to take special protective measures for persons who are at risk.

There are numerous examples in OECD Members and beyond where HRDs are targeted and harassed. The perpetrators are often powerful interest groups, state actors, large businesses or criminal organisations. States may have HRD programmes or laws in place, but a variety of challenges – such as a lack of resources, remote territories, an absent rule of law, overly bureaucratic regulations and scant political accountability – mean

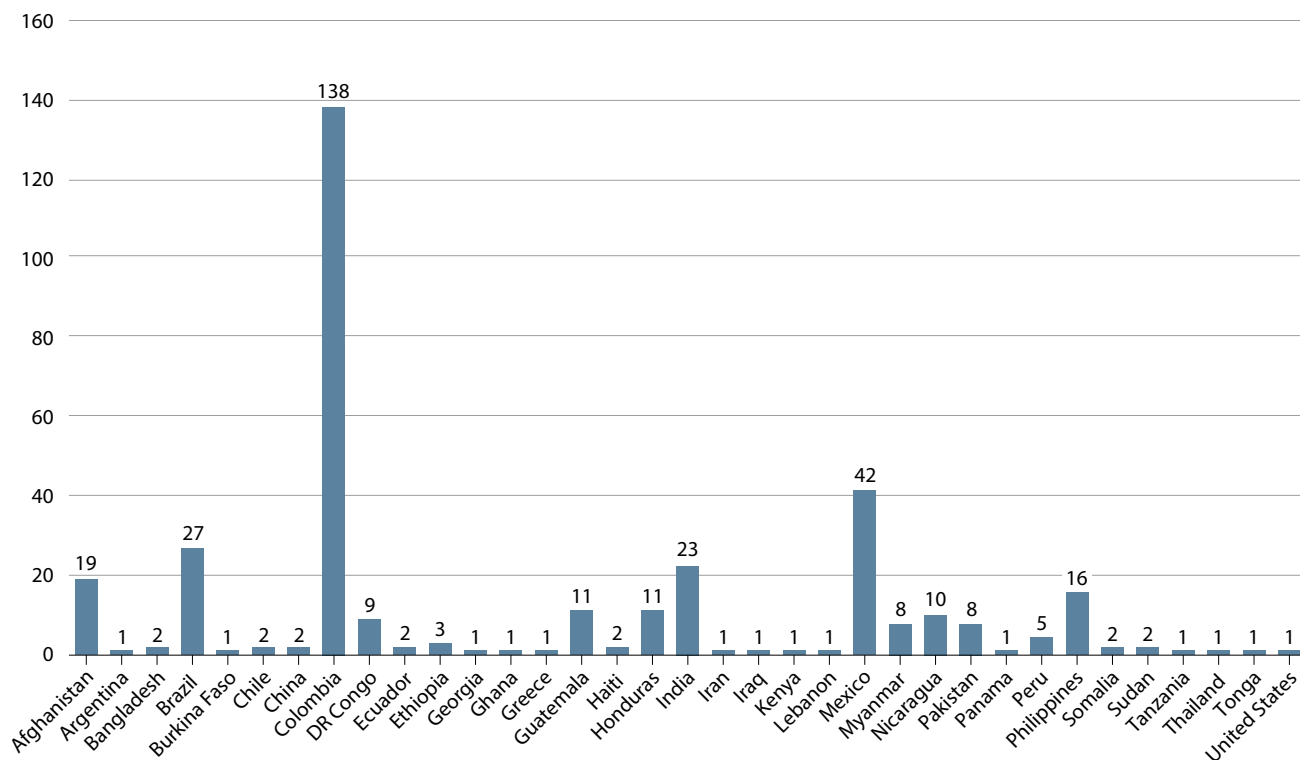
that, at times, they are unable to adequately protect them. Some particularly affected countries have passed legislation, adopted action plans or provided support programmes for at-risk individuals, including protection measures, monitoring, early warning systems and rapid response structures. The majority of countries, however, have not passed dedicated laws or policies, as general laws apply. A number of countries have also introduced policies or programmes to protect HRDs in partner countries and many OECD Members engage in diplomacy by encouraging governments to constructively engage with HRDs.

Latin America is the most affected continent with 250 killings of HRDs in 2021 (70% of the global total), and environmental HRDs are the most targeted group (Frontline Defenders, 2021). Asia-Pacific and the Middle East and North Africa are the second and third most affected regions, respectively. In Europe, HRDs are increasingly exposed to hate speech and attacks (see Figure 6).

3. Human rights defenders are defined in the report as persons who, individually or in association with others, act to promote or protect human rights peacefully.

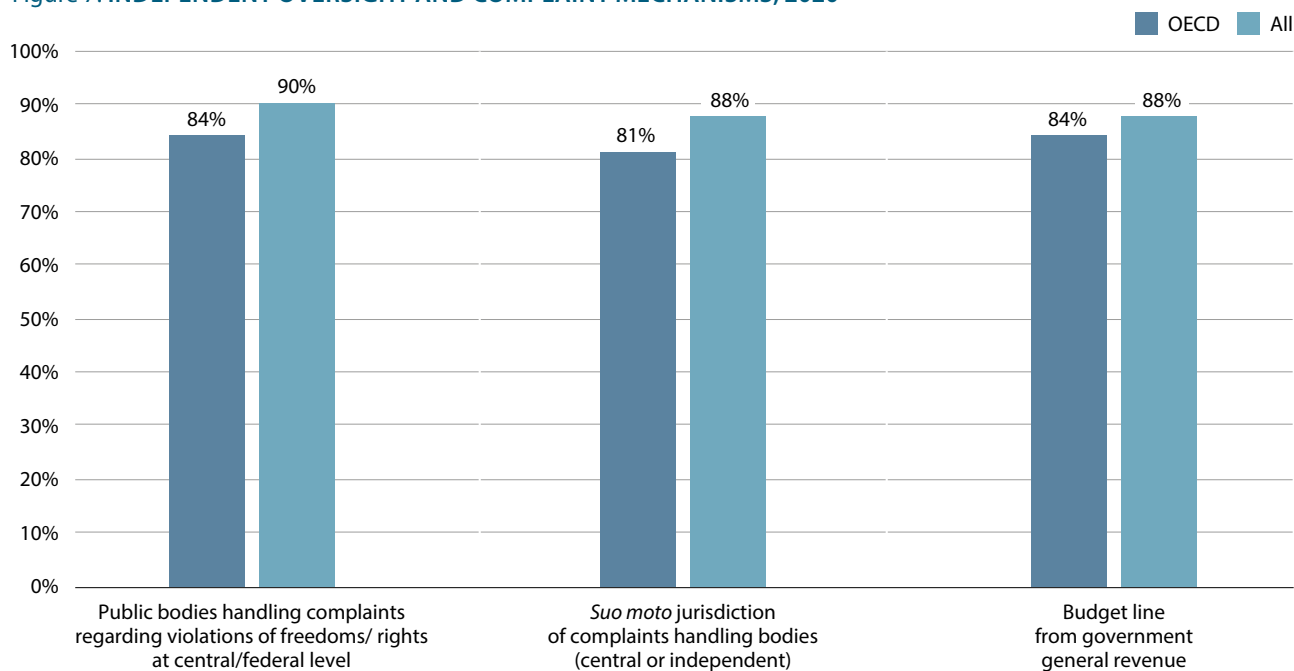


Figure 6. REPORTED KILLINGS OF HUMAN RIGHTS DEFENDERS WORLDWIDE, 2021



Source: Frontline Defenders Global Analysis 2021, <https://www.frontlinedefenders.org/en/resource-publication/global-analysis-2021-0>

Figure 7. INDEPENDENT OVERSIGHT AND COMPLAINT MECHANISMS, 2020



**Note:** "All" refers to 51 respondents (32 OECD Members and 19 non-Members). For the sub-question on Budget line from government general revenue, "All" refers to 48 respondents (30 OECD Members, and 18 non-Members). Data on Austria, Guatemala, Ireland, Slovenia and Türkiye are based on OECD desk research for at least one of the categories and were shared with them for validation.

Source: 2020 OECD Survey on Open Government.





## INSTITUTIONAL MECHANISMS TO COUNTER VIOLATIONS OF CIVIC FREEDOMS

State protection of civic freedoms is only effective if there are accessible mechanisms to counter rights violations. In addition to administrative proceedings and court systems, a majority of countries (84% OECD; 90% all) have independent public institutions that address human rights complaints (see Figure 7). In 81% of OECD Members (88% all), these institutions may initiate human rights investigations of their own accord, regardless of whether an individual complaint was received or not. In this way, public institutions can engage proactively in situations, which is especially important in sensitive matters where individuals or groups may fear negative consequences for lodging a complaint. However, basic disaggregation of data by these institutions remains rare. Disaggregated data can provide valuable information on vulnerable and marginalised groups and can help track structural inequalities, providing the basis for evidence-based policy making and monitoring of trends.

## CHALLENGES TO THE IMPLEMENTATION OF CIVIC FREEDOMS

Many OECD Members consistently occupy top rankings in international indices on civic freedoms, while others score lower in particular areas, or across a range of indicators. Countries face particular challenges related to the protection of civic freedoms for minorities and marginalised groups. At the global level, protection for freedom of expression is declining; this trend was exacerbated by the COVID-19 pandemic, with many governments placing disproportionate restrictions on the media. Freedom of expression rankings from Article 19<sup>4</sup> demonstrate that the majority (83%) of 36 OECD Members that were assessed rank as “open”, meaning it is possible for citizens to access information and distribute it freely, share their views both on and offline and protest in order to hold their governments to account. However, three OECD Members (8%) are ranked as “less restricted”, two OECD Members (6%) as “restricted” and one OECD Member (3%) is considered to be “in crisis”. For non-Members that responded to the Survey, 28% rank as “open”, while several countries are “less restricted” (28%), “restricted” (22%), “highly restricted” (17%) and one is considered to be “in crisis” (6%).

