OECD Public Governance Reviews

Practical Guide for Policymakers on Protecting and Promoting Civic Space



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Foreword

Over the past decade, countries have increasingly recognised civic space as a cornerstone of functioning democracies. Civic space 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. OECD member countries explicitly recognised the need to protect and promote civic space as part of the OECD Reinforcing Democracy Initiative (RDI), through the Ministerial Declaration adopted in Luxembourg in 2022.

This guide contributes to the broader objectives of this Initiative (RDI): protecting and promoting a vibrant and protected civic space is central to its pillar 2, in particular, which focuses on enhancing participation, representation, and openness in public life. By fostering a more inclusive and participatory environment, pillar 2 aims to strengthen democratic processes and ensure that all citizens have meaningful opportunities to engage in public decision making. The 2024 results of the *OECD Survey on Drivers of Trust in Public Institutions* show that only about three in ten people across the OECD think that the political system lets people like them have a say in what government does and that government would use inputs from a public consultation. Given how closely tied these perceptions are to trust in government, these findings underline the need for governments to strengthen meaningful engagement and participation opportunities.

The OECD's work on civic space is anchored in the *OECD Recommendation on Open Government*; civic space is understood as a crucial enabler of more transparent, accountable, inclusive, and sustainable public decision making. In 2019, research and analysis in this area was united under the umbrella of the OECD Observatory of Civic Space.

In 2022, the OECD published *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance*. The report offers a comparative perspective on the protection and promotion of civic space based on data from 52 countries (33 OECD member countries and 19 non-members), complemented by a review of key trends, challenges, and opportunities. It also includes ten interrelated, high-level recommendations and measures for countries to consider, providing a pathway for governments, public administrations, legislatures and independent oversight institutions to strengthen civic space as part of reinforcing democracy.

This *Practical guide for policymakers* addresses a critical need for concrete advice to protect and promote civic space, responding to government demand for specific guidance on actionable measures. As a companion to the 2022 report, it provides detailed, practical guidance for policymakers for each of the ten high-level recommendations in that report. It includes a series of detailed explanatory tables, checklists, and infographics to aid understanding of key practical steps that can be taken by public officials across public administrations in a wide range of areas affecting civic space.

This report was approved by the OECD Public Governance Committee on 15 August 2024 and prepared for publication by the Secretariat.

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Executive summary

There is a growing recognition of the role that civic space plays in facilitating more responsive, democratic and inclusive governance. While OECD member countries are making efforts to protect civic space, they often lack a comprehensive and strategic approach, leading to disjointed and siloed initiatives with limited impact. It is crucial that countries recognise the need to protect and promote the many dimensions of civic space to build resilience to democratic backsliding. This guide underlines **four key steps** to protecting and promoting civic space:

- **Recognising** civic space as a national policy priority;
- **Reviewing** the extent to which relevant policies, laws and institutions are fit for purpose and in line with international standards;
- **Responding** to identified needs and gaps; and
- **Regularly** monitoring how civic space is protected and promoted in practice.

This guide offers practical advice on implementing each of the OECD's ten high-level recommendations by identifying relevant actors, policies, institutions, and practices, based on evidence. The guide demonstrates that every public official can help protect civic space, and focuses on tangible support based on good practices in countries.

The 10 high-level recommendations to protect and promote civic space

1: Foster an enabling environment for CSOs that facilitates their positive contribution to society Civil society organisations (CSOs) advocate for diverse needs, provide policy expertise, monitor government actions, contribute to public debates, and deliver services. For CSOs to operate effectively, the legal environment governing their activities is particularly important. Key aspects of an enabling policy framework include developing strategies and policies for the CSO sector; guaranteeing transparent and accessible registration procedures; providing predictable, accessible, and sustainable government funding; and gathering and publishing data to support and develop a strategic approach to CSOs.

2: Protect and facilitate freedom of expression. Freedom of expression is a cornerstone of democratic societies, enabling open debate and diverse perspectives. OECD member countries could introduce measures such as decriminalising defamation, introducing provisions to provide legal protection for public interest information, and adopting legal measures to protect individuals and organisations from SLAPPs (strategic lawsuits against public participation aimed at silencing activists and media workers).

3: Protect online civic space, including by countering online hate speech and misinformation and disinformation. Protecting online civic space is essential for citizens and civil society to access information and engage in public life without fear. At the same time, privacy breaches, harmful online content and hate speech can undermine trust in government and hinder participation. Governments can take a holistic approach to tackling online hate, including education, victim support, better access to justice, and training for authorities in recognising and responding to hate speech. Governments can also commit to a whole-of-government and whole-of-society policy framework for building resilience against mis- and disinformation and strengthening information integrity.

4: Foster a public interest information ecosystem that promotes access to information and protects independent media. Access to information and an independent media allow citizens to gather information, form opinions, participate in decision making, and monitor government activities. Governments can take a range of actions, including improving accessibility, inclusivity, and oversight of access to information; preventing media concentration; promoting media pluralism; and safeguarding oversight bodies to monitor media freedom.

5: Safeguard and protect at-risk human rights defenders, as well as CSO members, activists, and media workers, who play an essential role in raising awareness of critical issues among policymakers and the public. This role can nonetheless expose them to harm, ranging from stigmatisation and public harassment to violent attacks. Creating and maintaining a safe environment for them requires governments to adopt comprehensive legal and policy frameworks, introduce protection mechanisms, and gather data to monitor intimidation, threats, attacks, and killings.

6: Protect and facilitate freedom of peaceful assembly and the right to protest. The right to assemble peacefully is a prerequisite for an open and democratic society. It includes the right to hold meetings, sit-ins, strikes, rallies, events, and protests. Governments can safeguard this right through legal frameworks and practical measures, such as enhancing transparency through information portals; facilitating dialogue between law enforcement and assembly organisers; updating operating procedures for law enforcement; ensuring the safety of media workers during assemblies; and responding proportionately to outbreaks of violence.

7: Respect privacy and ensure personal data protection to avoid arbitrary intrusion and interference in civic life: The right to privacy helps create the conditions for people to inform, express and organise themselves without undue interference. Governments can help safeguard against the use of surveillance technology; mitigate risks associated with personal data collection, retention, and use; strengthen independent oversight; and empower individuals' control over their data.

8: Counter the discrimination, exclusion and marginalisation that disproportionately affects certain groups and acts as an obstacle to equal participation in public life: Democracy is stronger when all members of society can exercise civic freedoms on an equal basis. Discrimination or exclusion, on the other hand, can undermine citizens' trust and their ability and willingness to engage with state institutions. To reduce discriminatory practices, governments can introduce comprehensive legal frameworks; support equality bodies; strengthen data collection; and counter hate crimes.

9: Systematically protect and promote civic space as an enabler of citizen and stakeholder engagement in public decision making to foster more open, transparent and accountable governance: Enshrining citizen and stakeholder participation in a range of legal and institutional frameworks and practices can complement and reinforce traditional democratic processes and systems such as elections. This could include promoting the use of participatory and deliberative processes; enshrining the right to participation in legal frameworks; creating institutional frameworks for participation; and embedding participatory processes in decision making.

10: Protect civic space both domestically as well as in non-member countries as part of a coherent policy approach: OECD member countries can take action – as part of development co-operation, humanitarian assistance, foreign, trade and climate policy – to ensure a coherent policy approach to protecting civic space. This requires awareness of national policy impacts on partner countries and sustained, high-level political commitment. Governments can co-ordinate to protect civic space both at national and at international level while supporting CSOs in partner countries and upholding the do-no-harm principle.

1 Introduction

This chapter introduces the concept of civic space as a cornerstone of democratic life and presents the OECD's ten high-level recommendations on protecting and promoting it. It explains the benefits of civic space protection for governments, the objectives of the guide, and its target audience. It concludes with an overview of the methodology underpinning the guide.

The OECD's flagship global report, *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance,* offers a comparative perspective on the protection and promotion of civic space based on data from 52 countries (33 OECD member countries and 19 non-Members), complemented by a review of key trends, challenges and opportunities (OECD, 2022[1]). The report provides a baseline analysis that captures the uneven and evolving reality of the legal, policy and institutional frameworks and practices that surveyed governments have put in place in four key areas Figure 1.1: civic freedoms, access to information, media freedoms and civic space in the digital age and the enabling environment for civil society. Civic space 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.

Figure 1.1. The dimensions of civic space



The global report includes ten interrelated, high-level recommendations and numerous measures for countries to consider taking, providing a pathway for governments, public administrations, legislatures and independent oversight institutions to take action to strengthen civic space as part of reinforcing democracy among OECD member countries and non-members alike (Box 1.1). The *Practical guide for policymakers* is a companion to the global report. It takes the ten recommendations as a base and unpacks each one further to provide more detailed, practical guidance for policymakers. It is fully in line with the global report but goes even further by providing a series of detailed explanatory tables, checklists, and figures to aid understanding and learning on key practical steps that can be taken in a wide range of areas affecting civic space.

Box 1.1. The OECD's ten high-level recommendations on protecting and promoting civic space

1. Foster an **enabling environment for civil society organisations** that facilitates their positive contribution to society.
2. Protect and facilitate **freedom of expression.**
3. Protect **online civic space**, including by countering online hate speech and mis- and disinformation.[1]
4. Foster a **public interest information ecosystem** that protects independent media and promotes access to information.
5. Safeguard and protect at-risk **human rights defenders, as well as CSO members, activists and media workers**.[2]
6. Protect and facilitate **freedom of peaceful assembly and the right to protest.**
7. Respect **privacy** and ensure **personal data protection**, to avoid arbitrary intrusion and interference in public life.
8. Counter the **discrimination, exclusion and marginalisation** that disproportionately affect certain groups and hinder equal participation in public life.
9. Systematically protect and promote civic space as an enabler of **citizen and stakeholder engagement** in public decision-making to foster more open, transparent and accountable governance.[3]
10. Protect civic space both domestically as well as in non-Member countries as part of a **coherent policy approach.**[4]

Recommendations 1-9 are focused on OECD member countries' and non-members' actions to protect civic space on domestic territory, whereas Recommendation 10 includes an outward focus, by examining actions that can be taken as part of development co-operation and humanitarian assistance, in addition to foreign, trade and climate policy.

The ten recommendations are grounded in international human rights law and OECD and other international standards and guidance. Relevant legal standards are referenced in detail in *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance* (OECD, 2022[1]) and are not systematically repeated in this practical guide.

Note: The recommendations in this guide are presented in a different order to the global report on civic space.
1. The OECD defines misinformation as false or inaccurate information not disseminated with the intention of deceiving the public. Disinformation is false, inaccurate or misleading information deliberately created, presented and disseminated to deceive the public.
2. The original wording in OECD (2022[1]) was: "Safeguard and protect human rights defenders, journalists, whistle blowers, and other at-risk groups." This has been expanded for the purposes of this guide.
3. The original wording referred to protected civic space being a precondition of citizen and stakeholder engagement.
4. The original wording referred explicitly to development co-operation (OECD, 2022[1]). For the purposes of this Guide, it has been broadened to encompass any activity in non-Member countries, including development co-operation.
Source: OECD (2022[1]), *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance*, OECD Publishing, Paris, https://doi.org/10.1787/d234e975-en.

Over the past decade, countries have increasingly recognised civic space as a cornerstone of functioning democracies. When fundamental civic freedoms are protected – in line with key international and national legal frameworks protecting human rights – citizens and stakeholders such as civil society organisations (CSOs),[1] media workers, trade unionists, and academics can engage with public institutions, express their views, participate throughout policymaking and decision-making cycles, evaluate outcomes, and play a crucial oversight role. Protecting civic space is thus about creating the legal, institutional and social conditions within which citizens and non-governmental actors can engage in civic activities and exercise their democratic rights beyond and between elections. Furthermore, it is about safeguarding legal rights so that citizens can advocate and participate in public debates without fear of repression, harassment, violence or vilification.

There are many different forms to protect civic space across OECD member countries. These range from constitutional guarantees and legislation governing civic freedoms, to offices promoting access to information, free and independent media and measures to counter hate speech and disinformation. They also include protection programmes for media workers and rights defenders, and government funding and public benefit status for CSOs. A thriving civic space thus emerges from the joint efforts of a range of institutions, both within and outside of the public sector.

Why the need to protect and promote civic space? Governments have clear national and international legal obligations in relation to civic space protection. Moreover, countries reap many benefits from the higher levels of citizen engagement that protected civic space facilitates. These include strengthened transparency and accountability, more effective and responsive policymaking, greater ownership of public policies and better and more inclusive outcomes as part of making democracy deliver for citizens (OECD, 2017[2]).

What does the guide aim to achieve? The guide aims to support lawmakers and policymakers in implementing the OECD's high-level recommendations on protecting and promoting civic space. It does this by identifying the most relevant actors, policies, institutions and practices, and providing concrete guidance on implementation, based on evidence that the OECD has gathered. Its focus on 64 good practices from 27 national contexts illustrates how countries are adapting and responding to complex challenges in a wide range of policy areas. Recommendations are primarily focused on opportunities and challenges identified in OECD member countries. Additionally, the guide also includes foundational issues that are more relevant to non-Members and is thus relevant for any governments wishing to reinforce their democracies by raising standards in this area. While the main area of focus is the protection of civic space on Members' domestic territory, the guide also highlights actions that can be taken in partner countries as part of development co-operation and humanitarian assistance, in addition to foreign, trade and climate policy.