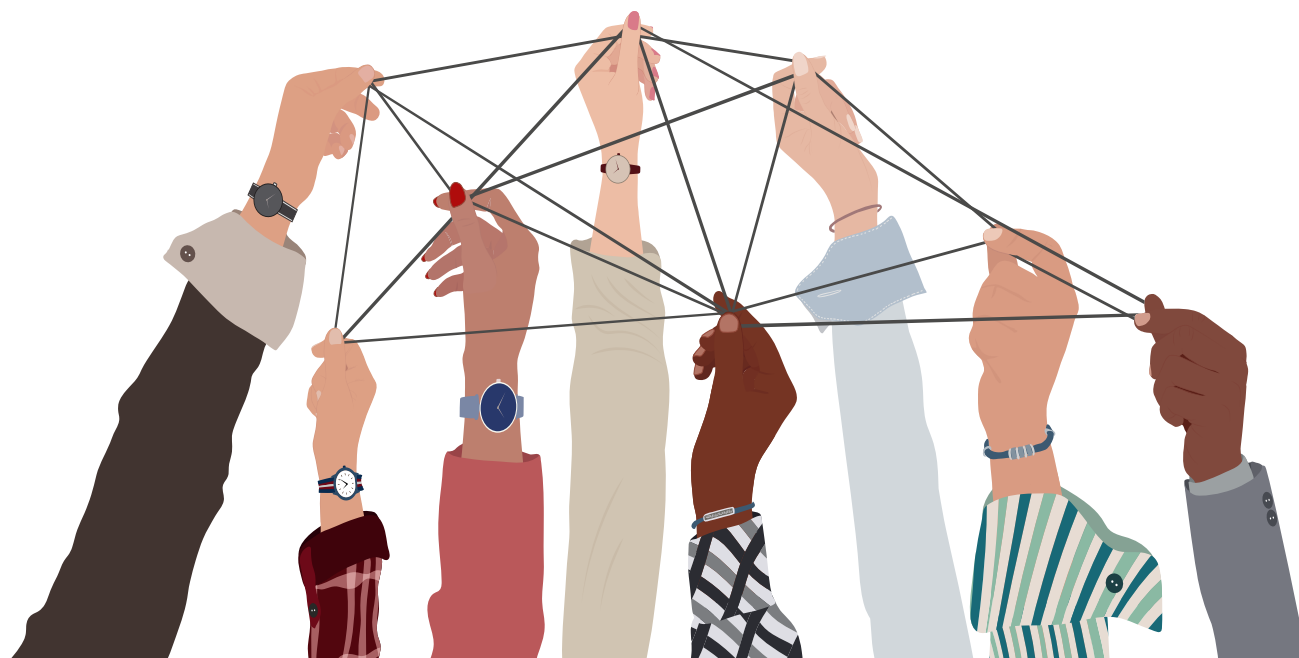
Other identified challenges to civic freedoms range from the use of invasive tracking and surveillance tools against HRDs and journalists, and parliamentary and court shutdowns during the pandemic, to regulations targeting rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) persons at the local government level affecting many citizens’ ability to participate in public life, and threats against HRDs.

Most OECD Members permit and facilitate peaceful assemblies. But insufficient protection of protestors by law enforcement actors, as well as police violence against protestors in some contexts, have raised concerns about the implementation of the right to peaceful assembly. The V-Dem Institute’s indicator on freedom of peaceful assembly shows that in a majority (68%) of all 38 OECD Members, state authorities almost always allow and actively protect peaceful assemblies, except in rare cases of lawful, necessary and proportionate limitations. However, there are some exceptions. For example, almost one-quarter (24%) of OECD Members “mostly allow” peaceful assemblies, and only in rare cases arbitrarily deny citizens the right; two OECD Members (5%) “sometimes” arbitrarily deny citizens the right to assemble peacefully; and one country “rarely allows” peaceful assemblies. The situation is more challenging in non-OECD respondents where state authorities “almost always” allow and actively protect peaceful assemblies in 21% of respondents. In more than half (53%) of respondents, state authorities “mostly allow” peaceful assemblies, while in only 21%, state authorities sometimes allow peaceful assemblies. In one country (5%) state authorities “rarely allow” peaceful assemblies.



4. Article 19’s analysis combines data from the V-Dem Institute’s indicators and indices (over the period 2000-20) and its Pandemic Violations of Democratic Standards Index (2020-21).





## Chapter 3: **Protecting and promoting the right to access information as a core component of civic space**

### KEY FINDINGS

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- Access to information (ATI), understood as the ability of an individual to seek, receive, impart and use information is a core element of protected civic space. It is crucial for governments to safeguard this right in tandem with protecting civic freedoms.
- Since the 2000s, there has been a significant increase in the adoption of ATI laws with relevant legal frameworks introduced in 134 countries, including 37 OECD Members.
- Over three-quarters of ATI laws in all respondents have provisions for both proactive disclosure, meaning they voluntarily publish information and data on an ongoing basis, and reactive disclosure, meaning information can be released following a request.
- While legal frameworks governing ATI are mostly sufficient, respondents still face challenges in ensuring the timely disclosure of information in line with their laws, and in guaranteeing that information provided is clear, reliable and relevant. There is also room for improvement in promoting the right to information among citizens and stakeholders and in ensuring accessibility among all social demographics exercising this right.
- Most respondents have one or more dedicated oversight bodies for ATI, which can take the form of an information commission/agency/body or ombudsman; an ombudsman with a wider mandate that includes ATI; or a central government authority. Moreover, about half of OECD Members foresee the establishment of an ATI office or officer in their laws.
- However, despite these strong institutional frameworks, there is a need for stronger monitoring and evaluation mechanisms as well as further efforts to measure implementation across public administrations, including to identify barriers to ATI and bottlenecks.



## ACCESS TO INFORMATION AS A FUNDAMENTAL RIGHT

Transparency is a foundational element of functioning democracies and a key principle of open government, defined by the OECD as a “culture of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation” (OECD, 2017). In an increasingly complex and interconnected information ecosystem, providing timely, reliable and relevant public sector data and information to citizens and stakeholders has become crucial in promoting government accountability, combatting corruption and addressing mis- and disinformation. Moreover, access to information contributes to more accurate, pluralistic and diverse public discourse; strengthens freedom of expression; supports press freedom; and facilitates an enabling environment for civil society.

In recognition of its importance, 70% of OECD Members (78% all) have enshrined the right to access information in their constitutions. Making the right to access information operational through the enactment of specific ATI laws at the national and subnational levels is key for the implementation of this right. Since the first ATI law was

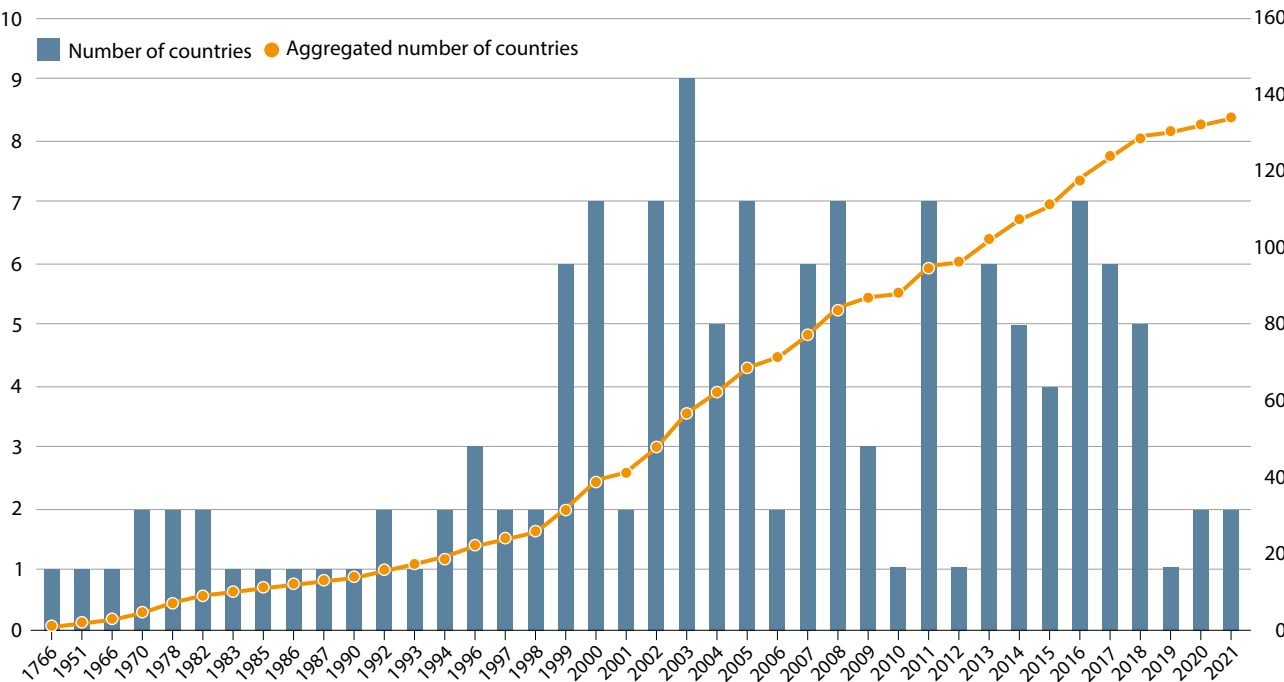
introduced in Sweden in 1766, there has been a significant increase in the adoption of these laws, with 75% adopted during the past two decades. According to the Global Right to Information Rating, ATI laws have been introduced in 134 countries (Global Right to Information Rating), including 37 OECD Members (see Figure 8).

## ENHANCING REACTIVE AND PROACTIVE DISCLOSURE OF INFORMATION

### Proactive disclosure

The OECD Recommendation on Open Government underlines the need to “proactively make available clear, complete, timely, reliable and relevant public sector data and information that is free of cost, available in an open and non-proprietary machine-readable format, [and] easy to find, understand, use and reuse” (OECD, 2017). Proactive disclosure refers to the regular release of information by public authorities without the need for a request by citizens or stakeholders. Promoting proactive disclosure encourages a better flow of information across the public administration, supports better information management, and contributes to greater awareness of the public information and data available (see Figure 9).

Figure 8. EVOLUTION OF THE ADOPTION OF ATI LAWS, 1766-2021

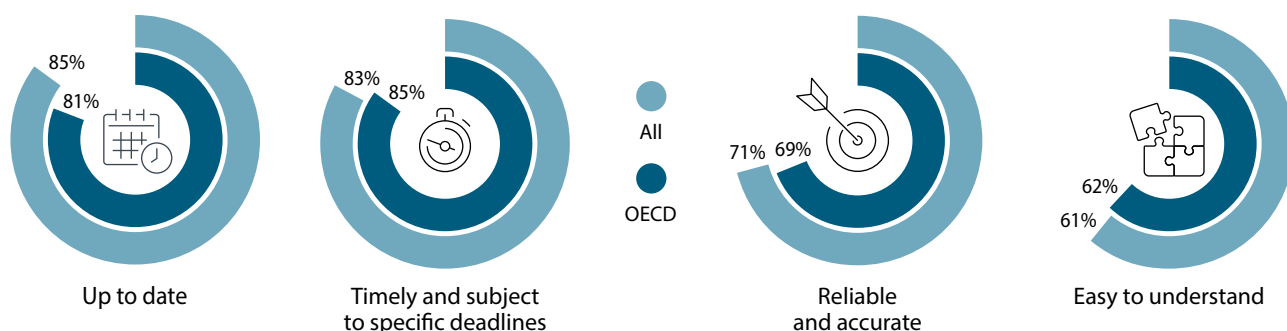


Note: Costa Rica does not currently have an ATI law in place.