Who is the guide for? Responsibility for promoting and protecting civic space lies with a broad range of actors, including different state institutions and branches of the state. The guide is designed to support a range of decision-makers, including in line ministries, national statistics offices, National Human Rights Institutions (NHRI), ombudsman institutions, executive agencies, schools of public administration, parliaments and parliamentary committees, regional and local governments, and other key institutions, such as the police and security agencies.

Box 1.2 describes the methodology underpinning the guide.

Box 1.2. Methodology underpinning the guide

The guide is anchored in the data-gathering process and related learning from the flagship report, *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance* (OECD, 2022[1]).[1] This process involved gathering and validating government data in 2021-22 from 52 countries, including 33 OECD member countries, 20 European Union member states and 13 countries in Latin America and the Caribbean. In addition to drawing on the OECD's database of practices supporting civic space protection and promotion, the guide also draws on learning from the OECD's country-focused work (Civic Space Scans and Country Reviews), in addition to events held by the Observatory of Civic Space.

The guide was developed by the OECD Observatory of Civic Space within the Innovative, Digital and Open Government Division (INDIGO) of the OECD's Public Governance Directorate. The OECD's Development Co-operation Directorate contributed content and the guide was reviewed by OECD teams working on open government, digital transformation, online safety, and data governance and privacy, countering mis- and disinformation, integrity, governance indicators and trust, statistics and data, civil society in the context of development co-operation, and science, technology and innovation.

1. The report was based on a survey on civic space that included 33 questions (and sub-questions yielding approximately 300 data points for the graphs and charts) for national governments, based on the OECD's analytical framework for civic space; and a separate section on access to information that included 29 questions.
2. The Observatory of Civic Space has undertaken six country studies since 2020, either as independent Civic Space Scans or Country Reviews or as part of studies on open government: on Finland (OECD, 2021[3]); Portugal (OECD, 2023[4]); Romania (OECD, 2023[5]); Brazil (OECD, 2022[6]); Tunisia; and Morocco (forthcoming).

The guide forms part of a spectrum of actionable guidance developed by the OECD in the context of its work on the protection of civic space and open government. As such, it is anchored in the OECD's Recommendation of the Council on Open Government (OECD, 2017[2]). It is also in line with the OECD's DAC Recommendation on Enabling Civil Society in development co-operation and humanitarian assistance (OECD, 2021[7]), in addition to the Luxembourg Declaration on Building Trust and Reinforcing Democracy (hereafter "the Luxembourg Declaration"), issued by ministers and representatives of 42 countries and the European Union in 2022 (OECD, 2022[8]). The Declaration includes a commitment to "an enabled and protected civic space", mirrored in the Reinforcing Democracy Initiative, notably in Pillar 2 on Enhancing Representation, Participation and Openness in Public Life and its accompanying Ministerial Action Plan.

Notably, for the purposes of this guide the term "citizen" is meant as an inhabitant of a particular place and not a legally recognised national of a state. The term stakeholder is meant as "any interested and/or affected party, including: individuals, regardless of their age, gender, sexual orientation, religious and political affiliations; and institutions and organisations, whether governmental or non-governmental, from civil society, academia, the media or the private sector" (OECD, 2017[2]).

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OECD (2017), "Recommendation of the Council on Open Government", *OECD Legal Instruments*, OECD/LEGAL/0438, OECD, Paris, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0438. [2]

Note

[1] For the purposes of this guide, CSOs are an organisational representation of civil society and include all not-for-profit, non-state, non-partisan, non-violent, and self-governing organisations outside of the family in which people come together to pursue shared needs, ideas, interests, values, faith and beliefs, including formal, legally registered organisations as well as informal associations without legal status but with a structure and activities (OECD, 2021[7]). The term excludes government representatives, legislators, academia and media.

2 Adopting a whole-of-government approach to protecting civic space

This chapter presents a conceptual guide for governments wishing to adopt a comprehensive, strategic and co-ordinated whole-of-government approach to protecting and promoting civic space. Step 1 (Recognise) focuses on recognising civic space as a policy priority. Step 2 (Review) involves undertaking a national assessment to determine the state of play on civic space protection. Step 3 (Respond) concentrates on responding to needs, opportunities and gaps identified in the national assessment. Step 4 (Regular monitoring) explores how to continuously monitor civic space protection to understand challenges, gaps and trends over time, using national-level indicators.

In the past several years, concerns about civic space have risen to the apex of international policy debates (OECD, 2022[1]). Research indicates that against a backdrop of rising autocratisation across the globe, civic freedoms and an enabling environment for civil society can no longer be taken for granted (OECD, 2022[1]). As discussed in Chapter 1, in 2022 OECD member countries responded to these concerns with the inclusion of civic space protection in Pillar 2 of its Reinforcing Democracy Initiative on Enhancing representation, participation and openness in public life, among other policy issues. The OECD's second Global Forum on Building Trust and Reinforcing Democracy on 21-22 October 2024 included a stocktake of progress made on the Action Plan of Pillar 2 including civic space since 2022 (OECD, 2024[2]). In 2018, the Committee of Ministers of the Council of Europe introduced a recommendation on the need to strengthen the protection and promotion of civil society space in Europe, containing measures to protect and promote the civil society space, notably for human rights defenders and civil society organisations (Council of Europe, 2018[3]). At the European Union (EU) level, there were also significant recent policy developments, with all three major institutions – the Commission, the Council, and the Parliament – acknowledging pressures on civic space (Box 2.1).

Box 2.1. Initiatives by European Union Institutions related to the protection of civic space, 2022-24

2022

- The European Commission's (hereafter "the Commission") annual report on the application of the EU Charter of Fundamental Rights focused on the importance of a thriving civic space, highlighting the need for increased support for civil society, along with improvements to their operating environment.
- The European Parliament established a commission of inquiry on surveillance to address issues around the alleged misuse of software against various targets, including civil society organisations (CSOs).
- The Commission presented the *Recommendation on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation'),* containing provisions for the introduction of safeguards against SLAPPs, the training of judicial officials, awareness raising, support mechanisms to victims and data collection, reporting and monitoring on the subject, as well as the review of relevant national legal frameworks including regarding defamation.

2023

- The European Council adopted conclusions on protecting civic space, emphasising the need to actively shield CSOs from threats, attacks, persecution and smear campaigns.
- Following a European Parliament legislative initiative in 2022, the Commission proposed a draft EU Directive on European cross-border associations to simplify their activities across the EU. The European Parliament approved the Directive at first reading in March 2024.
- The Commission adopted the Defence of Democracy Package, aiming to fortify the EU's democratic systems. This package includes a Recommendation on promoting the engagement and effective participation of citizens and civil society organisations in public policy-making processes, with specific measures to foster a safe and enabling civic space.

2024

- In March, the European Parliament adopted the European Media Freedom Act. The Act, which will be in full effect 15 months after its adoption, tackles fundamental issues regarding media freedom such as media concentration, transparency regarding ownership, funding of public service media and surveillance.

- In April, the European Parliament and the Council adopted the EU Directive to counter strategic lawsuits against public participation (SLAPPs). The directive introduces as safeguards the possibility of early dismissal and of asking the plaintiff to pay for the estimated cost of procedures. It applies to civil proceedings where the parts are not domiciled in the same country court where the action was filed. The Directive also enables courts to impose additional penalties on the demandants. Furthermore, it ensures that EU member states will refuse recognition and enforcement of third-country judgements when unfounded or based on abusive proceedings.
- In May, the European Parliament and the Council adopted the EU AI Act. The Act aims to safeguard fundamental civic freedoms and the rule of law by prohibiting certain artificial intelligence (AI) practices (e.g. any AI system that exploits the vulnerabilities of a specific group of persons; that evaluates or classifies persons based on their social behaviour or known or predicted characteristics; and the use of "real-time" biometric identification systems in public spaces by law enforcement, unless in strictly limited circumstances). It also introduces rigorous requirements for the use of "high-risk" AI systems.

In addition, the Commission's annual Rule of Law Report monitors developments related to the rule of law in all member states, including as regards the enabling framework for civil society, to detect challenges at an early stage and prevent them from emerging or deepening. Since 2022, the Report also includes concrete recommendations to the member states, including as regards civil society.

Sources: European Council (2023[4]), Council Conclusions on the application of the EU Charter of Fundamental Rights; The role of the civic space in protecting and promoting fundamental rights in the EU, https://data.consilium.europa.eu/doc/document/ST-6675-2023-INIT/en/pdf?utm_source=dsms-auto&utm_medium=email&utm_campaign=Fundamental+rights%3a+Council+approves+conclusions+on+the+role+of+the+civic+space; European Parliament (2022[5]), European Parliament resolution of 8 March 2022 on the shrinking space for civil society in Europe, https://www.europarl.europa.eu/doceo/document/TA-9-2022-0056_EN.html; European Commission (2022[6]), Commission Recommendation (EU) 2022/758 of 27 April 2022 on protecting journalists and human rights defenders who engage in public participation from manifestly unfounded or abusive court proceedings ('Strategic lawsuits against public participation'), https://eur-lex.europa.eu/eli/reco/2022/758/oj; European Commission (2023[7]), Directive of the European Parliament and of the Council on European cross-border associations, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023PC0516; European Commission (2023[8]), Commission Recommendation on promoting the engagement and effective participation of citizens and civil society organisations in public policy-making processes, https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=PI_COM:C(2023)8627re; European Commission (2022[9]), A thriving civic space for upholding fundamental rights in the EU 2022 Annual Report on the Application of the EU Charter of Fundamental Rights, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022DC0716; European Union (2024[10]), Directive (EU) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on protecting persons who engage in public participation from manifestly unfounded claims or abusive court proceedings ('Strategic lawsuits against public participation'), https://eur-lex.europa.eu/eli/dir/2024/1069/oj; European Parliament (2024[11]), Artificial Intelligence Act, https://www.europarl.europa.eu/doceo/document/TA-9-2024-0138_EN.html; European Parliament (2024[12]), European Media Freedom Act, https://www.europarl.europa.eu/doceo/document/TA-9-2024-0137_EN.pdf.

2.1. A four-step conceptual guide to protecting civic space

Understanding of the key role that civic space plays in facilitating more responsive, democratic and inclusive governance is growing. At the same time, policymakers are not yet adopting a comprehensive, strategic and co-ordinated approach to protecting it. Indeed, evidence shows that where OECD member countries are working to protect civic space, efforts are often undertaken by a variety of different public institutions or ministries and are often disjointed and siloed. Respect for dimensions of civic space may also vary across a country, sectors, ministries, and other public institutions. In practice this means there are often differences in approach within a country and actions across the public sector may even be contradictory. Acknowledging this reality and the fact that civic space protection can be considered

an emerging policy concern in OECD member countries, the following Chapter aims to provide a conceptual framework to assist governments wishing to adopt a more strategic approach by strengthening co-ordination and monitoring.

Figure 2.1 presents a four-step conceptual guide for governments to consider that links up the many relevant policy areas, laws and institutions, with a view to a more institutionalised, systematic approach. To yield maximum benefits, it is important that Steps 2-4 are conducted in consultation and partnership with an inclusive range of non-governmental stakeholders, ideally including institutionalised mechanisms for civil society to contribute to findings, recommendations, strategies and laws (e.g. as part of advisory councils or committees). Inputs from the public, as part of public consultations or citizens' assemblies, can also be invaluable.

Figure 2.1. Four key steps to protecting and promoting civic space



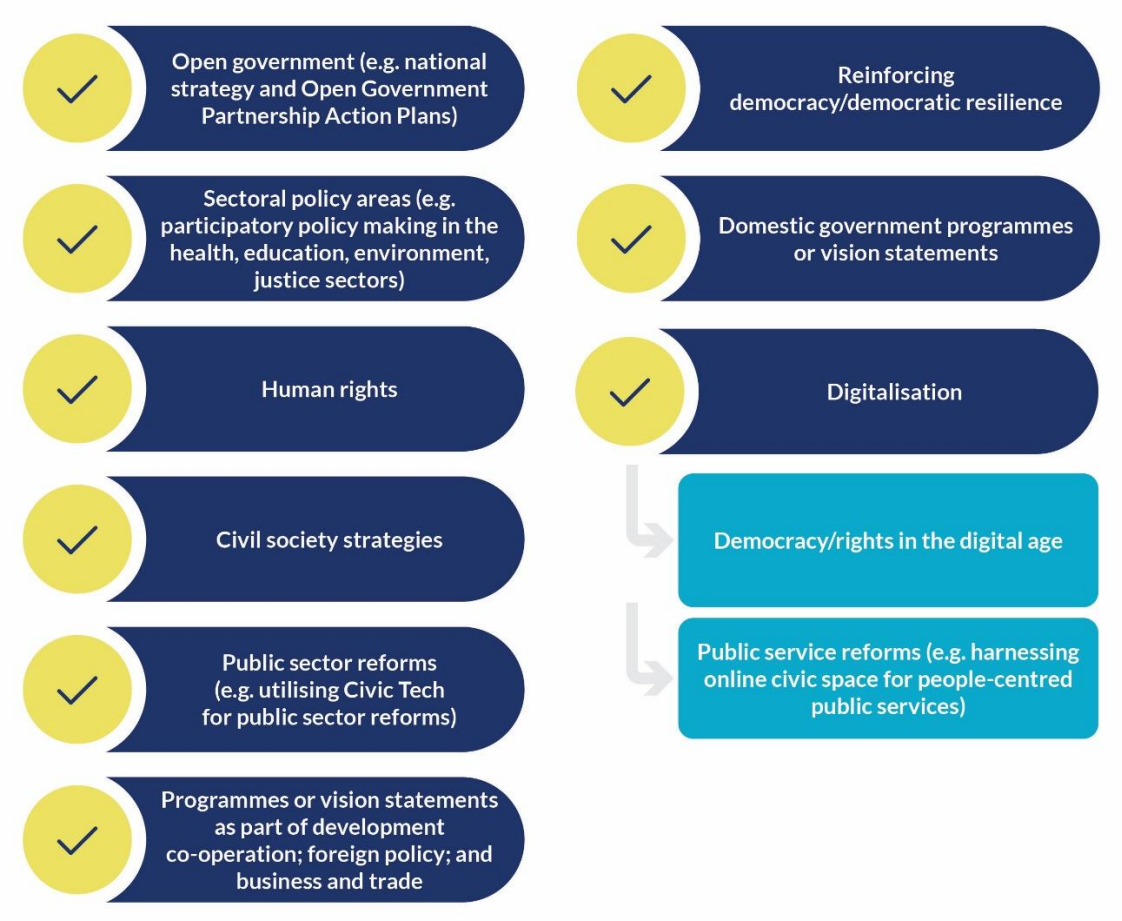
2.1.1. Step 1. RECOGNISE civic space protection and promotion as a national policy priority

In line with the Luxembourg Declaration, Governments are encouraged to recognise civic space protection and promotion as a national policy priority and a means to strengthen democratic governance. OECD research shows that while the legal foundations for protecting civic space in OECD member countries are relatively strong, there is backsliding in certain areas (OECD, 2022[13]). Approximately 20% of OECD member countries have experienced a decline in the past decade in areas related to liberal democracy and civil liberties, while *all* surveyed countries face at least some challenges in protecting civic space in practice (OECD, 2022[13]).

Recognition of the need to protect and promote the many dimensions of civic space in a sustained manner and beyond election cycles is a crucial first step for countries to build resilience to any potential democratic backsliding. Centres of government (through offices of the Prime Minister or President) can play an important role in increasing awareness of the concept of civic space, which remains abstract for many and does not translate into all languages. This can help generate the necessary political leadership to pursue a cross-sectoral approach, both horizontally across line ministries and vertically across different levels of government.

While multiple ministries may be involved in initiatives to protect and promote civic space, research indicates that OECD member countries do not have dedicated overarching strategies or policy frameworks in place. However, elements of civic space protection can be – and are being – mainstreamed across different sectors and ministries as part of national frameworks in a wide range of policy areas, as illustrated in Figure 2.2. These include strategies and initiatives related to open government, human rights, civil society, public sector reforms, digitalisation and development co-operation. Policy documents on areas such as strengthening democracy or government programmes and vision statements have the advantage of providing an overarching umbrella for a truly cross-governmental approach.

Figure 2.2. Policy frameworks that can support the protection of civic space



2.1.2. Step 2. REVIEW the extent to which relevant policies, laws and institutions are fit for purpose and in line with international standards

A thorough analysis of the state of play can help to identify strengths, gaps, blind spots and areas needing reforms, in addition to new legislative and policy needs. A comprehensive "health check" of civic space protection and promotion can be undertaken at regular intervals (e.g. every five years) to assess its status and identify and monitor any emerging trends and concerns. Such an assessment can either be undertaken by the OECD – the Observatory of Civic Space has conducted detailed Country Scans and Reviews for the governments of **Finland**, **Brazil**, **Tunisia**, **Romania** and **Portugal** since 2020 – or by governments themselves.

A national assessment can have a number of components:

- **A review of key policies impacting civic space**. This can include an assessment of whether relevant national sectoral or thematic strategies (e.g. democracy strategy, civil society strategy) are fit for purpose, meet citizens' or CSOs' needs and have clear objectives with indicators to support implementation.
- **A review of key laws impacting civic space**, including whether they are fit for purpose in a world of fast-changing technological developments, whether legal or other restrictions on civic freedoms are in line with international guidance and norms, and whether there are unintended or indirect consequences of legal frameworks.
- **A mapping and review of key institutions impacting or monitoring elements of civic space** to assess whether they have the resources to fulfil their mandates, whether their mandates meet national needs, and whether they operate in line with international standards, such as the Paris Principles for National Human Rights Institutions.[1] Actors can include the centre of government, line ministries, regulatory bodies, oversight institutions, judicial authorities and law enforcement agencies that collectively shape the landscape in which civic space is protected and promoted.
- **A review of the practical implementation of relevant policies and laws**. Evidence shows that this is where most challenges are found due to a gap between de jure and de facto application of relevant frameworks. By engaging with stakeholders as part of an assessment, policymakers can better understand the lived experience of different groups, including the effectiveness and impact of relevant policies and laws on citizens' lives.

Understanding the breadth of legal frameworks that impact civic space

Civic space protection is anchored in national legal frameworks. Relevant provisions typically address a wide range of policy issues and are usually embedded in a complex web of legal sources that include constitutions; civil codes; criminal codes; legislation on different aspects of civic space (e.g. different types of CSOs, assembly laws); tax laws; and a variety of regulations, decrees and court decisions.

Legal frameworks that have a particular impact on freedom of expression include provisions on defamation and incitement to violence or hate speech that are often addressed in criminal codes or legislation on non-discrimination, while other dedicated laws address areas such as online content moderation or anti-SLAPP measures. Media and communication laws govern the creation, distribution and consumption of information across platforms to ensure responsible and fair practices. Access to information laws – governing the right to seek, receive and impart information – are also key as they are considered an integral component of freedom of expression.

Legal frameworks affecting freedom of association govern the CSO life cycle, fiscal regulations, CSO activities, access to financial resources and relations between the state and civil society. The CSO life cycle, including the formation and functioning of different kinds of CSOs (e.g. NGOs, charities, associations, foundations), registration procedures, as well as rules on termination and dissolution, is often

found in association laws or civil codes. Legislation on public benefit status and tax laws can contain relevant provisions on tax breaks for the sector. Furthermore, budget laws and laws on fundraising and money collection can have an impact on access to funding for CSOs, while laws on countering terrorism or money laundering aimed at preventing illicit financial activities and banking laws can have an impact on access to foreign funding.

Some OECD member countries have dedicated laws governing freedom of peaceful assembly, while others have incorporated regulations into broader legal frameworks, such as criminal codes, public order laws or police/law enforcement laws. These legal frameworks usually include provisions related to notifying public authorities, traffic or public transit rules on the time, place and manner of public assemblies to prevent disruptions, as well as sanctions related to violence or property damage occurring during assemblies.

Furthermore, constitutional and other legal frameworks also incorporate cross-cutting provisions that impact civic space on issues such as equality and non-discrimination. These are particularly important to ensure that all persons are treated equally by the state and are able to contribute to policymaking on an equal basis with others. Emergency laws or regulations may also limit civic freedoms during times of crisis, such as natural disasters, public health emergencies or conflicts. Assessing the impact of issues such as exclusion resulting from discrimination and reduced protection of civic freedoms during crises should be an integral part of a national assessment.

Ensuring that legal restrictions are in line with international standards

Ensuring that restrictions on civic freedoms, whether in law or practice, are in line with international standards is equally important. International guidance allows for restrictions on civic freedoms in two scenarios:

- In times of **an officially proclaimed public emergency** which threatens the life of the nation, measures strictly required by the exigencies of the situation may be taken. According to international guidance, these should be time-bound, exercised on a temporary basis, include safeguards such as sunset clauses, and be subject to independent review by the legislature.
- When provided for by law and to the extent necessary for the **protection of national security** or of **public order and safety**, **public health** or **morals**, or for **respect of the rights or reputations of others** (OECD, 2022[13]). In addition, legal restrictions should be provided for by laws or regulations, and be precise, necessary, proportionate and as unintrusive as possible.

Interpretation of the above concepts can be complex and may ultimately be decided by national (or regional) courts, especially where there is a need to strike a balance between competing policy areas and rights. The balance of conflicting interests, such as national security and freedom of expression, takes into account the importance of both for society at large and may reach a conclusion on the pre-eminence of one over another or legitimate restrictions in different contexts or situations. In relevant cases, the European Court of Human Rights has repeatedly emphasised that freedom of expression "constitutes one of the essential foundations of a democratic society and one of the basic conditions for its progress and for each individual's self-fulfilment".[2] EU member states are thus required "to justify any interference in any kind of expression" (Bychawska-Siniarska, 2017[14]).

Table 2.1 provides an overview of a good practice approach to the most common grounds for restricting civic freedoms (OECD, 2022[13]).

Table 2.1. International standards governing restrictions to freedoms of expression, peaceful assembly and association

Grounds for restriction	Good practice approach to restrictions
Officially proclaimed public emergency	Any restrictions should be time-bound, exercised on a temporary basis, include safeguards such as sunset clauses and be subject to independent review by the legislature.
National security	Any restrictions are strictly necessary and proportional to preserve the state's capacity to protect the existence of the nation, its territorial integrity or political independence against a credible threat or use of force, applied equally and fairly to all groups and not used for discriminatory purposes.
Incitement to violence and public order and safety	Any restrictions should be narrow, necessary for democratic societies, proportional, applied equally and fairly to all groups and not used for discriminatory purposes.
Public health or morals	Public health or morals are safeguarded not from a single tradition, but through a universal lens of human rights and non-discrimination, ensuring no group's rights are compromised.
Rights and freedoms of others	A balance is sought between different competing rights. Restrictions should be necessary for democratic societies, proportional, applied equally and fairly to all groups and not used for discriminatory purposes.

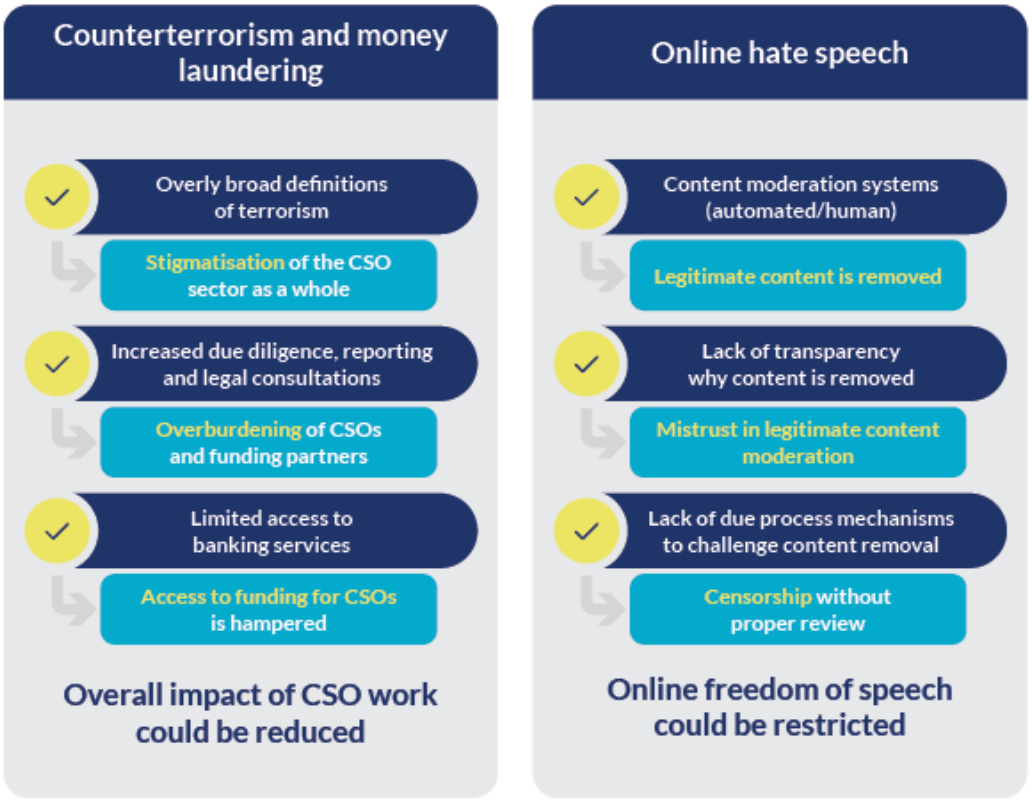
Source: Based on international standards and guidance discussed in OECD (2022[13]), *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance*, https://doi.org/10.1787/d234e975-en.

***Ex ante* and *ex post* regulatory impact assessments (RIA) are a crucial tool to inform decision-makers about the impact of laws, helping them to weigh costs, benefits and trade-offs**. The OECD Best Practice Principles for Regulatory Policy stress the importance of considering the unintended consequences and costs associated with policies and regulations, which can disproportionately affect vulnerable segments of society. The principles provide guidance for designing and implementing effective RIA systems. These principles cover topics such as securing commitment and buy-in, establishing proper governance for RIA, enhancing administrative capacity, employing appropriate methodologies, and ensuring continuous evaluation and improvement. The overarching goal is to foster transparency, accountability and inclusivity in the regulatory decision-making process (OECD, 2020[15]).

Recognising unintended consequences of legal frameworks

Legal frameworks covering topics such as cybersecurity, money laundering, financing of terrorism, policing and online content moderation can have significant consequences for civic space. Counter-terrorism and anti-money laundering laws, for example, have had a particularly negative impact on civil society in the past two decades, according to the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (Ní Aoláin, 2019[16]). While their intended aim is to ensure security, these laws also include provisions that have been used to quell legitimate activities, freedom of expression and reporting in some countries due to overly broad or ill-defined definitions of terrorism. This has led to enhanced financial controls on the CSO sector in some contexts, thereby affecting their access to banking services and their ability to operate, whilst stigmatising the sector as a whole (OECD, 2022[13]). Similarly, regulations on content moderation that require social media platforms to filter, remove or block unlawful content such as hate speech have been criticised by some for their potential to limit freedom of expression. This can take place when content moderation systems remove legitimate content alongside illegal material. In both areas, governments can take action to mitigate unintended or indirect consequences to ensure a balance between competing policy areas or rights, by systematically undertaking RIAs and involving non-governmental actors in the process (see Figure 2.3).