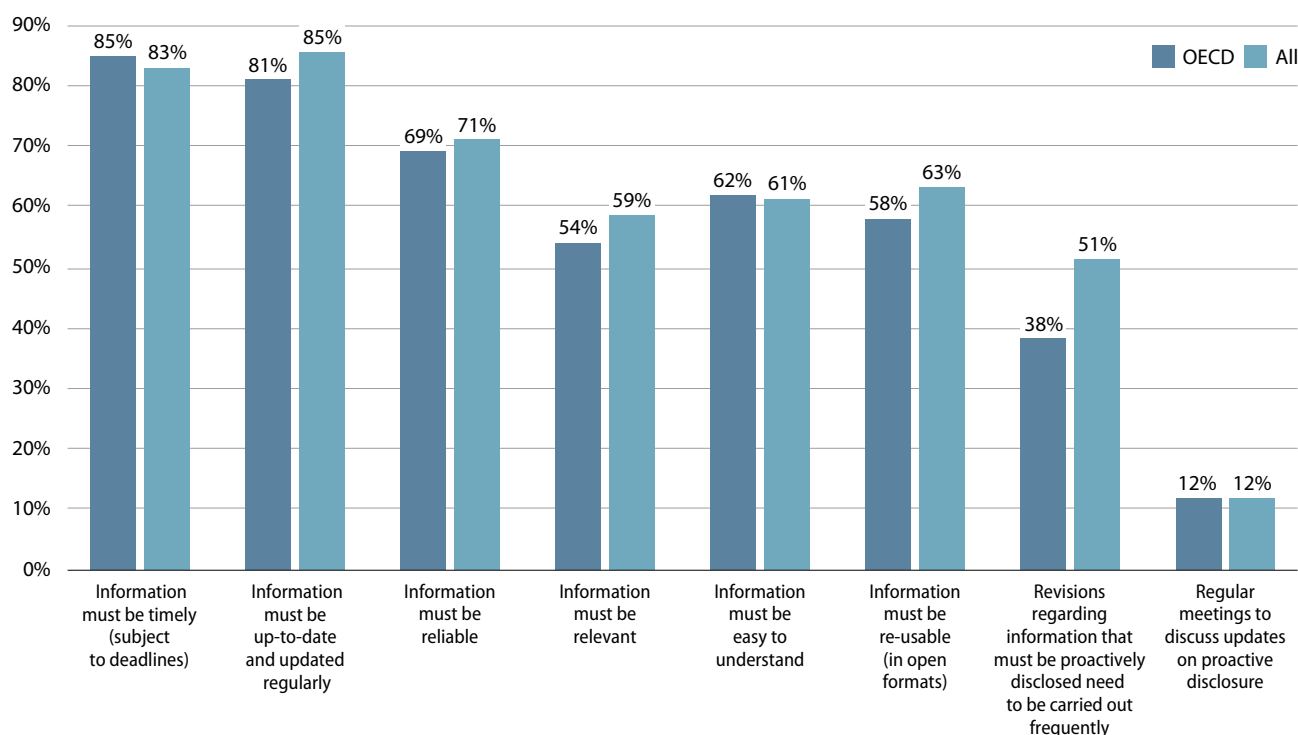
Source: Author, based on Global Right to Information Rating (n.d.), “By country”, <https://www.rti-rating.org/country-data/> (accessed on 16 December 2021).



**GUIDELINES FOR PROACTIVE DISCLOSURE EXIST IN 84% OF BOTH CATEGORIES AND OFTEN REQUIRE INFORMATION TO BE:**



**Figure 9. REQUIREMENTS MENTIONED IN RESPONDENTS' GUIDELINES FOR PROACTIVE DISCLOSURE, 2020**



**Note:** "All" refers to 41 respondents (26 OECD Members and 15 non-Members). Armenia, Austria, Belgium, Denmark, Latvia, Lebanon, Panama and the Slovak Republic do not have guidelines in place on proactive disclosure.

**Source:** 2020 OECD Survey on Open Government.

### Reactive disclosure

Reactive disclosure refers to the right of citizens to request information that is not made publicly available. Usually, legal provisions governing reactive disclosure describe the procedure for making a request, including who is entitled to file the request; rules regarding anonymity and how to make the request; and provide information regarding fees and timelines for responses.

Any person – regardless of age, sex, gender, sexual orientation, religious belief, legal status and political

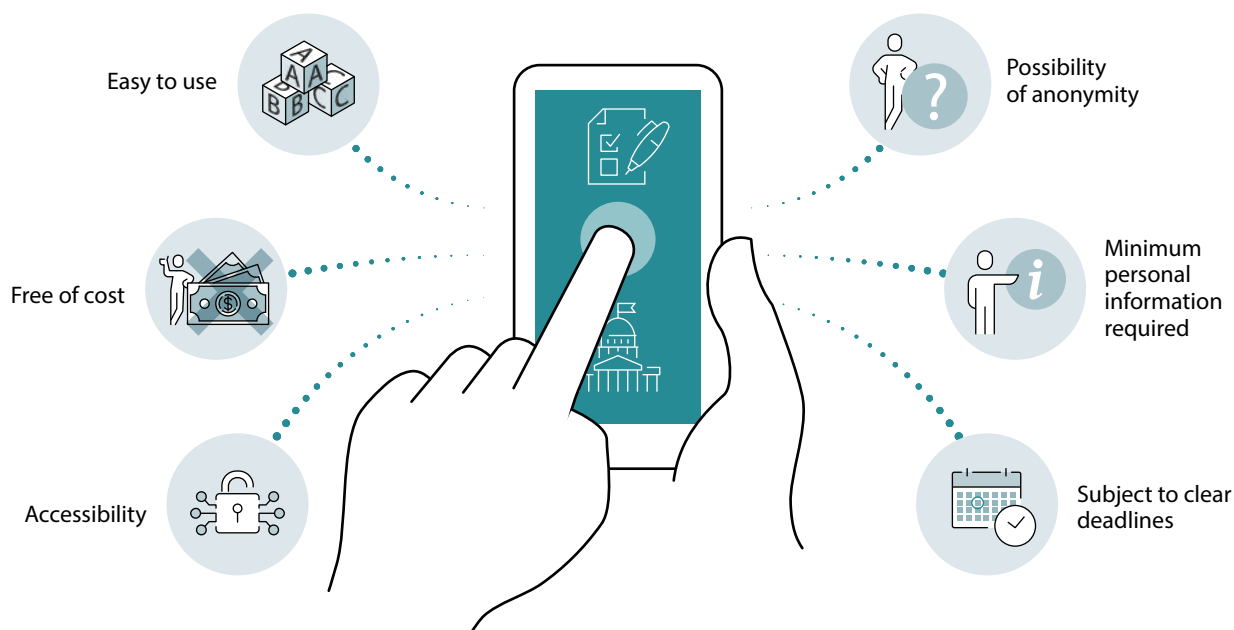
affiliations – institution, or organisation from civil society, academia, the media or the private sector should be able to make a request for information. A total of 82% of OECD Members (78% all) have ATI laws that stipulate that anyone can file a request for information, rather than only affording the right to nationals or legal residents.

Only 18% of all respondents have provisions regarding anonymity when requesting information, which is particularly important in contexts where citizens may be fearful of interacting with their government



***“A total of 82% of OECD Members (78% all) have ATI laws that stipulate that anyone can file a request for information, rather than only affording the right to nationals or legal residents.”***

#### KEY FEATURES OF ROBUST PROCEDURES FOR ACCESS TO INFORMATION



or concerned about retaliation. In general, ATI requests should only require the minimum amount of information needed for a public official handling a request to be able to locate and share the information with the requester.

#### ENSURING INCLUSIVENESS

Ensuring inclusive and equitable access to information for all citizens and stakeholders is key for the exercise of the right to access information.

##### ***Using plain and simple language***

Plain language, meaning writing that is as clear and concise as possible and is appropriate for as broad a target audience as possible, is essential for accessibility. It is particularly necessary for groups with low levels of literacy or without advanced language skills in the country in which they live.

##### ***Bridging the digital divide***

While governments are making efforts to provide guidance on how to make online requests (60% all by law, 72% all in practice), either on a portal or a government

website, and increasingly introducing e-literacy initiatives, it is also important to ensure accessibility for those without ICT skills, including by telephone or in person.

Certain marginalised demographics, including those from lower socio-economic groups, youth, migrants and refugees, indigenous groups, the elderly and people with disabilities, can face additional obstacles in exercising their right to access information. Survey results show that 44% of OECD Members (48% all) have measures in their ATI laws to provide support (e.g. outreach) to such groups, while 50% of OECD (56% all) provide such support in practice, whether or not it is required by the legal framework (see Figure 10).

***“Bridging the digital divide and addressing technology and skills gaps between young and senior populations, rural and urban groups, and those from high and low socio-economic backgrounds, is crucial to ensure equal access to information.”***





**Avoiding costs as a barrier to accessing information**

Ensuring that access to information is free of charge is one of the most important ways to reduce obstacles to the right to information and avoid discouraging citizens from lower socio-economic backgrounds from submitting requests. Only 12% of OECD Members (8% all) charge citizens for filing a request. There can, however, be additional costs associated with obtaining requested information in practice. In 31% of OECD Members and 22% of all respondents, there is a cost for searching for information; the same percentages of both categories also have costs for the retrieval of information. There are also frequent costs associated with reproduction of information (82% OECD, 82% all) and mailing information to a requester (48% OECD, 41% all).

**INSTITUTIONAL OVERSIGHT OF ATI LAWS**

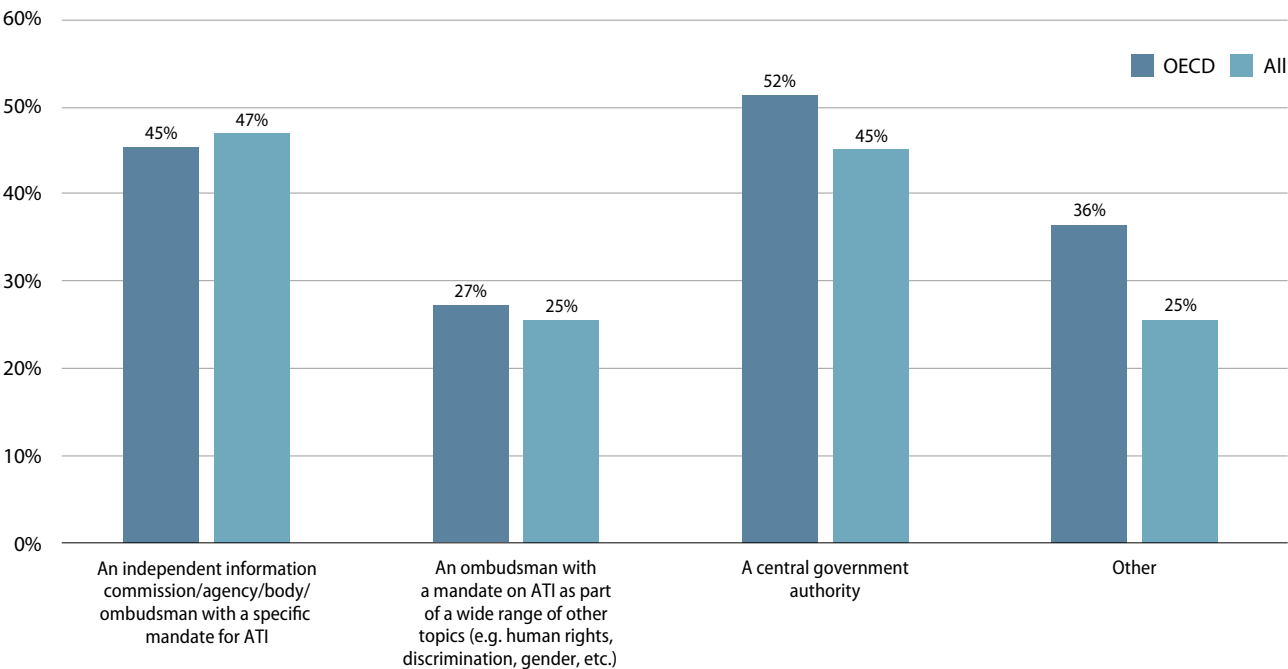
Institutional oversight of ATI laws is crucial to ensure the application of relevant laws across the public sector. The responsibilities of these bodies vary but often include enforcement of the law, in addition to monitoring and promotion. Most countries have one or more dedicated oversight bodies for ATI, which can take the form of an information commission, agency, body or

*“There is a need for stronger monitoring and evaluation mechanisms as well as further efforts to accurately assess implementation of ATI laws.”*

ombudsman (45% OECD, 47% all); an ombudsman with a wider mandate that includes ATI (27% OECD, 25% all); or a central government authority (52% OECD, 45% all). Moreover, over half of respondents (50% OECD, 61% all) foresee the establishment of an ATI office or officer in their laws (see Figure 11).

The independence of these bodies and their ability to enforce compliance is crucial. At present, many are not fully independent, do not have the necessary capacities to sanction non-compliance, and do not have the necessary human and financial resources to adequately fulfil their mandates. In this regard, there is a need for stronger monitoring and evaluation mechanisms as well as further efforts to accurately assess implementation of ATI laws. This would enable these bodies to fully execute their responsibilities and identify potential barriers and challenges across the public administration.

**Figure 11. BODIES RESPONSIBLE FOR THE ENFORCEMENT, MONITORING AND/OR PROMOTION OF ATI LAWS, 2020**



**Note:** “All” refers to 51 respondents (33 OECD Members and 18 non-Members).

**Source:** 2020 OECD Survey on Open Government.





## Chapter 4: Protecting media freedoms and civic space in the digital age for transparency, accountability and citizen participation

### KEY FINDINGS

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- Press freedom is guaranteed in law in all respondents. Nonetheless, harassment and threats targeting journalists, including those covering protests, remains a serious concern.
- While the overall picture for press freedom is good in OECD Members compared to the rest of the world, it has deteriorated in recent years, according to the World Press Freedom Index (Reporters Without Borders).
- While almost all OECD respondents have legal provisions to protect an open Internet, the Internet can be restricted to protect national security, according to most OECD respondents.
- Countries are increasingly introducing measures to tackle online hate speech, a growing obstacle to online civic participation, including reporting and complaint mechanisms, support for victims, and specific measures to address online hate speech targeting women.
- Concerns about the misuse of artificial intelligence (AI) are growing and have particular salience for the public sector. Dedicated strategies increasingly address the impact of AI on civic freedoms, the need to establish an ethics framework, and oversight and redress mechanisms.



***“The principle of press freedom is set out in relevant constitutional and/or media-specific legislation, or guaranteed by high court decisions in all respondent countries.”***

**PROTECTING PRESS FREEDOM**

Protected media freedoms enable access to diverse sources of information and informed debates as part of a vibrant public interest information system. In contrast, media restrictions, including media concentration and monopolies, can hamper balanced and multifaceted debate on matters of public interest and promote one-sided views that can ignite polarisation and impede transparency and accountability.

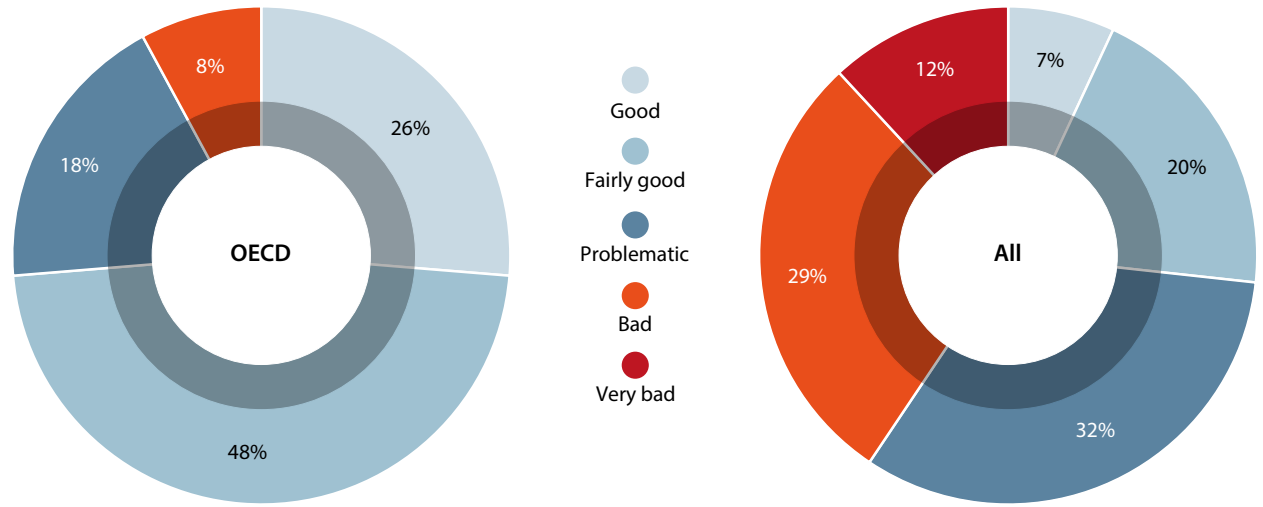
The principle of press freedom is set out in relevant constitutional and/or media-specific legislation, or guaranteed by high court decisions in all respondent countries, either explicitly or as part of a general constitutional right to freedom of expression.

While the overall picture for press freedom is good in OECD Members compared to the rest of the world, it has deteriorated in recent years. Over the space of six years, the proportion of countries where the situation is regarded as favourable for journalism has halved, with 49% of countries ranked as “good” in the 2015 World Press Freedom Index and only 26% in 2021, according to research undertaken for the report by Reporters

without Borders (see Figure 12). The level of press freedom afforded to journalists was classified as “good” or “fairly good” in nearly three-quarters (74%) of all OECD Members in 2021 and “problematic” or “bad” in the remainder (26%).

Threats, imprisonment, and killings of journalists represent a growing concern for press freedom. Between 2017 and 2021, 67 journalists and media workers were killed in respondent countries, with the motive confirmed as related to their work, according to the Committee to Protect Journalists (Committee to Protect Journalists, n.d.). Estimates of journalists killed worldwide between 2010 and 2020 range between 937 (Reporters without Borders, 2020) and 956 (UNESCO, 2021). In 2021, 293 journalists were imprisoned worldwide, reaching a new high (Committee to Protect Journalists, 2021). A related global trend is the increase in attacks against journalists covering protests, where journalists can face intimidation both from protestors and the police. Beyond constituting human rights violations, attacks against journalists limit free expression and undermine the public’s right to information, thus hampering public debate and civic space more broadly.

**Figure 12. OVERALL PRESS FREEDOM SCORES IN OECD MEMBERS AND ACROSS 180 COUNTRIES, 2021**



**Note:** Overall press freedom scores in 38 OECD Members and across 180 countries, 2021. The situation is “good” or “fairly good” in nearly three-quarters of OECD Members, a much higher proportion than in the world as a whole.

**Source:** Reporters without Borders (2021), 2021 World Press Freedom Index, <https://rsf.org/en/ranking/2021>.



# SAFEGUARDING ONLINE CIVIC SPACE

Citizens and CSOs are increasingly moving their activities onto social media and the Internet as part of what is commonly referred to as online civic space. While digital transformation and social media platforms are powerful tools for civic engagement and provide new opportunities to exercise key rights, data-intensive technologies also come with important challenges to civic freedoms and democratic governance. At the global level, some countries misuse digital technologies to surveil or even silence civil society and stifle political opposition, undermining the safety and security of online civic space. Increasingly, more citizens are thus demanding transparent and accountable governance, regulations and processes governing online civic space to ensure it is open, safe, equitable and serves the public interest.