Figure 2.3. Selected laws with potential unintended consequences for civic space



Sources: (OECD, 2021[17]; Ní Aoláin, 2019[16]); (Kaye, 2019[18]); (European Commission, 2020[19]).

2.1.3. Step 3. RESPOND to identified needs and gaps

Having gained a comprehensive understanding of where a country stands, governments can use the data and information gathered to respond to identified needs, gaps and challenges. For example, a national assessment may indicate that freedom of association is being hampered by disproportionately burdensome administrative requirements for civil society to register or to operate, that think-tanks and watchdog CSOs are struggling to operate because they are unable to access funding, or that freedom of peaceful assembly is being obstructed by an overly restrictive legal framework or policing practices. Responding may include the following steps:

- identifying new policy areas or laws that require reforms
- addressing a backlog of planned reforms to adapt older legal frameworks and well-established practices to modern-day or emerging challenges
- reconciling contradictory laws, as in the case of constitutions recognising civic freedoms, which may be undermined through more restrictive secondary laws, by-laws or regulations
- developing new legislation, regulations, policies, guidance and initiatives in line with national needs
- developing national policies and strategies
- assigning responsibilities to relevant institutions
- responding to implementation challenges (see *Step 4. REGULAR MONITORING of civic space protection*).

Many challenging areas of civic space protection require a careful balancing of different rights by state actors. Consistent engagement with civil society and the wider public, combined with meaningful dialogue and feedback, can help to strengthen the legitimacy of relevant initiatives. Open Government Partnership Action Plans, which are developed in consultation with civil society as part of a multi-stakeholder approach, are a useful tool to develop a consensus at the national level, co-create commitments and raise standards.[3]

Ensuring a strategic approach

High-level government objectives as part of an overarching strategy or policy framework on civic space protection (see Figure 2.2) can help to create the necessary political will and momentum for reforms, bolstered by the wide endorsement of senior leadership. Once objectives are in place (e.g. as part of a government programme that commits to strengthening the enabling environment for civil society or a democracy strategy that commits to strengthening civic space), implementation can be mainstreamed across ministries and the public sector more easily. This is key as current practice is often for ministries to engage with civil society and undertake initiatives that impact civic space in isolation and in the absence of strategic goals. In practice, this means that some ministries may be funding the civil society sector generously, just as others are introducing restrictions as a direct or indirect consequence of their actions. An overarching policy framework that guides initiatives in a holistic manner can help to identify and rectify such contradictions. Box 2.2 provides a good practice example of strategic and co-ordinated policy responses on civic space in two countries, **Finland** and **Romania**.

Box 2.2. Good practices: National reviews followed by co-ordinated responses to civic space challenges

The creation of a cross-ministerial working group in Finland

The OECD's Civic Space Scan of Finland was undertaken by the OECD in consultation with Finnish civil society and included a public consultation. In response to the findings, Finland established a cross-ministerial working group to determine which recommendations should be pursued in existing programmes or projects and which required further work or additional studies. The working group is co-ordinated by the Ministry of Finance and the government intends to undertake another self-assessment on the progress of the recommendations in the future.

An open government strategy with a component on engaging civil society in Romania

Following an Open Government Review and a Civic Space Review of Romania, both conducted by the OECD and published in 2023, the Government of Romania is currently developing an Open Government Strategy with a dedicated component on enhancing civil society in decision-making across the entire public sector. The strategy is being developed in consultation with a range of Romanian CSOs and other non-governmental actors. It is linked to the objectives of the national recovery and resilience plan and will involve actions such as training activities for CSOs and the public administration, the creation of a monitoring dashboard, and the development of an e-consultation platform.

Sources: OECD (2021[20]), *Civic Space Scan of Finland*, https://doi.org/10.1787/f9e971bd-en; OECD (2023[21]), *Open Government Review of Romania*, https://doi.org/10.1787/ff20b2d4-en; OECD (2023[22]), *Civic Space Review of Romania*, https://doi.org/10.1787/f11191be-en.

Assigning responsibility

In addition, as part of an effective response to a national assessment, it is crucial that responsibilities are assigned to institutions and individuals to ensure the effective implementation, co-ordination and oversight of civic space-related initiatives. This requires a clear allocation of mandates and responsibilities across ministerial portfolios and different levels of government. Actors that are relevant for designing, implementing, monitoring and overseeing frameworks that impact civic space are manifold and potentially include the executive (e.g. ministries, administrative organs, data-collection bodies), legislature, judicial and law enforcement authorities at all levels of government (both national and subnational), in addition to independent oversight institutions, among others. Governments can ensure a comprehensive approach by designating a specialised institutional entity, ministry, or agency with overarching responsibility for aspects of civic space, such as CSO-state relations (Table 2.2). Centres of government can play a leading role and focal points within line ministries can help to enhance co-ordination.

Table 2.2. Key public institutions and ministries that play a role in the protection and promotion of civic space at the national level

Institution	Civic space issue	Role/activities[1]
Centre of government	Overarching policy framework	• Co-ordinating with line ministries and other relevant public institutions • Setting the tone for state-civil society relations • Monitoring civic space protection and promotion
Sectoral ministries e.g. social affairs, health, education, housing, youth	Participation of citizens and CSOs, including vulnerable groups, in decision making	• Incorporating citizens' and stakeholders' views into policymaking and service design and delivery • Outreach to vulnerable groups
Ministry of Justice	Impact evaluations of laws and legal reforms; registration of CSOs	• Leading legal reform processes • Conducting impact assessments on new/existing laws
Ministry of Environment and Climate	Participation of human defenders, activists and media workers working on climate change and the environment	• Engaging with human rights defenders and CSOs working on the environment and climate crisis
Ministry of the Interior	Security policies, migration policies, registration of CSOs	• Conducting impact assessments on relevant laws • Consulting with stakeholders • Involving civil society in risk assessments related to counterterrorism and money laundering
Ministry, office, agency, department of civil society/civil society councils	Participation of CSOs, registration of CSOs, policy co-ordination	• Registration of CSOs • Monitoring and oversight of state-CSO relationship • Communicating with civil society
Ministries for development co-operation, foreign affairs, trade	Participation of CSOs, policy co-ordination	• Consulting with stakeholders • Incorporating citizens' and stakeholders' views into projects and programmes in the context of development co-operation • Outreach to groups at risk of exclusion
Ombudsman offices and/or NHRIs; data protection offices, access to information offices	Oversight of civic freedoms, equality and non-discrimination, data protection, access to information	• Monitoring, oversight, redress for complaints • Communicating with the public and civil society
Dedicated non-discrimination and equality bodies (state and independent bodies)	Non-discrimination	• Monitoring, oversight, redress for complaints • Communication and co-operation with the public and civil society

Note: For public institutions that have a role to play in non-OECD member countries as part of development co-operation, see Table 3.5.
1. Centres of government, ministries and departments in charge of civil society may also provide funding for the sector.
Source: Based on the results of the 2020 Survey on Open Government (OECD, 2020[23]).

2.1.4. Step 4. REGULAR MONITORING of civic space protection

Assessing how civic space is protected and promoted *in practice*, requires a comprehensive and nuanced monitoring of the implementation of civic freedoms and elements that shape the enabling environment for CSOs. Regular monitoring scrutinises how existing legal frameworks are translated into tangible realities, influencing the daily lives of citizens and CSOs. Recognising the importance of civic space monitoring, the United Nations High Commissioner for Human Rights has called on states to develop transparent methodologies and shared taxonomies, involve different societal actors and maximize access to relevant information to understand the trends and threats to civic space and rely on civic space assessments for identifying early warning signs when situations deteriorate (Office of the United Nations High Commissioner for Human Rights, 2024[24]).

Comprehensive monitoring of civic space protection and promotion is a complex task – not least because so many actors and policy areas are potentially involved – and is not widely developed among OECD member countries. However, it is an essential tool to understand emerging challenges, gaps and progress when initiatives are undertaken. National-level indicators that monitor the objectives, policy frameworks and strategies discussed above, combined with data that reflect different realities across society, are essential components of any monitoring system. This can facilitate a greater understanding of the impact of policy and legal frameworks on different groups of people. For example, disaggregated data can help to identify which groups in society are most affected by initiatives, laws, or restrictions on civic space (e.g. ethnic minorities, women, youth) and which institutions are responsible (e.g. access to information offices, police, local government offices).

At the same time, the systematic generation, dissemination and use of representative, disaggregated data to inform and monitor decisions, laws, strategies and government plans relevant to civic space and the civil society sector can involve co-operation among a range of actors, including national statistical offices, line ministries, National Human Rights Institutions (NHRIs), law enforcement agencies, courts, academic institutions, non-governmental stakeholders and affected persons. The gathering and publishing of such data, including as open data, can help to measure and understand emerging trends, improve the effectiveness of responses, and raise awareness of any challenges.

Developing indicators to monitor civic space

Table 2.3 provides a non-exhaustive list of indicators that can help policymakers monitor the many dimensions of civic space protection in OECD member countries and non-members, drawing on the findings in the global report (OECD, 2022[13]) (see Chapter 1). Many are based on administrative and legal data. NHRIs, other independent oversight mechanisms, statistical offices and courts are key sources of relevant data. Crucially, it is key for relevant data to be disaggregated, up to date, of high quality and published regularly so that trends can be monitored. The indicators themselves can also be made public. Finally, countries can apply them domestically and in their development co-operation and other cross-border areas of engagement and influence.

Table 2.3. Selected indicators to monitor the protection of civic space

Civic space issue	Indicators	Responsible institution
Protection of freedom of expression	• Criminal sanctions for defamation • Prison sentences for defamation in law • Number of early court dismissals of Strategic Lawsuits for Public Participation (SLAPPs) proceedings • Penalties imposed for SLAPP proceedings	Police, prosecution service, courts
Protection of freedom of peaceful assembly* ***includes peaceful protest***	• Frequency/number of facilitated peaceful assemblies • Denials of peaceful assemblies and stated reasons • Security protocol for security forces on the use of force during protests • Training for security forces on the management of assemblies, including crowd management and de-escalation • Whether members of security forces policing assemblies are individually identifiable • Police and citizens injured/killed during assemblies	Police, centre of government, municipalities, ombudsman offices, NHRIs, courts
Protection of freedom of association	**Registration of CSOs** • Numbers of denials of requests for CSO registration • Appeals mechanisms for CSOs in case of denials • Average length of time and cost for registration • Numbers of deregistered CSOs **Funding** • Amount of government funding for CSOs • Length of government funding, e.g. short-, medium-, long-term (>3 years), core funding • Government-funded activities by category, e.g. service provision, advocacy, education • Funding channels, e.g. national budget, sectoral strategies, grants, funds from lotteries. **Transparency** • Data on the CSO sector (e.g. number of active CSOs, number of CSOs receiving government funding) • Disclosure of government funding for the CSO sector **Reporting** • Frequency of required reporting for CSOs receiving government funding; foreign funding **Public benefit organisations** • Number and type of Public Benefit Organisations/charities losing their status due to political activities	Relevant ministry, institution or agency responsible for CSO registration, and/or a central CSO registry; ministries providing funding for CSOs
Access to information	• Requests for information granted or denied • Delays in responses to requests • Appeals processes	Line ministries, ombudsperson offices, access to information commissions, access to information offices/officers
Pluralism, independence and reliability of media content	**Media ownership** • Transparency on owners of media providers • Transparency on beneficial owners of media providers **Allocations of state advertising** • Criteria used to determine advertising allocations • The amount(s) allocated to each media provider for advertising **Audience and market share of national news providers** • Audience share of the biggest media providers • Market share of the biggest media providers **AI** • Proactive disclosure of the use of AI to generate or alter media content • Public record of journalistic AI tools used by media providers	Relevant ministry, competition or media authority, public broadcaster
Online civic space	**Online hate speech** • Number and type of complaints regarding online hate speech • Support mechanisms for victims of online hate • Content moderation decisions by social media platforms regarding illegal online hate	Relevant ministry, media authorities, police, ombudsman offices, NHRIs, private platforms

Civic space issue	Indicators	Responsible institution
	Access to the Internet • Internet shutdowns/closure of websites • Share of households with access to the Internet	
Protection for at-risk persons	• Threats, physical attacks, killings targeting at-risk persons • Protection orders	Police, prosecution, courts, ombudsman offices and/or NHRIs

Taking advantage of external data and analysis

As a complement to national data, other qualitative and quantitative data and analyses – from governments, the OECD, international organisations and civil society – can also provide valuable insights to governments to aid the monitoring and understanding of civic space and democracy trends. Government officials can:

- **Commission or undertake research or case studies** ("deep dives") and evaluations to understand the impact of policy interventions, (new or draft) laws and action plans, in addition to solutions to identified challenges.
- **Consult indices and qualitative assessments** by expert CSOs, academics, think-tanks, ombudsman institutions and NHRIs on the status of implementation of civic freedoms and other relevant laws, e.g. freedom of expression, peaceful assembly, association, press freedom.
- **Consult quantitative metrics** on open governance or democracy, such as the forthcoming OECD's Citizen Participation Barometer (CPB), which will measure the *practice* of democratic involvement at the national level across OECD member countries. It understands democratic involvement holistically, encompassing multiple ways for the public to contribute, depending on citizens' access to relevant government information and the protection of civic space.
- **Consult OECD publications on civic space protection** to obtain a comparative perspective on aspects of protection and to understand what good practice looks like in particular areas. The latest OECD data on civic space protection and promotion was published in 2022 and includes a focus on Europe and Latin America, in addition to OECD member countries as a whole (OECD, 2022[13]). A toolkit on co-ordinating action on civic space will be published in early 2025 to support implementation of the civic space provisions of the DAC Recommendation on Enabling Civil Society. The OECD follow-up publications with new data and guidance will be available in 2025-26. By consulting OECD work on other policy areas such as data governance, data ethics,[4] digital government,[5] and service design and delivery,[6] governments can also help to tap into synergies between civic space protection and these areas.