The protection of civic freedoms online is a precondition for citizens and civil society to access information, operate freely and thrive without fear of arbitrary or unlawful intrusion. Almost all respondent OECD Members (94% OECD, 74% all) have legal provisions to protect an open Internet and a number have passed measures to enhance access to and safety of the Internet and net neutrality (see Figure 13). At the

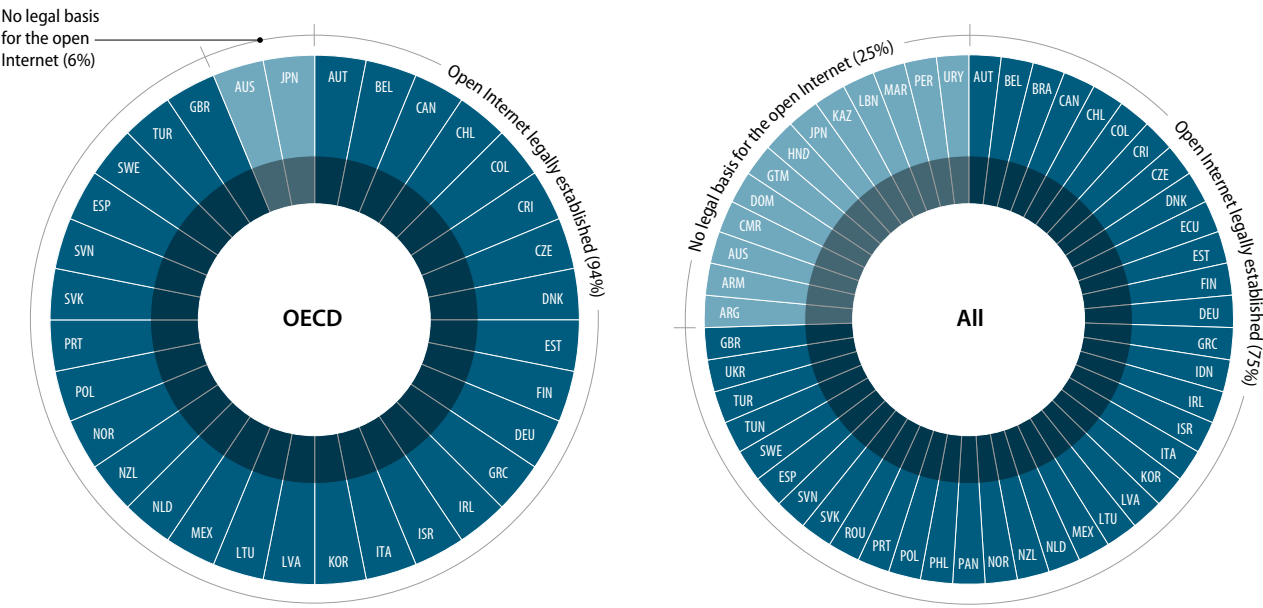
same time, in 93% of OECD respondents (86% all), the Internet can be restricted to protect national security.

## Addressing online hate speech

Freedom of expression and pluralistic public opinion cannot be fully realised if individuals feel they must withdraw from public debate out of fear of vilification or harmful racial, gender-based, or other stereotypes and discrimination. For the purpose of this report, hate speech is defined as spoken, written or behavioural communication that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, and aims to incite discrimination or violence towards that person or group, e.g. based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor. There is an emerging consensus among governments, technology companies and civil society on the need to consider new policy and regulatory frameworks that encourage the flow of factual information and protect individuals and society from the unchecked spread of hateful or illegal content, while also preserving users' freedom of expression.

Internet platforms have adopted content policies on hate speech, including banning users from posting or sharing derogatory content deemed to be unlawful

Figure 13. LEGAL PROVISIONS PROTECTING THE OPEN INTERNET, 2020

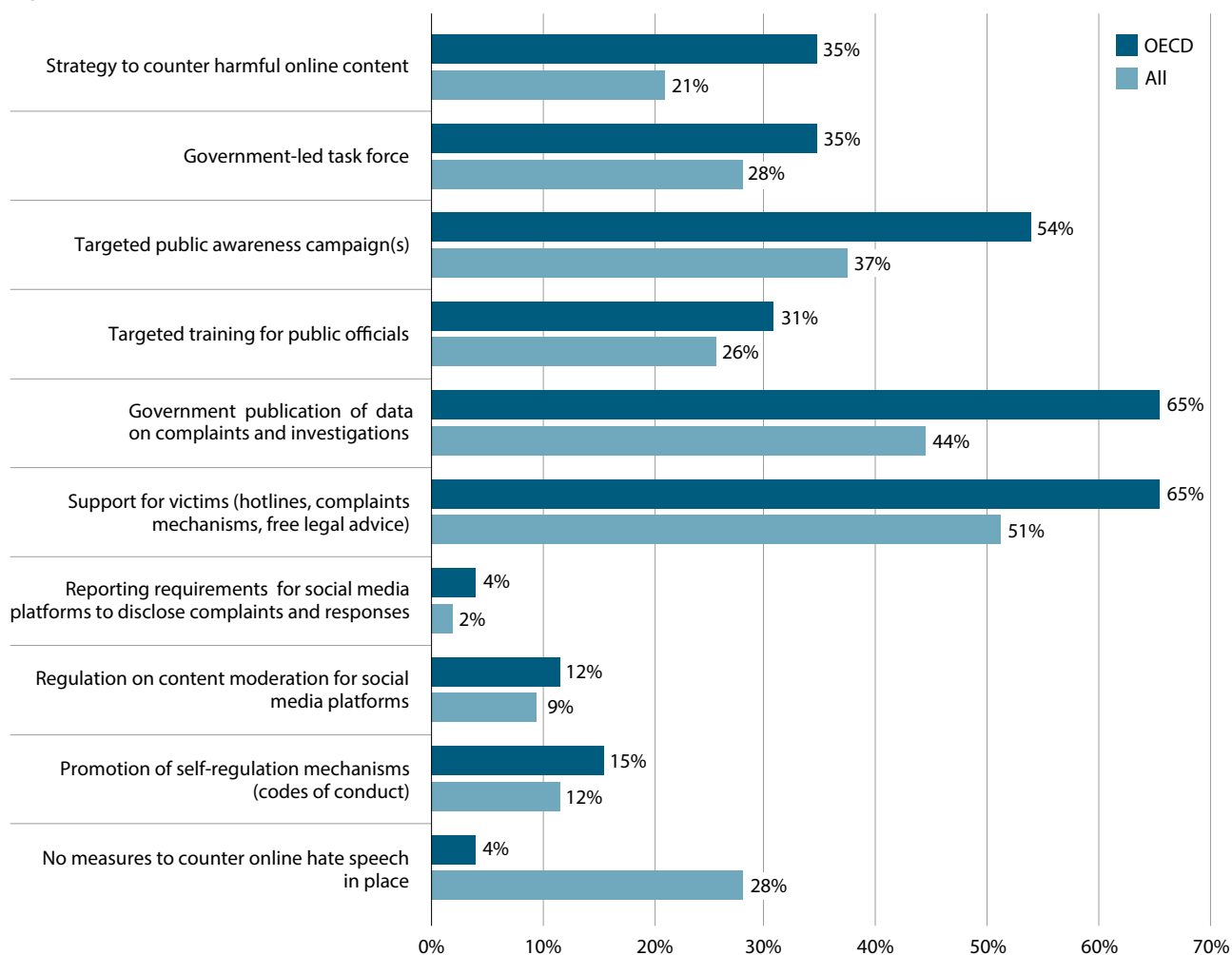


**Note:** "All" refers to 51 respondents (32 OECD Members and 19 non-Members). Data on all EU member states, Chile and Uruguay are based on OECD desk research and were shared with them for validation.

**Source:** 2020 OECD Survey on Open Government.



Figure 14. MEASURES TO COUNTER ONLINE HATE SPEECH, 2020



**Note:** "All" refers to 43 respondents (26 OECD Members and 17 non-Members). Data on Australia, Austria, and Ireland are based on OECD desk research and were shared with them for validation.

**Source:** 2020 OECD Survey on Open Government.

or illegal. At the same time, such measures are being contested for limiting free expression, especially when platforms use automated processes to identify hate speech. Identifying the scope of regulatory solutions against hate speech remains a challenge for governments and platforms alike and is a matter of ongoing debate. In recent years, governments have taken a variety of measures to tackle online harms. The areas that have received most attention from governments are enhanced data collection and publishing, and support to victims of online harms (see Figure 14). Other government interventions include the adoption of national strategies, the establishment of government-led task forces, awareness-raising campaigns, training for public officials, reporting requirements for Internet platforms, and regulations on content moderation.

### Reducing misinformation and disinformation

The spread of mis- and disinformation can distort democratic engagement, reinforce polarisation and distort policy debates, as well as inhibit access to timely, relevant and accurate information and data, undermining the public's willingness and ability to constructively engage in democratic debate.

**MISINFORMATION** describes situations where false or misleading information is shared but no harm is intended; the sharer may not even be aware the information is false.

**DISINFORMATION** is when false, manipulative and/or misleading information is knowingly shared with the intention of causing harm or influencing the information environment.



Governments are increasingly focused on identifying ways to build societal resilience to the challenges caused by mis- and disinformation. Some countries have introduced new legislation in recent years to combat the phenomenon. Human rights bodies and CSOs have raised concerns, as some prohibitions on the dissemination of information are based on overly broad and vague language or concepts. The breadth and depth of the mis- and disinformation challenge calls for a wide range of measures driven by a whole-of-government and whole-of-society approach and implemented in partnership with the media and CSOs.

For example, the public communication function – intended to deliver information, listen and respond to citizens in the service of the common good – will continue to be an important and strategic tool to strengthen the public interest information ecosystems that are a crucial component of a vibrant civic space. Other efforts include media, information and digital literacy efforts, which can better equip citizens with the skills to differentiate between accurate and false or misleading information and increase awareness of their role in preventing its spread. Regarding regulatory responses, governments can adopt measures to increase the transparency of sources, improve content removal and moderation activities, analyse algorithmic design and impact, and disclose beneficial ownership and entities sponsoring content online. Governments can also implement measures that are indirectly connected to mis- and disinformation but nevertheless have significant implications for the structural and economic drivers that affect its spread. Importantly, strengthening the press and news media sector by encouraging diversity and editorial independence, and ensuring high-quality news provision, including through public service broadcasters, can help build resilience. Additional initiatives include developing content moderation policies in a multi-stakeholder process and with independent oversight. In November 2022, the OECD launched the OECD DIS/MIS Information Resource Hub to facilitate a comprehensive approach to action among governments, media and CSOs on mis- and dis-information (OECD, 2022).

## PERSONAL DATA PROTECTION AND CIVIC SPACE

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Emerging technologies, big data analytics and artificial intelligence enable both governments and businesses to obtain fine-grained information about individuals. Data gathered and stored by governments can reveal a

great deal of personal information about individuals, providing insights into private spheres of life, such as organisational membership, participation in protests, religious or social affiliations, and sexual orientation. Protecting such data from misuse is a central part of protecting civic space. Personal data protection supports an enabling environment in which citizens, journalists and civil society actors can gain access to information, express their views, operate freely and thrive without fear of arbitrary or unlawful intrusion or interference in their activities.

Data breaches resulting from accidents, malicious hacking and unauthorised access or disclosure greatly diminish trust in the digital ecosystem and may affect how citizens and CSOs conduct their online activities, negatively impacting civic space. The 2017 and 2020 *OECD Digital Economy Outlooks* find that individuals are increasingly concerned about the extensive use of their personal data by governments and private companies. Furthermore, the *OECD Survey on the Drivers of Trust in Public Institutions* found that, on average, only half (51%) of the population in 22 surveyed OECD Members trust their governments to use their personal data safely (OECD, 2022).

While the global trend towards greater data protection is trailblazing data-related regulations worldwide, over-compliance with personal data protection regulations by public authorities can also lead to restricted access to information (ATI) following information requests (OECD, 2018). The inherent tensions between personal data protection and access to information present significant, unresolved challenges in the digitalised world and call for a balanced approach to data governance where the benefits of data access and sharing are maximised and the risks controlled. Increasingly, governments are moving towards centralising ATI and personal data protection into a single institution. Although both topics require different technical capacities, dual responsibility can allow institutions to identify and exploit synergies, ensuring access to information alongside the safeguarding of personal data and privacy.

## ARTIFICIAL INTELLIGENCE AND CIVIC SPACE

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The role of rapidly advancing technologies, such as artificial intelligence (AI), is further complicating online civic space. In the public sector, evidence shows that AI can adapt services to users' needs and preferences,





provide greater access to services and increase citizen well-being. However, empirical evidence (Eubanks, 2018; Richardson, Schultz and Crawford, 2019) also highlights the potential for violations of civic freedoms by AI systems, with citizens often being unaware of how these systems turn user statements into data, sort content, and profile and target individuals through advertising.

One of the key concerns surrounding the use of AI in the public sector is the risk of discrimination. This can arise when machine-learning systems are fed data that only considers and reflects certain demographic groups or reproduces prejudices against certain groups, affecting equal access to public services and creating barriers to equal participation in public life. Threats to the right to non-discrimination have also been raised in relation to AI systems used in crime prevention and judicial proceedings, including when law enforcement agencies use predictive policing through algorithmic processing of historical crime data to reveal patterns of criminal activity. Further concerns relate to access to information

and freedom of expression, both of which can be affected by algorithms, hindering stakeholders' ability to engage in diverse public debate. Another prominent concern about AI is the lack of transparency in the use of algorithmic decision making, making it difficult for citizens to challenge such decisions. It is essential for people to know when AI systems are being used, what information underpins relevant decisions and how and where to complain in the event of a discriminatory outcome.

Governments increasingly recognise the potential (mis)use of AI in and by the public sector as a growing challenge to civic freedoms in their national AI strategies. One-third of 19 strategies examined include an in-depth discussion on the impact of AI on civic freedoms. More than half of these address the need to establish oversight and redress mechanisms, and a majority (84%) call for developing an ethics framework for AI. Public participation in the development of strategies or related activities is mentioned in seven (37%).

#### COMMON ELEMENTS IN 19 NATIONAL AI STRATEGIES EXAMINED, 2021

Number of strategies	Element	OECD Members
16	Mentions potential risks to civic freedoms	Canada, Chile, Colombia, Czech Republic, Denmark, Finland, Germany, Ireland, Latvia, Netherlands, Norway, Poland, Portugal, Spain, Sweden, United Kingdom
16	Proposes development of ethics framework/ commission	Canada, Colombia, Czech Republic, Denmark, Finland, Germany, Ireland, Lithuania, Korea, Netherlands, Norway, Poland, Portugal, Spain, Sweden, United Kingdom
10	Proposes concrete types of oversight and redress mechanisms to protect civic freedoms	Canada, Czech Republic, Denmark, Latvia, Netherlands, Norway, Poland, Spain, Sweden, United Kingdom
7	Proposes public participation in the development and oversight of AI technologies	Colombia, Finland, Germany, Ireland, Lithuania, Portugal, Spain
7	Proposes training courses to make citizens more aware of AI and its risks and to improve inclusion in AI	Estonia, Finland, Germany, Ireland, Netherlands, Norway, Portugal
6	Engages in in-depth discussion on the impact of AI on civic freedoms	Chile, Denmark, Latvia, Netherlands, Spain, Sweden
5	Contains information on public participation (citizens or CSOs) in the development of the strategy	Canada, Chile, Czech Republic, Germany, Portugal





## Chapter 5: Fostering an enabling environment for civil society to operate, flourish and participate in public life

### KEY FINDINGS

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- A majority of OECD survey respondents have developed overarching policy frameworks to promote and protect the enabling environment for civil society. Approximately half of respondent OECD Members have a dedicated policy or strategy to promote CSOs as part of development co-operation.
- In the context of COVID-19, several OECD Members provided dedicated support to the CSO sector, such as through state subsidies and temporary suspensions of tax obligations.
- Civil society is free to organise, associate and criticise governments without fear of sanctions or harassment in most OECD Members. In a minority, however, weak, moderate or substantial repression is documented.
- Contrary to international guidance, unregistered CSOs are not permitted to operate in more than half of respondents. In some respondents, administrative procedures are overly burdensome.
- Legal frameworks restricting political engagement for public benefit organisations, engagement during elections or political engagement of CSOs may make it difficult for CSOs to take political positions in some countries.
- Hostile public discourse, smear campaigns, lawsuits and obstacles to participating in decision-making processes are posing growing challenges in some countries for CSOs that engage on particular issues such as the environment and rights of migrants.
- Individuals and organisations that publicly criticise or investigate powerful individuals, companies or interest groups are increasingly threatened by Strategic Lawsuits Against Public Participation (SLAPPs), and protection for the CSO sector is lacking in the vast majority of OECD Members.
- Access to government funding remains a critical challenge for CSOs. Medium- to long-term funding, in addition to unconditional and core funding, provide predictability and sustainability, yet short-term funding continues to be the most common funding modality. Data collection remains scarce, hindering a strategic approach to supporting the CSO sector.



**ENSURING THAT LEGAL AND POLICY FRAMEWORKS SUPPORT THE CSO SECTOR**

An enabling environment is central to the ability of CSOs to operate in a free and autonomous manner. A conducive legal and policy environment safeguards freedom of association and supports CSOs in reaching their full potential and positively contributing to society. By fostering the necessary legal and policy conditions, fully recognising civil society as self-empowered, and providing concrete opportunities for collaboration, governments can also better align policies, laws and services to citizens’ needs.

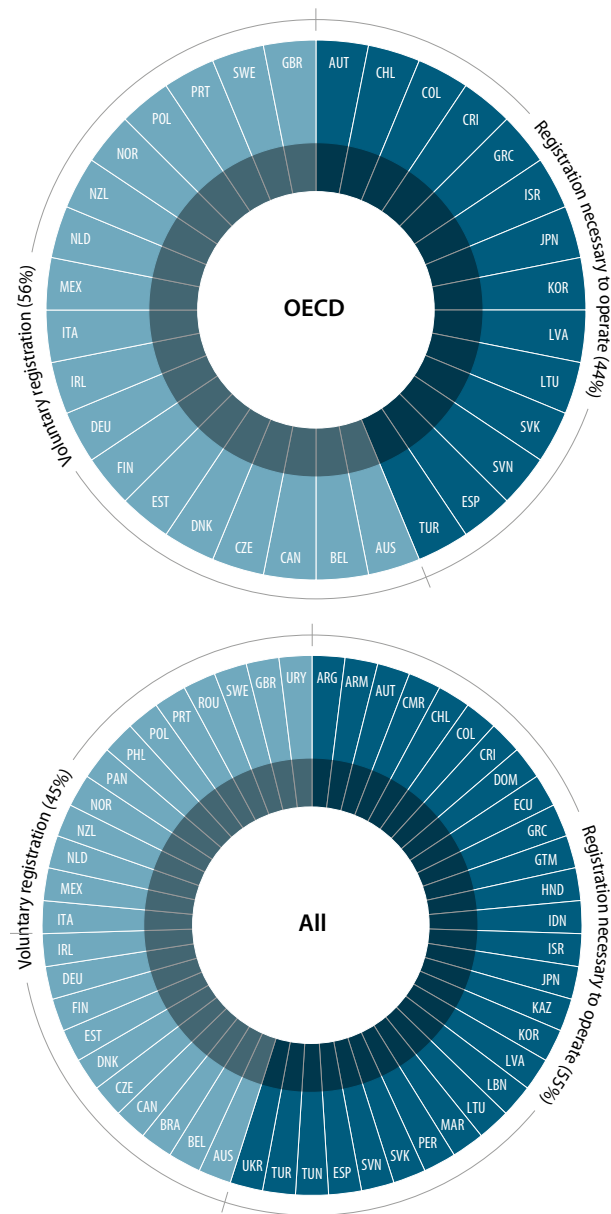
For CSOs to work effectively, their legal environment needs to be predictable, transparent and free from political interference. National CSO strategies can help to strengthen the enabling environment leading to robust and independent CSOs, strong CSO-state relationships and enhanced inclusion and social cohesion. A total of 68% of OECD Members (52% all) have developed such strategies and approximately half of OECD Members (48%) have a dedicated policy or strategy to promote CSOs in partner countries as part of development co-operation.

**Ensuring transparent, clear, simple and timely registration procedures for CSOs**

Legal provisions governing CSO registration have a significant impact on civic space. Based on international guidance, CSOs should be allowed to exist either as unregistered bodies or organisations that are registered and/or have legal personality. Furthermore, while a requirement of registration may be necessary for CSOs seeking legal personality (OSCE/ODIHR/Venice Commission, 2015), state benefits, or a certain legal status (e.g. public benefit status), unregistered CSOs should be allowed to operate. Contrary to international guidance, CSOs and associations are required to register in order to operate in 44% of OECD Members (55% all) (see Figure 15).