It is important for governments to engage with non-governmental actors when identifying trends and choosing new metrics to monitor, as affected persons (such as CSOs, media workers and academics) are often the first to be aware of emerging challenges. Ensuring that evidence-based knowledge is used to promote learning across the public sector, raise standards and make policymaking more responsive is also important, as in the case of Portugal harnessing its civic space to undertake public service reforms (Box 2.3).

Box 2.3. Good practice: Engagement with citizens to reform public services in Portugal

In response to the preliminary findings of the *Review of Civic Space in Portugal: Towards people-centred, rights-based public services* which found that public services were not accessible to all members of the population, the Government of Portugal commissioned further research to help it identify solutions to engage with different groups of citizens using emerging technologies. It plans to test potential solutions before large-scale implementation, as part of a broader participation system composed of complementary practices that permit the government to understand people's real needs and create public services and policies that respond to them.

This approach is in line with the OECD Good Practice Principles for Public Service Design and Delivery in the Digital Age (OECD, 2022[25]), and the overall work of the OECD on civic space and digital government.

Source: OECD (2023[26]), *Civic Space Review of Portugal: Towards People-Centred, Rights-Based Public Services*, https://doi.org/10.1787/8241c5e3-en; OECD (2022[25]), *OECD Good Practice Principles for Public Service Design and Delivery in the Digital Age*, https://doi.org/10.1787/2ade500b-en.

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Notes

[1] For example, the Paris Principles set minimum standards for NHRIs to be considered credible and operate effectively (Office of the United Nations High Commissioner for Human Rights, 2010[28]).

[2] Lingens v. Austria, 8 July 1986; Şener v. Turkey, 18 July 2000; Thoma v. Luxembourg, 29 March 2001; Marônek v. Slovakia, 19 April 2001; Dichand and Others v. Austria, 26 February 2002 (Bychawska-Siniarska, 2017[14]).

[3] As of February 2022, 46 OGP members had made 117 commitments to protect civic space at the national level (Open Government Partnership, n.d.[27]).

[4] For more information see: https://www.oecd.org/digital/digital-government/good-practice-principles-for-data-ethics-in-the-public-sector.htm.

[5] For more information see: https://www.oecd.org/gov/digital-government/.

[6] For more information see: https://www.oecd.org/publications/oecd-good-practice-principles-for-public-service-design-and-delivery-in-the-digital-age-2ade500b-en.htm.

3 Implementing the OECD's ten high-level recommendations on protecting and promoting civic space

This chapter provides practical guidance on each of the OECD's ten high-level recommendations on civic space protection and promotion. This includes checklists, figures and tables to illustrate the concrete steps that governments can take, in addition to good practices from national settings.

3.1. Recommendation 1: Foster an enabling environment for civil society organisations that facilitates their positive contribution to society

Freedom of association guarantees the right of individuals to form, join and participate in associations, groups, movements, and CSOs, thereby fulfilling people's fundamental desire to defend their collective interests, and the protection of it is an obligation of states under international law (UN, 1966[1]). International human rights instruments maintain that, in general, freedom of association should be exercised without discrimination between legally recognised citizens and non-citizens, including stateless persons, refugees, and migrants (OECD, 2022[2]). In particular, **civil society organisations (CSOs) contribute to democracies by advocating for the needs of different groups, providing policy expertise, monitoring government actions, contributing to public debates and delivering key services.** Their efforts strengthen accountability and ensure the inclusion of diverse perspectives in policymaking, ultimately leading to more robust and participatory democracies. The environment in which they operate impacts their ability to perform these roles freely and autonomously. By fostering a conducive legal and policy environment that safeguards freedom of association and by providing concrete opportunities for collaboration with civil society and other non-governmental actors, governments can better align policies, laws and services to societal needs. For CSOs to operate effectively, the legal environment – both de jure and de facto – governing their activities is particularly important. Predictable, transparent regulations that are applied equally to all associations and groups are one of the most crucial components of such an environment. The following provides guidance on five core pillars of an enabling environment:

- policy frameworks to support the CSO sector
- transparent, accessible and fair registration procedures
- predictable, accessible and sustainable government funding for CSOs
- reporting requirements for publicly funded CSOs that are robust, but not overly burdensome
- data to support the CSO sector.

3.1.1. Promoting an enabling environment through an overarching policy framework

An overarching policy framework, such as a national strategy to strengthen CSOs and the state-CSO relationship can yield multiple benefits. When developed in partnership, it can offer a valuable opportunity to assess the conditions in which civil society operates, providing an evidence-base for informed policy measures and initiatives to strengthen the enabling environment. National strategies allow governments to define specific objectives and the expected outcomes of collaboration with civil society, both as partners of government and as independent actors in their own right. Involving a wide range of CSOs, including organisations representing vulnerable groups, helps to ensure that a diversity of perspectives is reflected. As the enabling environment for CSOs cuts across different ministerial portfolios, an overarching national strategy can also facilitate policy planning across the public administration by delineating clear roles, responsibilities and priorities. This helps to prevent overlap and gaps in the approach to supporting the sector. Similar to any government strategy, effective CSO strategies require adequate resources and high-level political commitment, in addition to monitoring, evaluation and benchmarking of progress. Figure 3.1 provides an overview of general considerations when developing a national CSO strategy, noting that the details, and in particular the priority areas of focus, will be determined at national level.

Figure 3.1. Good practice: Key considerations for national strategies to promote and protect the enabling environment for civil society organisations



A number of OECD member countries have introduced national laws and policies to foster an enabling environment for civil society, including **Slovenia** and **Estonia** (see Box 3.1)**.**

Box 3.1. Good practice: National laws and policies that create an enabling environment for civil society

Legal and policy framework for CSOs in Slovenia

The 2018 Act on Non-Governmental Organisations provides NGO status to organisations that function in the public interest. The act requires ministries to create an enabling environment for NGOs to contribute to societal goals in a wide range of policy areas, from sports and culture to ecology and healthcare. This includes developing strategies, action plans and standardised measures on public consultation, and guarantees the engagement of NGOs in public decision-making processes. Furthermore, ministries are responsible for reporting on the development of the sector, collecting data on its financing, and monitoring and evaluating the implementation of the act. In addition, Slovenia sets out its vision for the NGO sector through its National Strategy for the Development of the Non-Governmental Sector and Volunteering and has a Council for the Promotion of the Development of Volunteering and Volunteer and Non-Governmental Organisations, which serves as a consultative body of the Government of the Republic of Slovenia.

Civil Society Policy in Estonia

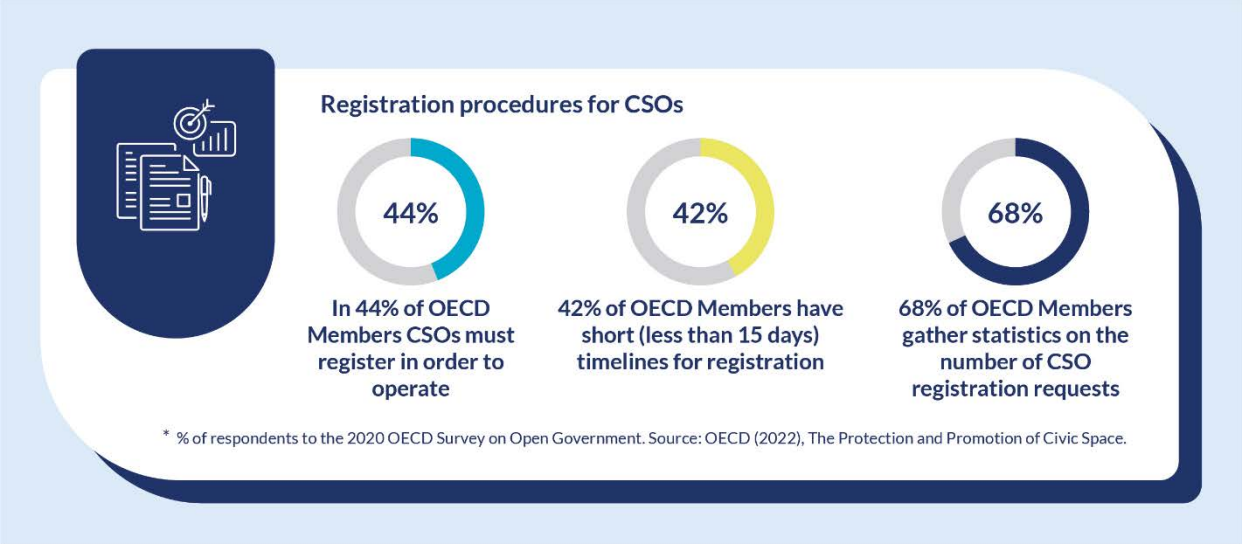
As part of the national strategy *Cohesive Estonia 2030*, the *Community Estonia 2024-2027* programme aims to strengthen civil society, enhance decision-making with CSO involvement and increase population engagement in voluntary work through the development and reinforcement of local communities. It includes a monitoring and evaluation framework with measurable targets for both short and long-term deliverables, along with a budget for all four years. Ministries oversee programme activities and provide annual reports to the Ministry of the Interior that compiles and publicly shares an overall performance report on the policy.

Sources: Government of Slovenia (2018[3]), Act on Non-Governmental Organisations (ZNOrg) https://www.gov.si/assets/ministrstva/MJU/SNVO/ENG/Act-On-Non-Governmental-Organisations-ZNOrg.docx; Government of Slovenia (n.d.[4]), Non-governmental organisationshttps://www.gov.si/en/topics/non-governmental-organisations/#:~:text=The%20Non%2DGovernmental%20Organisations%20Act,association%20in%20the%20public%20interest.; Government of Estonia (2023[5]), Community Estonia 2024-2027, https://www.fin.ee/sites/default/files/documents/2023-10/Kogukondlik%20Eesti%202024%E2%80%932027.pdf.

3.1.2. Ensuring transparent, accessible and fair registration procedures for CSOs

Transparent, accessible and fair registration procedures for CSOs are a key component of an enabling environment. According to international guidance, CSOs should be allowed to exist and operate both as unregistered bodies and registered organisations (OECD, 2022[2]). In other words, good practice is for registration to be voluntary. At the same time, many OECD member countries (44%) do require CSOs to register in order to operate (see Figure 3.2). This is particularly the case when CSOs are seeking government financial support, or a particular status that affords them tax reliefs or other advantages (e.g. for public benefit organisations). To facilitate a smooth registration process, governments can streamline procedures by reducing the number of agencies involved, ideally as part of a single registration platform.

Figure 3.2. Registration for CSOs



Note: 'Short timelines for registration' refer to the specific durations mandated by legislation to delineate the period within which authorities must respond to a registration request.
Source: OECD (2022[2]), *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance*, https://doi.org/10.1787/d234e975-en.

By establishing clear, transparent and accessible registration procedures governments can help to protect freedom of association (Box 3.2, Figure 3.3). Online registration procedures, short timelines for authorities to respond to registration requests, low or no costs and clearly defined documentation requests can allow CSOs to register quickly, efficiently and effectively. To avoid imposing an unnecessary burden on them, governments may consider reducing red tape by excluding onerous requirements, particularly for smaller CSOs. Examples include extensive notarisation of documents beyond what is necessary for legal verification purposes or excessive fiscal records of founders. Requirements regarding the number of persons necessary to create a CSO may also be waived to facilitate the establishment of smaller associations with only two founding members.

Box 3.2. Good practice: Simplifying registration processes for CSOs in Portugal

In Portugal, the Association in an Hour (Associação na Hora) programme simplified the process for any citizen or legal person to establish a CSO. It allows CSOs to be founded in one hour in a single location (civil registry office, notary or citizen shop) (OECD, 2023[6]). Individuals require an identification document (Citizen Card, Identity Card, Passport or Residence Permit) and Taxpayer Card (NIF) to do so, while legal persons require other documentation such as statutes, a legal person identification card, and the minutes of election and swearing-in of legal representations, among others (Government of Portugal, n.d.[7]). Creating student associations is free, while youth associations and other types of memberships have a cost (Government of Portugal, n.d.[7]). This reform was welcomed by CSOs for its ease and was lauded during the COVID-19 pandemic in particular, when CSOs were on the front lines in supporting the response of the government.

Sources: OECD (2023[6]), *Civic Space Review of Portugal: Towards People-Centred, Rights-Based Public Services*, https://www.oecd.org/portugal/civic-space-review-of-portugal-8241c5e3-en.htm; Government of Portugal (n.d.[7]), Create an association on the fly, https://eportugal.gov.pt/servicos/criar-uma-associacao-na-hora.