Responsibility for registering CSOs is an important function; it can send a powerful message about the sector as a whole and set the tone for state-civil society relations. In one-quarter (24%) of OECD Members (28% all), ministries of interior are in charge of registration (see Figure 16). In other countries, this function is performed by the Ministry of Justice or an entity under the Ministry of Justice (16% OECD, 21% all), the courts (16% OECD, 9% all) or other independent entities (8% OECD, 5% all). But generally, it is other government

**Figure 15. LEGAL REQUIREMENT FOR CSOS TO REGISTER IN ORDER TO OPERATE, 2020**



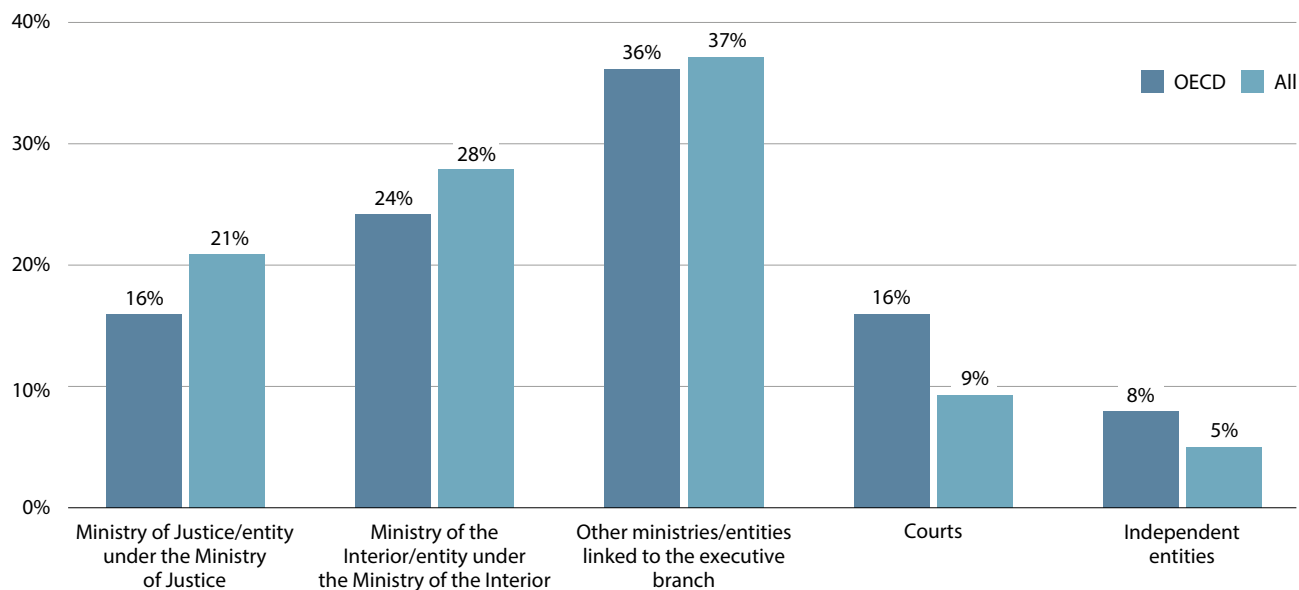
**Note:** “All” refers to 51 respondents (32 OECD Members and 19 non-Members). Data on Finland, Guatemala and Ireland are based on OECD desk research and were shared with them for validation.

**Source:** 2020 OECD Survey on Open Government.

departments – such as ministries of culture or labour and social affairs – or local administrative entities that fulfil this role (36% OECD Members, 37% all). Giving the registration responsibility to entities that are in charge of investigating crimes or protecting national security and public order, such as ministries of interior, may cause CSOs to be associated with security risks and threats to public order.



Figure 16. INSTITUTIONS RESPONSIBLE FOR THE REGISTRATION OF CSOS



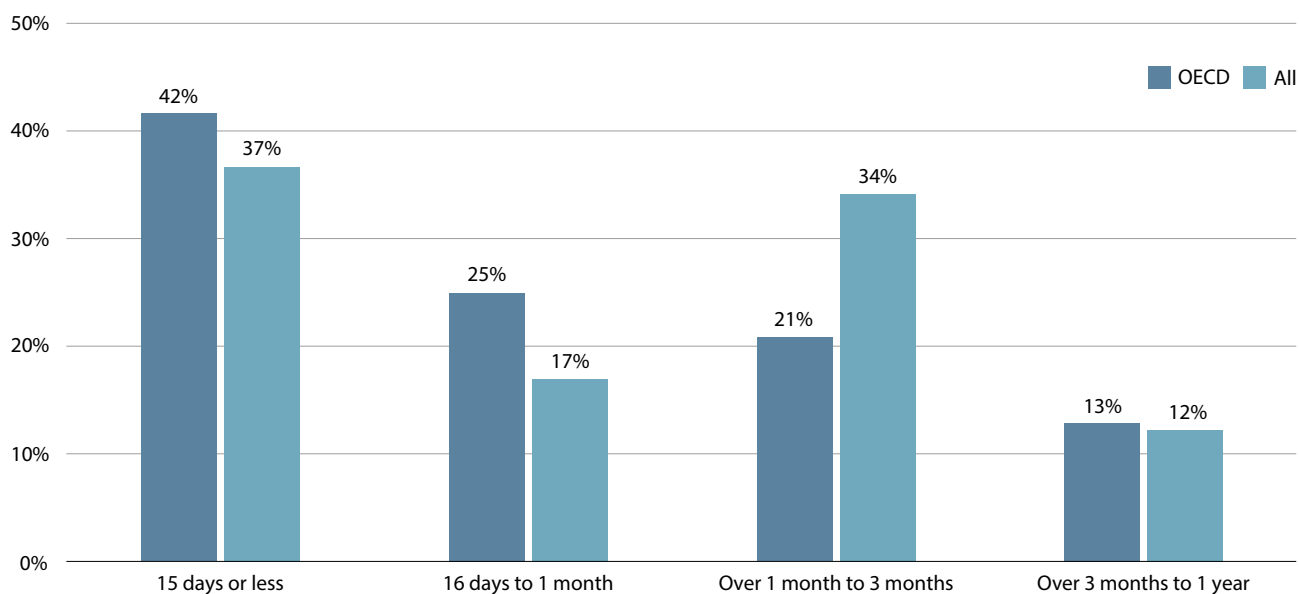
**Note:** "All" refers to 43 respondents (25 OECD Members and 18 non-Members). Data on Germany and Italy are based on OECD desk research and were shared with them for validation.

**Source:** 2020 OECD Survey on Open Government.

The timeline for registration is also important as delays can hinder CSO operations. A majority of respondents (42% OECD, 37% all) have relatively short timelines of 15 days or less to process registration requests (see Figure 17).

Longer timelines of between one month and a year exist in about one third of OECD Members (34%) and almost half (46%) of all respondents.

Figure 17. TIME BETWEEN SUBMISSION OF A REQUEST FOR REGISTRATION BY CSOS AND A DECISION BY STATE AUTHORITIES



**Note:** "All" refers to 41 respondents (24 OECD Members and 17 non-Members).

**Source:** 2020 OECD Survey on Open Government.



### Avoiding general restrictions to CSOs political activity

The enabling environment for CSOs is also protected when they are allowed to participate in political debates. Legal restrictions on CSO engagement in political activities typically relate to support to political parties and elections, public policy activities more generally, or to CSOs with a public benefit or charitable status. Some restrictions to political activity are noted in 41% of OECD Members (38% all). In 7% of OECD Members (11% all), political activity is restricted to all types of CSOs. In 31% of OECD and 26% of all respondents, political activity or campaigning may lead to the loss of tax-exempt status


for public benefit or charitable organisations. In three respondents (4%), there are disclosure requirements for CSOs related to expenditures or donations during elections or for CSOs that receive foreign funding through campaigning.

Whether particular activities of CSOs are characterised as being “political” ultimately depends on the interpretation of the courts. The enabling environment for CSOs can be protected by avoiding legal restrictions that are overly broad or vague, as legal uncertainty can result in CSOs abstaining from engagement in political matters altogether.

### RULES ON POLITICAL CAMPAIGNING AND POLITICAL ACTIVITY OF CSOS, 2020

Country	No restrictions	Restrictions or requirements on all types of CSOs	Restrictions or requirements on public benefit organisations/ charities	Restrictions and requirements on CSOs that receive foreign funding	Disclosure requirements
 Argentina	✓				
 Armenia	✓				
 Australia					✓
 Austria	✓				
 Belgium	✓				
 Brazil			✓		
 Cameroon	✓				
 Canada			✓		
 Chile	✓				
 Colombia	✓				
 Costa Rica		✓			
 Czech Republic	✓				
 Denmark			✓		
 Dominican Republic	✓				
 Ecuador		✓			
 Estonia	✓				
 Finland	✓				
 Germany			✓		
 Guatemala	✓				
 Indonesia		✓		✓	
 Ireland			✓		



Country	No restrictions	Restrictions or requirements on all types of CSOs	Restrictions or requirements on public benefit organisations/ charities	Restrictions and requirements on CSOs that receive foreign funding	Disclosure requirements
 Israel					✓
 Italy	✓				
 Kazakhstan	✓				
 Latvia	✓				
 Lebanon	✓				
 Lithuania	✓				
 Mexico		✓	✓		
 Morocco	✓				
 Netherlands	✓				
 New Zealand					
 Norway					
 Panama	✓				
 Peru	✓				
 Philippines			✓	✓	
 Poland	✓				
 Portugal	✓				
 Romania	✓				
 Slovak Republic			✓		
 Slovenia	✓				
 Spain	✓				
 Sweden	✓				
 Tunisia		✓			
 Türkiye	✓				
 Ukraine			✓		
 United Kingdom			✓		
 Uruguay	✓				
Count All	29	5	12	2	2
Percentages All	62%	11%	26%	4%	4%
Count OECD	17	2	9	0	2
Percentages OECD	59%	7%	31%	0%	7%



## ENSURING ACCESS TO FUNDING AS A LIFELINE FOR CSOS

A favourable financial environment for CSOs is yet another important pillar of an enabling environment for CSOs. This includes state funding and other forms of public support, such as tax exemptions, as well as access to financial assistance from private, foreign and multilateral sources. Predictable government funding and accessible and transparent information on funding opportunities and procedures are essential to allow CSOs to function effectively and develop their capacities.