In case of infractions of registration procedures, regulations or administrative practices, timely notice can be provided to CSOs by relevant authorities with ample opportunity to remedy the situation. According to international standards, it is essential to have a clear legal framework for the sector with an explicit and limited number of justifiable grounds to deny or revoke registration. There are legitimate reasons for restrictions on freedom of association – such as national security or public safety, public order, the protection of public health or morals and the protection of the rights and freedoms of others – but these should be interpreted narrowly and in the same manner for all applicants. Furthermore, they should be necessary, meaning there is a clear and compelling reason for the restriction, and proportionate, meaning the restriction should not go beyond what is needed to achieve the intended goal. By providing clear, rules-based feedback to CSOs on the status of their applications, and related guidance to the sector as a whole, authorities can build trust and help organisations to follow national procedures. Transparency regarding denials and revoking of registration, in addition to accessible appeals mechanisms, is also key. This can be enhanced by publishing annual data on registrations – including on denials and revoking - to promote legal certainty, for the sector.

Figure 3.3. Good practices for CSO registration procedures



Institutions responsible for CSO registration

Responsibility for registering CSOs is an important function and the choice of the institution overseeing the process can impact the state's relationship with the sector. Institutions responsible for registering CSOs vary across countries and include the Ministry of the Interior, the Ministry of Justice, other ministries or agencies subordinated to the executive, courts, and other independent entities. It is crucial that the responsible institution is transparent in its work, takes decisions independently, is free of political interference and applies rules equally to all CSOs (Table 3.1). Furthermore, staff capacity and resources to manage the process efficiently and transparently, including by communicating proactively with CSOs and responding to queries, are also key.

Table 3.1. Guiding principles for public bodies responsible for the registration of CSOs

Transparency	Independence	Equality/fairness	Responsiveness
Rules on registration and the status of registration are comprehensive and publicly available. In case of denials or revoking of CSO registrations, reasons are provided in a timely manner.	Powers and functions of the relevant institution are clearly defined in law and carried out without political interference.	Laws and procedures governing registration are equally applied among all applicants.	The relevant institution ensures swift and efficient communication channels so that CSOs can operate without unnecessary barriers.

Facilitating equal treatment of CSOs during the registration process

Ensuring equitable treatment for CSOs in the registration process, alongside businesses and other legal entities, is essential. Given that businesses often have more resources and influence than civil society, establishing fair conditions helps prevent undue concentration of power. This can help to foster a more balanced and inclusive decision-making landscape in a country and safeguard against any single sector gaining an unfair upper hand leading to policy capture. Legislative measures can aim to streamline the registration process for CSOs, ensuring it remains at least as clear and simple as for businesses. This means avoiding additional documentary requirements and longer response timeframes from authorities for CSOs, compared to businesses.

3.1.3. Facilitating predictable, accessible, transparent and sustainable funding for civil society organisations

A favourable financial framework for CSOs is another key pillar of an enabling environment. International guidance suggests that CSOs should be free to seek and receive resources and funding, including government support and exemptions from taxes (OECD, 2022[2]). Predictable, transparent and non-discriminatory processes for government funding are crucial for the long-term development of the sector. Clearly defined selection criteria and transparent accountability mechanisms can help to facilitate this. Transparency and accountability in financing mechanisms for CSOs and public administrations alike play a crucial role in facilitating funding for CSOs from public resources. Adherence to these principles helps to build trust, reduce the risk of corruption, enhance efficiency, and ensure compliance with legal and regulatory standards.

By implementing a combination of targeted project support for CSO activities as well as core funding[1], governments can contribute to strengthening the sector. While short- and medium-term funding are important, long-term and core funding help to strengthen financial sustainability, staff security and development, increase CSO flexibility to manage and prioritise their activities, reduce administrative requirements, and facilitate more creativity and innovation for better policy outcomes and results. These types of funding do not imply a redistribution of resources, favouring certain organisations over others. Rather, they are an endorsement of funding modalities that enhance the overall sustainability of the sector, thereby fostering a more robust and resilient civil society.

Cross-sectoral co-operation within the public administration can help to ensure coherence and harmonised funding standards and procedures. In turn, this can create certainty and avoid multiple procedures and

requirements from different ministries or other public entities providing government funding. It is also important to establish regular dialogue structures between CSOs and funding partners, so that applicants can track their applications and receive feedback on allocation decisions made by authorities. Co-creation of funding programmes, or at least meaningful consultation on the aims of programmes, is also highly beneficial to ensure that government priorities are aligned with those of civil society.

In addition to receiving financial resources from domestic sources, international guidance underscores the right of associations to seek funding from a range of other sources, including international, public and private, especially when domestic resources are limited. However, as discussed in Chapter 1, efforts to combat money laundering and terrorist financing, whilst vital to combatting illicit financial flows, have in some recent cases unintentionally hindered CSOs from accessing foreign funding (OECD, 2021[8]). The Financial Action Task Force (FATF) – an intergovernmental body that promotes measures for combating terrorist financing to protect the international financial system from misuse – has emphasised a balanced approach, urging countries to assess terrorist financing risks related to CSOs on a case-by-case basis (FATF, 2021[9]). In accordance with international guidance from the Venice Commission[2] and the United Nations Human Rights Committee, any restrictions on foreign funding should be activity-specific, grounded in a credible assessment of actual threats and supported by substantial evidence, rather than being based on abstract concerns about the entire CSO sector. Mandating financial transfer mechanisms, such as routing funds through government-controlled funds or designated bank accounts, for example, can potentially impact the operational capabilities of CSOs. To address integrity concerns without overly restricting CSO activities, governments are advised to develop risk mitigation strategies, coupled with a balanced approach to funding of CSOs.

Finally, it is important to ensure that government support for civil society extends to a full range of activities. Whereas there is an increased tendency in many countries to provide dedicated funding to CSOs that deliver services, support for CSOs that focus their activities on areas such as research, monitoring, network building, awareness raising or advocacy plays a separate and important role. Financial support for CSOs undertaking research, monitoring and advocacy, for example, can enable them to engage in meaningful dialogue with policymakers, diversifying the voices that contribute to shaping democratic processes. A focus on human rights protection can also complement government efforts to respect and implement relevant laws. Figure 3.4 provides an overview of good practices for CSO funding provided by governments.

Figure 3.4. Good practices for CSO funding provided by governments



Box 3.3 provides good practices from **Luxembourg**, **Ireland** and **Germany**.

Box 3.3. Good practice: Supporting CSOs dedicated to the protection of human rights and democracy

Funding for CSOs protecting human rights in Luxembourg

Luxembourg's 2022 budget law incorporated a new funding stream for CSOs focused on human rights defenders. Projects can cover advocacy; training; support for vulnerable groups; dissemination of best practices; fostering collaboration between stakeholders; and developing educational resources, among others. This budget line has been reconducted for 2024.

Human rights recognised as a charitable purpose in Ireland

Ireland's Charities Bill was amended in 2023 and introduces "the advancement of human rights" as a recognised charitable purpose. The amendment grants human rights organisations charitable status which means they can register as such and can receive funding from sources that are only provided to charities.

Support to CSOs that work to strengthen democracy in Germany

Since 2015, the programme *Living Democracy* ("Demokratie leben") has promoted civic engagement and civil society structures to foster democracy by providing financial support to numerous associations throughout Germany that are committed to a diverse, non-violent and democratic society. Additionally, state democracy centers were established in each federal state to co-ordinate efforts in strengthening democracy and to provide counseling services to counter extremism and intolerance.

Support to intermediaries to amplify CSOs' capabilities in EU countries

Launched in 2021, the EU Citizens, Equality, Rights and Values (CERV) programme supports open, rights-based, democratic and inclusive societies, including empowering civic and democratic participation. The Commission's Call for Intermediaries under CERV selects and supports a limited number of intermediaries in EU member states capable of building the capacities (both financial and other) of a large number of CSOs active at local, regional and/or national level in the fields covered by the CERV programme, including through providing them with financial support.

Sources: Luxembourgish Ministry of Justice (2023[10]), Appel à projets 2023 - Promouvoir les droits humains, https://mj.gouvernement.lu/fr/support/appel-a-projets-2023.html; Government of Ireland (2023[11]), Charities (Amendment) Bill 98 of 2023, https://www.oireachtas.ie/en/bills/bill/2023/98/; German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (2024[12]), Infopapier Programm "Demokratie Leben", https://www.demokratie-leben.de/fileadmin/Demokratie-Leben/Downloads_Dokumente/Foerderung/Informationspapier_Bundesfoerderprogramm_Demokratie_leben_ab_2025.pdf; European Commission (n.d.[13]), Citizens, Equality, Rights and Values programme overview, https://commission.europa.eu/funding-tenders/find-funding/eu-funding-programmes/citizens-equality-rights-and-values-programme/citizens-equality-rights-and-values-programme-overview_en.

3.1.4. Making reporting requirements for CSOs robust but not overly burdensome

It is common practice for CSOs receiving funding from public, foreign and international sources to provide financial reports to state authorities, outlining their income and expenditures. In addition, CSOs receiving government funding may be asked to have their accounts audited by an independent entity and to publicly disclose or publish their financial records. This can help to promote transparency, integrity and accountability within the sector, in addition to complying with tax laws. There is an ongoing policy debate – and little consensus – around whether disclosure obligations, in addition to reporting requirements to authorities, should include all types of funding that CSOs receive. In this context, for example, the Venice Commission has recommended that public disclosure obligations for associations with public utility status should not be extended to all funds received, such as those from private donors (European Commission for Democracy Through Law (Venice Commission), 2019[14]).

Governments are advised to establish robust mechanisms for CSOs to report on the use of public funds, while also adopting a proportionate approach for grassroot or small CSOs with limited resources and capacities. This helps to support them by ensuring their legitimacy and good governance, while recognising their different capacities. To prevent placing a disproportionate burden on smaller CSOs, some OECD member countries are aligning requirements with an organisation's size and financial status, by introducing simplified administrative reporting mechanisms. Tailoring requirements to fit an organisation's scale and nature enables both large, professional organisations and smaller, voluntary associations to compile and submit high quality reports without significant disruption to their operations. This recognises that small CSOs frequently have fewer resources and less capacity and that excessive bureaucratic requirements can hamper their ability to operate (see good practices from **Finland, Australia**, the **UK,** and **Ireland** in Box 3.4).

Box 3.4. Good practice: Reduced reporting and accounting requirements for small and medium-sized organisations

Reduced accounting requirements for micro-associations in Finland

A Government decree on accounting requirements for micro-associations in Finland aims to simplify reporting requirements for associations with a total income that does not exceed EUR 30 000, in both the current and immediately preceding financial year. This applies to associations that do not engage in business activities. Micro-associations are no longer required to conduct double-entry book keeping, unless otherwise requested by the institution awarding the grant or financing. They can instead account for transactions in a single account. Furthermore, they can hold a cash register for cash payments of negligible value (below EUR 300) and make small payments in cash if they keep a detailed record of such transactions for each financial year.

Differentiated accounting requirements for charities based on revenue in Australia

The government of Australia has introduced differentiated accounting requirements for charities in several acts (Australian Charities and Not-for-profits Commission Act of 2012, the Charities Act of 2013), distinguishing between charities with annual revenue of up to AUD 500 000 (small charities), those with annual revenue of AUD 500 000-3 000 000 (medium) and those with annual revenue above AUD 3 000 000 (large). Small charities are only obliged to file an annual information statement with basic operational details, unlike medium and large charities which have additional reporting obligations. Small charities are also under no obligation to have an external audit for their annual information statements, unlike large charities.

Reduced accounting requirements for charities based on revenue and total assets in the United Kingdom

The Charities Act of 2011 (updated by the Charities Act of 2022) in the UK reduced reporting obligations for smaller charities, including requirements related to types of accounting and external evaluation. Charities with an annual revenue under GBP 10 000 have no obligation to provide an annual report to the UK Charity Commission and are instead contacted by the Commission to provide the necessary information. Charities with an annual revenue of between GBP 10 000-25 000 are obliged to provide an annual report to the Commission, up to 10 months after the end of the financial year. However, no independent review or audit is required, unlike for larger charities.

Reduced requirements for charities based on revenue and number of employees in Ireland

A 2023 amendment to the Charities Bill increased the threshold for charities able to use simplified accounting by declaring expenditures and incomes, instead of the more complex accounting requirements in place for larger charities. The maximum revenue for charities having this possibility was increased from EUR 100 000 to EUR 250 000. These amendments were adopted following a recommendation of the Charities Regulator of Ireland.

Sources: Government of Finland (2023[15]), Government decree on the accounting of micro-associations, https://www.finlex.fi/fi/laki/alkup/2023/20230887; CPA Australia (2022[16]), Charities – a guide to financial reporting and assurance requirements, https://www.cpaaustralia.com.au/-/media/project/cpa/corporate/documents/tools-and-resources/audit-assurance/charities-guide-2022.pdf?rev=ebb8c4808db542a0ace9aebea22f8de7; Government of the United Kingdom (2023[17]), Charity reporting and accounting: the essentials November 2016, https://www.gov.uk/government/publications/charity-reporting-and-accounting-the-essentials-november-2016-cc15d/charity-reporting-and-accounting-the-essentials-november-2016-cc15d--2; (Government of Ireland, 2023[11]), Charities (Amendment) Bill 98 of 2023, https://www.oireachtas.ie/en/bills/bill/2023/98/.

Specific reporting requirements aimed at countering money laundering and terrorism financing can serve as legitimate reasons for additional reporting requirements for CSOs. However, again, guidance states that this should be activity-specific and grounded in a risk assessment of actual threats. Moreover, governments can consider making a clear distinction between funding originating from foreign states and other entities (e.g. international organisations, foundations), based on a differentiated level of risk. The Court of Justice of the European Union has noted that the receipt of foreign funding should not in itself place CSOs under suspicion or submit them to overly burdensome reporting requirements by mere virtue of being in receipt of foreign funding (CJEU, 2020[18]).

Further, efforts to promote transparency in the CSO sector can be complemented with an emphasis on transparency and accountability in the public sector, to ensure integrity in the allocation of public funds by public officials (OECD, 2017[19]). Codes of conduct, ethical guidelines, legal frameworks, related training, oversight, appeals processes and sanctions for those found to be contravening the rules can help to avoid conflicts of interest, in addition to personal and institutionalised corruption. Governments can also introduce a range of measures and tools to promote transparency among CSOs, including laws regulating public transfers, portals to publicly track allocations to the sector, national registries of beneficial ownership of legal entities and mandatory external audits for CSOs receiving government funding. Standardising and publishing disaggregated and consolidated data on funding provided to CSOs (at national and sub-national levels) in an open data format can also significantly enhance transparency and accountability.

Figure 3.5 introduces several good practices on reporting requirements for civil society, which promote a balance between transparency and accountability, while being sensitive to the sometimes limited capacity of CSOs.

Figure 3.5. Good practices for CSO reporting requirements



3.1.5. Strengthening data collection to support the CSO sector

Data on government funding for CSOs and access to information for CSOs on funding sources and opportunities for the CSO sector can help to increase transparency, accountability and trust, while enabling governments to develop a strategic approach to supporting the sector. OECD member countries face challenges in collecting comprehensive financial data on the sector, particularly on allocations of government funding across different ministries and levels of government. The absence of an overview in most countries, including those giving generously to the sector, makes it difficult to strengthen systems, monitor funding trends, and make funding more strategic and impactful. Through the establishment of a centralised CSO register – ideally as part of a single platform – countries can allow both CSOs and authorities to easily access comprehensive information in one location. CSO registers can include a wide range of data that supports the sector, including on active CSOs (e.g. by location, sector, size), registration statistics (e.g. numbers of requests, denials, revoked associations), and government funding opportunities and allocations (as per Table 3.2). This can help to identify sectors, geographical locations or types of CSOs that are facing challenges in accessing funds or government support. Setting up a centralised register necessitates substantial co-ordination among relevant state agencies, including ministries providing government funding and tax authorities, in addition to adequate staff to maintain and update the register.

Table 3.2. Gathering data on government funding for the civil society sector

Data on funding is most useful when it is disaggregated		
By length of funding	• Short-term funding (up to 1 year) • Medium-term funding (1-3 years) • Long-term funding (>3 years)	→ **Yields analysis on the sustainability of the sector**
By type of funding	• Project funding • Core funding • Seed funding • Unconditional funding • Funding for domestic CSOs • Funding for CSO in partner countries	→ **Yields analysis on the flexibility, sustainability and geographical reach of CSO funding**
By sector	• Social care • Human rights • Education • Environment • Democracy • Inclusion/poverty relief • Other	→ **Yields analysis on neglected sectors**
By type of activity	• Service delivery • Advocacy/awareness raising • Watchdog • Litigation/legal aid • Civil society development, capacity building • Civil society security • Other	→ **Yields analysis on neglected activities**
By source	• Centre of government • Line ministries • Government agencies including local government • Other	→ **Yields analysis on key actors and gaps**

3.2. Recommendation 2: Protect and facilitate freedom of expression

Freedom of expression constitutes one of the foundations of democratic societies, and states are obliged to respect and ensure this right. It covers the freedom to seek, receive and impart information and ideas of all kinds (UN, 1966[1]). It facilitates open debate, the consideration of diverse interests and perspectives, and the negotiation and compromise necessary for consensual policy decisions (UN Human Rights Committee, 2011[20]; ECtHR, 1976[21]; Inter-American Court for Human Rights, 1985[22]). While many people may take freedom of expression for granted in democracies, speech can be lawfully restricted. Similar to freedom of association (see Recommendation 1: Foster an enabling environment for civil society organisations that facilitates their positive contribution to society), it may be restricted when based on law and when it is necessary out of respect for the rights or reputations of others, for the protection of national security, public order, public health or morals – but must be necessary and proportionate. Advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence can likewise be prohibited. National and regional courts play a key role in determining legitimate limitations, addressing tensions between the right to freedom of expression and other rights (e.g. the rights to privacy, peaceful assembly, religious freedom), and providing redress for violations.[3] The following provides guidance on two key, interrelated areas where evidence shows that freedom of expression could be better protected in OECD member countries:

- the criminalisation of defamation
- vexatious lawsuits (SLAPPs).

See Recommendation 3: Protect online civic space, including by countering online hate speech and mis- and disinformation on issues concerning online hate speech, Recommendation 4: Foster a public interest information ecosystem that promotes access to information and protects independent media on the information environment (e.g. access to information, press freedom) and Recommendation 5: Safeguard and protect at-risk human rights defenders, as well as CSO members, activists and media on threats to freedom of expression related to human rights defenders, media workers and other at-risk groups.

3.2.1. Ensuring that defamation laws protect the public interest

Legal frameworks that regulate freedom of expression include international and regional treaties; national constitutions; laws on information; communication; defamation; insult; blasphemy; hate speech; mis- and disinformation; media; memory laws;[4] penal codes; civil codes; court rulings; and legislation on online content moderation, among others. As discussed in Chapter 2, vague formulation of laws pertaining to hate speech, and mis- and disinformation can result in unintended consequences affecting freedom of expression (see Recommendation 3: Protect online civic space, including by countering online hate speech and mis- and disinformation). When relevant provisions or definitions are excessively broad, they can disproportionately impede expression offline and online, inadvertently paving the way for censorship or self-censorship.

Defamation laws are a key area that impacts freedom of expression in OECD member countries. Defamation – defined as a false statement made in any medium presented as a fact that causes injury or damage to the character of the person it is about – laws aim to strike a balance between freedom of speech and protecting personal reputations. But the imposition of criminal penalties in many countries carries a risk of self-censorship, particularly among media workers and activists who fear consequences for speaking out (OECD, 2022[2]). In light of this, human rights bodies and courts have called on countries to decriminalise defamation and to avoid prison sentences (Parliamentary Assembly, 2007[23]; United Nations Human Rights Committee, 2011[24]), as this helps to reduce the risk of laws being used to silence criticism or adverse reporting.

In addition to decriminalising defamation, OECD member countries can introduce provisions to provide legal protection against defamation claims concerning information deemed to be in the public interest or a matter of truth. Recognition of opinions, in contrast to statements of fact, can also be a defence in defamation cases. The **United Kingdom** provides an example of good practice in this regard (Box 3.5).

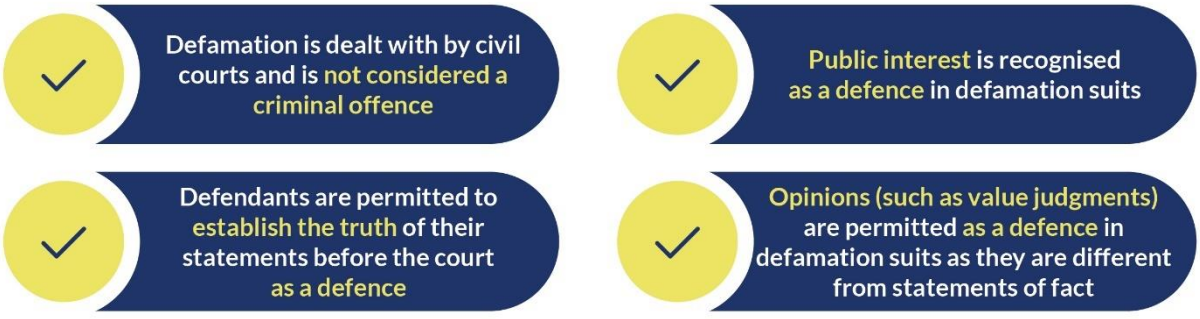
Box 3.5. Good practice: Defamation Act in the United Kingdom

In the UK, the 2013 Defamation Act introduced a "public interest" defence allowing courts to dismiss defamation claims, if relevant content is of public concern. The Act emphasises the importance of truth, noting that while not every word must be proven true, the statement must be “substantially true” for this defence to apply. It is also a defence if the statement in question is an opinion and if an “honest person” could have held the same opinion based on the available facts.

Sources: Government of the United Kingdom (2013[25]), Defamation Act 2013, https://www.legislation.gov.uk/ukpga/2013/26/section/4/enacted.

Figure 3.6 summarises how policymakers can ensure that defamation laws avoid having a disproportionate impact on freedom of expression.

Figure 3.6. Features of defamation laws that can avoid a disproportionate impact on freedom of expression



3.2.2. Limiting the impact of strategic lawsuits against public participation

Freedom of expression of activists, media workers and members of CSOs is increasingly endangered by vexatious lawsuits known as SLAPPs (strategic lawsuits against public participation), with the aim of silencing them. Such lawsuits are typically initiated by private sector entities and influential state actors and serve to harass, intimidate, and financially and psychologically exhaust their targets. SLAPPs are often based on defamation, data protection and intellectual property laws. The threat from these cases is just beginning to be acknowledged as a concern for governments, due to the threat to freedom of expression (see Box 3.6).

OECD member countries can introduce a range of measures to protect both individuals and organisations from these cases. A good starting point is an assessment of the prevalence of SLAPPs in a jurisdiction, coupled with the introduction of protective legal measures, as found in **Canada** and the **United Kingdom** (Box 3.6). An assessment of relevant laws can reveal the extent to which they facilitate SLAPPs, followed by the introduction of new or amended legislation to: allow for early dismissal; place a cap on possible damages in defamation suits; and, as discussed above, permit a public interest defence. Free legal advice or support for victims of SLAPPs, coupled with training for members of the judiciary on recognising these cases, can also be beneficial.

Box 3.6. Good practice: Countering strategic lawsuits against public participation

Legal frameworks in Canada

In Canada, three provinces – British Colombia (2019), Ontario (2015) and Quebec (2009) – have anti-SLAPP laws. These allow for the dismissal of a case if the expression in question is deemed to be in the public interest. For example, Ontario's "Protection of Public Participation Act" mandates that lawsuits targeting freedom of expression in public interest matters can only proceed if there is a likelihood of success and a valid defence is lacking (Asamblea Legislativa de la Provincia de Ontario, 2015[26]). Claimants bear full costs if the case fails this test. In Quebec, provisions in the Code of Civil Procedure counter SLAPPs by allowing courts to dismiss abusive proceedings, by shifting the burden of proof to the initiator of the lawsuit and by requiring the initiating party to cover costs and damages suffered by the other party (Government of Quebec, 2009[27]).

Consultation on evidence of SLAPPs and reforms in the United Kingdom

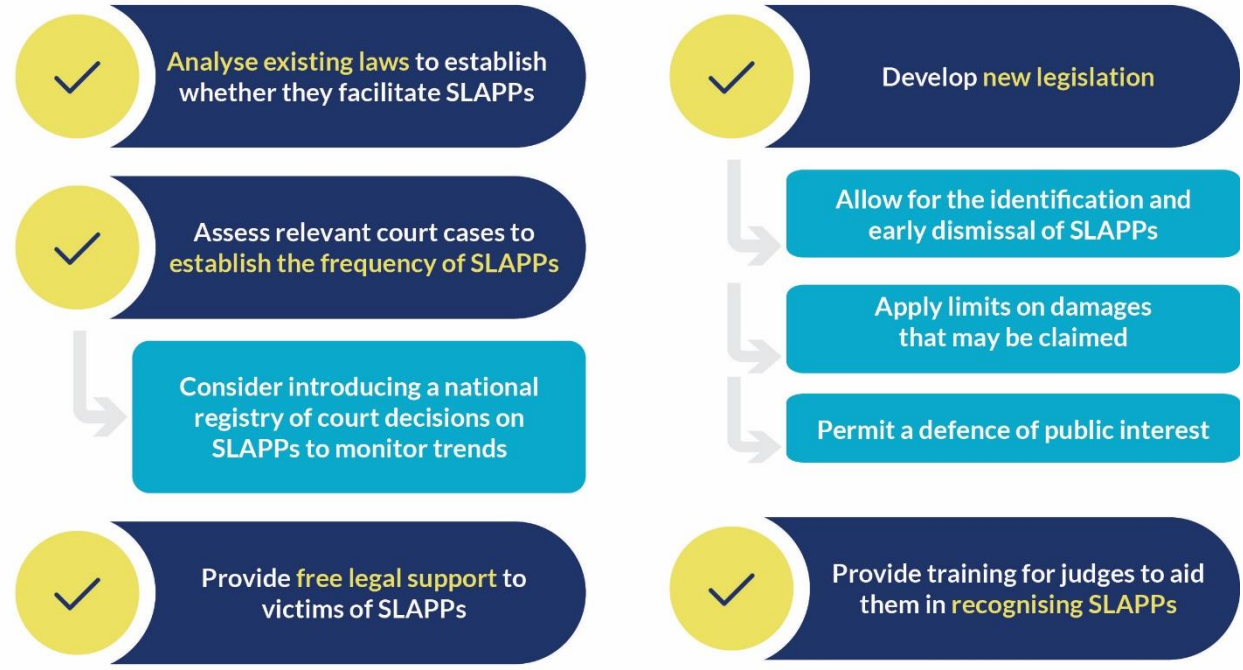
In March 2022, the UK Prime Minister's Office launched a public consultation in response to the recognised challenges presented by the increasing use of SLAPPs (UK Ministry of Justice, 2022[28]). The consultation included questions about the impact of SLAPPs on reporting practices among journalists; the need for a statutory definition and a new right of public participation; and the extent to which the public interest defence in defamation cases provides a robust defence. In responding to the consultation, the government recognised that SLAPPs represent a pernicious form of litigation seeking to silence debate (UK Ministry of Justice, 2022[29]) and stressed the need for legislative reforms providing for an effective early dismissal and costs protection scheme that would allow the judiciary to identify unmeritorious claims at the earliest opportunity. In 2023, amendments were introduced in the Economic Crime and Corporate Transparency Act, which established a clear legal definition of what SLAPPs are. Additionally, they provided for early dismissal at an early stage and to protect the defendant from paying costs. These measures apply to all claims related to economic crimes (such as fraud), but also to those that involve restrictions on the right to freedom of expression and to cases of harassment, distress, or other types of deliberate harm.