### Government funding

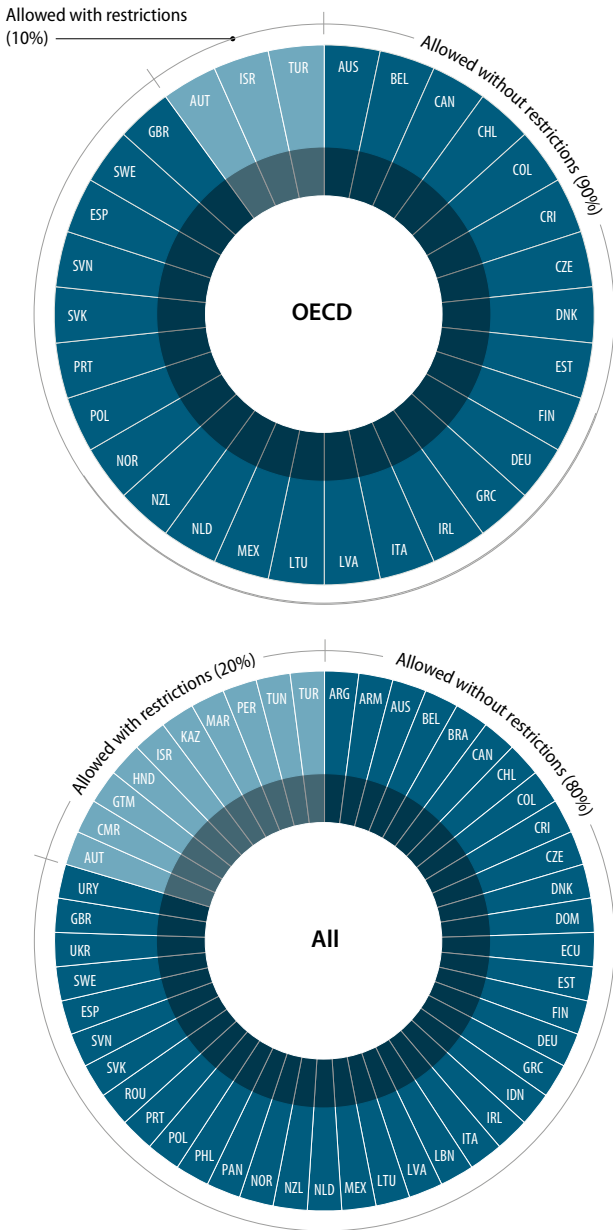
Access to government funding remains a critical challenge for CSOs, with additional pressures since 2020 due to COVID-19. Medium- to long-term funding, as well as unconditional funding (which can be used for any purpose the CSO sees fit) and core funding (for organisational expenses that cannot be allocated to specific projects, including administrative costs, infrastructure costs, and institutional capacity building), can provide predictability and sustainability for the sector; however, short-term funding continues to be the most common funding modality used by OECD Members.

Comprehensive data on the length and modalities of government funding for CSOs is lacking, in part because public resources for CSOs come from a wide range of sources, involving different ministries, budget lines, and local and regional governments. The absence of an overview in many countries, including those giving generously towards the CSO sector, makes it difficult to strengthen systems and monitor funding trends. By enhancing data collection, disaggregated by funding modality, type of support and focus area, governments can develop a more strategic approach to support civil society.

### Funding from foreign and international donors

In countries where government funding is limited or unavailable and where there is a lack of private donations, foreign or international funding can be a valuable lifeline for CSOs. Governments can contribute to an enabling environment for CSOs by incentivising foreign and international donors and private philanthropists. Laws governing freedom of association or other legal frameworks covering the activities of associations restrict foreign funding for CSOs in 10%

Figure 18. RULES IN LAWS GOVERNING ASSOCIATIONS ON RECEIVING FUNDING FROM ABROAD



**Note:** "All" refers to 49 respondents (30 OECD Members and 19 non-Members). Data on Argentina, Australia, Austria, Belgium, Canada, Chile, Ecuador, Germany, Greece, Guatemala, Ireland, Kazakhstan, the Netherlands, New Zealand, Norway, Panama, Peru, Romania, Sweden, Türkiye, Ukraine and the United Kingdom are based on OECD desk research and were shared with them for validation.

**Source:** 2020 OECD Survey on Open Government.

of OECD Members (20% all). Legal limitations include pre-conditions or the need for state authorisation to receiving foreign funding, in addition to reporting requirements and intensified monitoring and oversight of CSOs (see Figure 18).





## LEGAL AND IMPLEMENTATION CHALLENGES TO ENSURING AN ENABLING ENVIRONMENT FOR CIVIL SOCIETY

At the global level, monitoring organisations have observed a number of setbacks and challenges in recent years with respect to the creation, maintenance and protection of an enabling environment for CSOs. The V-Dem Institute had already reported a global erosion of freedom of association in 2019, and in 2022 it found that, over the previous decade, CSO repression had worsened to a greater extent – as measured by the number of countries where a decline was recorded – than any other autocratisation indicator (V-Dem Institute, 2022). Its CSO Repression indicator shows that in 2021, CSOs were free to organise, associate, strike, express themselves and criticise the government without fear of government sanctions or harassment in three quarters (76%) of the 38 OECD Members, and in less than half (47%) of the non-OECD respondents (V-Dem, 2021). In 18% of OECD Members and 21% of non-OECD respondents, “weak repression” is documented, including material sanctions, such as fines to deter CSOs from acting or expressing themselves, or excessively burdensome administrative procedures. In one OECD country and one-third (32%) of non-OECD respondents, the government engaged in “moderate” repression, such as material sanctions and “minor legal harassment”, including detentions and short-term incarceration. In one OECD country, V-Dem found “substantial” repression of CSOs (such as arrests, charges and imprisonment of leaders of CSOs who acted lawfully).

### ***Taking action against Strategic Lawsuits against Public Participation (SLAPPs)***

CSOs are increasingly endangered by SLAPPs that aim to silence CSOs or activists who publicly criticise or investigate powerful individuals, companies or interest groups. These lawsuits are often accompanied by other forms of harassment or follow repeated attacks against a particular individual or organisation. SLAPPs have most commonly been used in the context of environmental and consumer protection, corruption allegations, and activism for the rights of LGBTI people. While at least two respondent OECD Members have adopted anti-SLAPP legislation at the regional level, there is an opportunity for all countries to protect CSOs and activists by assessing the frequency of SLAPP cases in their jurisdictions and introducing relevant legislation. The vast majority of OECD and other respondents have legislation prohibiting and providing damages for cases where claimants abuse

the right to lodge a civil claim with courts, or legislation protecting human rights defenders and journalists. However, the lack of specific anti-SLAPP legislation may point to limited awareness of this issue, coupled with the belief that existing legislation is sufficient.

### ***Challenges for CSOs working on specific global issues***

As global challenges such as the climate crisis and migration flows have increased in recent years, so has the level of related CSO engagement. This has given rise to concerns in some countries regarding the enabling environment for organisations working on these critical global challenges. United Nations special rapporteurs have noted that the rise of the global climate movement has been accompanied by increased targeting of environmental CSOs by businesses linked to resource extraction, infrastructure projects or agribusiness, as well as government and government-allied actors. Attacks on environmental activists can take the form of physical attacks, intimidation campaigns, judicial harassment, and even killings. In addition to experiencing physical attacks, climate activists have been victims of hostile discourse and smear campaigns, which portray their activities as unlawful and, at times, label them as national security threats, including in OECD Members. Furthermore, multiple civil society sources have reported that CSO members have been accused of – and in some cases prosecuted for – facilitating migrant entry and residence or providing basic humanitarian assistance such as food, water, medical supplies and shelter along migratory routes.





## Good country practices to protect and promote civic space

### PROTECTING JOURNALISTS AND PRESS FREEDOM

The legal framework governing protection for human rights defenders in **Honduras** explicitly applies to journalists, while **Colombia** has passed legislation to protect journalists and social communicators. In **Portugal**, homicide is met with aggravated sanctions if committed against a journalist. In **Norway**, a media responsibility law (2020) aims to ensure editorial independence and establishes clear liability regulation for content published in editor-controlled journalistic media.

### REFORMING CSO REGISTRATION PROCEDURES

In **Lithuania**, the procedure for CSOs to register is notification based since 2020 and does not require authorisation by the state. Registration is also free of charge and relevant information about registered NGOs is publicly available. In **Portugal**, the procedure has been simplified, allowing CSOs to be created within an hour at a single location. In **Romania**, the number of administrative steps and required documents for registration has been substantially decreased. For example, CSOs are no longer required to have their constitutive acts or beneficial owner declarations notarised. In the **Slovak Republic**, a unified CSO register was created in 2021, merging a number of different registers.

### PROVIDING CORE AND UNCONDITIONAL FUNDING FOR CSOS

Core funding from governments is important for CSOs operations and for increasing their capacities. In **Finland**, subsidies to CSOs cover costs related to

their operations and the construction of educational and cultural sites. In **Spain**, grants for CSOs engaged in promoting equality, social inclusion, and the fight against poverty can cover a wide range of running costs and capacity-building activities. In **Chile**, funds help CSOs strengthen their organisational capacities, autonomy and networking. In **Estonia**, funding can help to build CSO capacity to participate in policy-making processes. **Sweden** and **Denmark** provide unconditional funding – a modality that can be used for any purpose CSOs see fit, including to fulfil their stated goals beyond the outputs related to projects.

### CREATING AN ENVIRONMENT FOR GIVING

In **Finland**, the 2019 Fundraising Act exempts people engaging in small-scale fundraising from obtaining a license, thus allowing a more free flow of support. In the **Czech Republic** and **Ukraine**, legislation exempts donations sent by text message to CSOs from VAT. In **Belgium**, the respective governments of Flanders and Brussels co-finance the operation of a civic crowdfunding platform.

### SUPPORTING CSOS IN THE CONTEXT OF COVID-19

Several countries set up innovative support programmes and initiatives for CSOs during the pandemic. Special state subsidies were introduced in several countries, including **Austria**, **Canada**, **Germany**, **Ireland**, **Italy**, **Lithuania** and **Sweden**. In **Austria**, a 2020 law established a support fund, with CSOs reporting that they were engaged and consulted throughout the process. In **Germany**, while there was no overall national pandemic related CSO support, initiatives were undertaken in certain regions. **Ireland** launched a COVID-19

Stability Fund to assist community and voluntary organisations delivering critical frontline services for disadvantaged persons. In **Italy**, CSOs were able to benefit from dedicated funds, the temporary suspension of tax payments and a newly introduced regulatory framework fostered co-operation between CSOs and public administrations in providing social and health services.





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# The Protection and Promotion of Civic Space

Strengthening Alignment with International Standards and Guidance

The past decade has seen increasing international recognition of civic space as a cornerstone of functioning democracies, alongside efforts to promote and protect it. Countries that foster civic space are better placed to reap the many benefits of higher levels of citizen engagement, strengthened transparency and accountability, and empowered citizens and civil society. In the longer term, a vibrant civic space can help to improve government effectiveness and responsiveness, contribute to more citizen-centred policies and boost social cohesion. This first OECD comparative report on civic space offers a baseline of data from 33 OECD Members and 19 non-Members and a nuanced overview of the different dimensions of civic space, with a focus on civic freedoms, media freedoms, civic space in the digital age and the enabling environment for civil society. It provides an exhaustive review of legal frameworks, policies, strategies and institutional arrangements, in addition to implementation gaps, trends and good practices. The analysis is complemented by a review of international standards and guidance, in addition to data and analysis from civil society and other stakeholders.



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