Sources: Legislative Assembly of Ontario (2015[26]), Protection of Public Participation Act, https://www.ontario.ca/laws/statute/s15023; Government of Quebec (2009[27]), Civil Code, https://www.legisquebec.gouv.qc.ca/fr/document/lc/C-25.01?&cible=; UK Ministry of Justice (2022[29]), Strategic Lawsuits Against Public Participation: Government Response to the Call for Evidence, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1093987/SLAPPs-call-for-evidence-response.pdf; House of Commons (2024[30]), SLAPPs: Strategic litigation against public participation, https://researchbriefings.files.parliament.uk/documents/CBP-9962/CBP-9962.pdf; UK Ministry of Justice (2022[28]), Consultation Outcome: Strategic Lawsuits Against Public Participation (SLAPPs), https://www.gov.uk/government/consultations/strategic-lawsuits-against-public-participation-slapps.

In a positive development, the European Union introduced a Recommendation and a Directive aiming at countering SLAPPs with a series of specific measures (see Chapter 2, Box 2.1). In addition, the Committee of Ministers of the Council of Europe approved in April 2024 a recommendation on countering the use of SLAPPs, which provides for a comprehensive set of guidelines, safeguards and remedies for states to implement and counter SLAPPs. The recommendation includes a range of elements to help to identify SLAPPs and calls for measures to prevent and minimise the effects of these lawsuits. Specific recommendations comprise country legal frameworks; procedural safeguards to empower courts and defendants to dismiss abusive lawsuits early and easily; support for target and victims of SLAPPs; education, training and awareness-raising measures; and national and international co-ordination to prevent cross-border SLAPPs (Council of Europe, 2024[31]).

Figure 3.7 lists six key steps governments can take to counter SLAPPs.

Figure 3.7. Key steps countries can take to counter strategic lawsuits against public participation (SLAPPs)



3.3. Recommendation 3: Protect online civic space, including by countering online hate speech and mis- and disinformation

The protection of online civic space is a precondition for citizens and civil society to access information, operate freely, engage in public life, and thrive without fear of arbitrary or unlawful intrusion. At the same time, people are faced with challenges when they seek, receive and impart information and ideas through the Internet. Breaches of privacy and the spread of harmful, misleading and illegal content online can diminish trust in governments, undermining democratic principles in the process (OECD, 2022[32]) . Likewise, governments face significant challenges in fulfilling their obligation to create an environment where people can exercise their rights online. While states are responsible for guaranteeing civic freedoms within their territory, for example, the digital environment spans multiple jurisdictions, which can lead to conflicting regulatory requirements for online platforms. Governments are also faced with interpreting the contours of established rights in the digital age and responding to new challenges that interfere with these rights, such as the spread of mis- and disinformation. In addition, as governments develop responses to combat harmful and illegal online content, they face the complex challenge of addressing tensions between rights (e.g. freedom of expression online and the need to protect people from discriminatory content) in an increasingly digital world (OECD, 2022[32]).

3.3.1. Responding to online hate speech

Online hate speech, **which aims to silence, stigmatise and intimidate, is a growing obstacle to online civic participation** (OECD, 2022[2])**.** Freedom of expression and pluralistic public opinion are hindered when people withdraw from public debate and public affairs for fear of vilification or harmful racial, gender-based, or other forms of stereotypes and discrimination. In the digital era, social media and instant-response platforms can amplify and disseminate such harmful content, making silencing and intimidation tactics more widespread (de Varennes, 2021[33]). Online hate speech ranges from calls for violence, murder

and rape, to – in their most extreme forms – calls for atrocities (genocide, war crimes and crimes against humanity), with a disproportionate impact on minorities, women, human rights defenders, as well as migrant and LGBTI advocates (UN, n.d.[34]; de Varennes, 2021[33]; OECD, forthcoming[35]). People – particularly women – working in the public sphere such as politicians, judges, prosecutors and media figures are also recognised as being especially affected (Jäske et al., 2021[36]).

Developing a holistic approach to tackling online hate

International human rights bodies have emphasised that hateful expression should only be criminalised in the most serious cases and that less serious cases should be addressed by means other than criminal law (CERD, 2013[37]; ECRI, 2015[38]; ECtHR, 2020[39]; UN, 2013[40]; 2019[41]). In practice, this means that while lots of content on the Internet may offend, only a small portion of it is actually illegal. Hate speech may qualify as a criminal offence and should be prosecuted only when it directly calls for violence or discrimination e.g. against a particular group based on personal characteristics or status such as religion, ethnicity, nationality, race, colour, descent, gender, sexual orientation or any ground (UN, 1966[1]; UN, 2019[41]; OHCHR, 2022[42]). Depending on national legal frameworks, examples of hate-related online content that may be illegal are the following:

- messages calling for racial or religious violence
- pictures, videos, music or text that glorify violence
- chat forums where people encourage others to commit violence

Research shows that while legal frameworks governing hate speech are relatively well established in OECD member countries, less serious cases of online hateful expression are extremely prevalent and, while damaging and hurtful, may not meet the legal threshold of criminalised speech (OECD, 2022[2]). As part of a holistic approach to tackling different forms of online hate, whether they meet the bar for legal redress or not, governments can consider a wide range of measures, in partnership with non-governmental stakeholders:

- awareness-raising on the harm that online hate causes to society
- awareness-raising on relevant legal frameworks, including legal sanctions, and reporting mechanisms for hate speech e.g. dedicated police portals
- education measures to counter the discrimination, racism and prejudice that underpin online hate
- support to victims e.g. emergency support, referrals to CSOs for affected persons
- access to justice, including legal aid, for victims
- training (e.g. for police) on recognising hate speech, distinguishing it from other forms of expression and responding to reported cases
- guidelines for public figures on how to respond to online hate speech
- codes of conduct for elected officials
- regulatory frameworks governing illegal hate speech, where these are lacking or need to be amended e.g. to include an open-ended list of motivating factors instead of a limited list that may not respond to emerging needs
- citizens' panels or similar deliberative process to discuss the impact of online hate on society and measures to counter it
- private sector platforms to take responsibility for the removal of such content, where it is illegal based on domestic law.

As outlined by the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, platforms face various challenges regarding potential human rights infringements (OECD, 2023[43]). The Guidelines underline issues such as the risk of social media platforms "exacerbating vulnerable groups' exposure to hate speech including through inaccurate or inappropriately framed content", "risk of AI bots influencing social media with misinformation or biased views and opinions", and platforms being used to "broadcast and incentivise offline harms", for example, hate crimes, violence or terrorist activity (OECD, n.d.[44]).

To date, a number of OECD member countries have introduced regulations on content moderation for social media platforms. However, in recent years, the extent to which platforms should be responsible for monitoring, removing or blocking user content that does not conform to legal requirements has been under intense focus. Legislation thus far has largely focused on content moderation (OECD, 2020[45]) and self-regulation of platforms, and has mainly been in response to social and governmental pressures (OECD, 2022[46]). Some strict approaches by governments have been criticised for their potential to limit freedom of expression (OECD, 2022[2]). The 2022 report *Building Trust and Reinforcing Democracy: Preparing the Ground for Government Action* emphasises the need for platforms to clarify their content moderation policies and terms of service, provide clear guidance for users who break such terms frequently, ensure greater transparency regarding content removal and issue regular reports and audits (OECD, 2022[46]). In that regard, the OECD has been publishing a series of transparency benchmarking reports on the policies and procedures of the world's top 50 global online content-sharing services related to terrorist and violent extremist (TVEC) and child sexual exploitation and abuse (CSEA) content. These reports show that there is significant room for improvement on specific definitions, consistency of enforcement and quality of the information disclosed in transparency reports (OECD, 2022[47]; OECD, 2023[48]).

Within the EU, the Digital Services Act (DSA) has introduced a legal framework for large online platforms to address illegal online content (see Box 3.7).

Box 3.7. The European Union's Digital Services Act

The European Union's Digital Services Act (DSA), applicable across EU member states since 2023, facilitates reporting of **illegal online content**, aiming to strengthen protection against online harassment and sharing non-consensual private images. While the DSA does not define what constitutes illegal content online, it sets EU-wide rules for detecting, flagging and removing such content. Very Large Online Platforms (VLOPs) with at least 45 million users are requested to implement a risk assessment framework regarding systemic issues such as harms to vulnerable groups and other emerging societal harms, and take corresponding risk mitigation measures stemming from the design and use of their service. The Act empowers users to flag non-consensual private images and other illegal content and establishes a priority channel for trusted flaggers (entities designated as such under the DSA, which have demonstrated particular expertise and competence) to report illegal content to which platforms have to react. It also introduces measures to ensure that social media and technology companies moderate illegal content and prevent its circulation. Users are also given the possibility to contest platform takedown decisions through complaint mechanisms established by the relevant platform, choose an out-of-court dispute settlement body or seek redress through national Courts.

Sources: European Commission (2023[49]), DSA: Making the online world safer, https://digital-strategy.ec.europa.eu/en/policies/safer-online; European Commission (2024[50]), The Digital Services Act package, https://digital-strategy.ec.europa.eu/en/policies/digital-services-act-package.

Raising awareness through data

Data on the type, prevalence, frequency and sources of online hate speech – differentiated from the wider category of hate crimes[5] – can help to shed light on the problem. Data sources for online hate speech include analysis published by social media platforms, CSOs, academia, research institutes and governments (e.g. the police), based on complaint mechanisms, surveys and polls. These varied sources are complementary and can provide insights into the prevalence of hate speech online. Despite its widespread occurrence, many instances of online hate go unreported due to factors such as fear of retaliation, a lack of trust in reporting mechanisms and the normalisation of such behaviour. Addressing underreporting is crucial for developing effective strategies to combat online hate speech to promote a safer online environment for all users.

Authorities can employ different approaches to enhance data gathering to counter online hate speech, including by:

- Funding or facilitating content analysis on online platforms to categorise and quantify instances of hate speech.
- Funding or facilitating collaboration with social media platforms to access anonymised data on reported hate speech incidents.
- Engaging with the public, particularly affected communities, to explain relevant laws and encourage reporting on instances of online hate speech through dedicated outreach and platforms with the aim of enhancing data collection efforts.
- Co-operating with CSOs that have established reporting or complaint mechanisms.

Frequently published data and analysis are crucial to adequately assess ongoing trends and raise awareness, including related to root causes, perpetrators, victims and effective responses to platforms amplifying hate.

In addition, data and information illustrating the pathways between reporting, police recording and prosecutions of cases of hate speech can also help authorities and legislators understand the extent of the problem; develop strategies and initiatives to counter it; and better respond to the needs of victims, including by facilitating access to justice.

Box 3.8 details selected innovative practices in countering hate speech, both online and offline, from **Lithuania**, **Slovenia** and **Germany**.

Box 3.8. Good practice: Countering hate speech

Cross-ministerial working group to counter hate speech in Lithuania

A cross-institutional working group to counter hate speech was created in 2020 to raise awareness, promote dialogue and enhance the capacities of law enforcement and CSOs to address hate speech (FRA, 2021[51]). The group comprises seven public authorities, including Ministry of Interior, Prosecutor General, police, Inspector of Journalist Ethics, Ombudsperson for equal opportunities as well as 11 CSOs.

Working group within the Supreme State Prosecutor's Office in Slovenia

A working group within the Supreme State Prosecutor's Office was established in 2018 to train prosecutors on addressing hate speech and harmonise practices in prosecuting it (ECRI, 2021[52]). The training includes a focus on the European Court of Human Rights criteria for indictments, approaches adopted by the European Court of Human Rights, and the application of a misdemeanour law for statements near the criminal threshold.

Day against online hate speech in Germany

Since 2016, Germany's Federal Criminal Police Office, in collaboration with federal states, conducts an annual action day against online hate speech. On a confidential date, co-ordinated measures are taken against suspected individuals to raise public awareness. In 2020, it was extended to a European level, co-ordinated by Europol for the first time (German Federal Criminal Police Office, 2022[53]).

Sources: FRA (2021[51]), Promising Practice: Working Group to promote an effective response to hate crime and hate speech in Lithuania, https://fra.europa.eu/en/promising-practices/working-group-promote-effective-response-hate-crime-and-hate-speech-lithuania; ECRI (2021[52]), ECRI Conclusions on the Implementation of the Recommendations in Respect of Slovenia Subject to Interim Follow-up, https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680a59af2; German Federal Criminal Police Office (2022[53]), Nationwide day of action against hate postings, https://www.bka.de/DE/Presse/Listenseite_Pressemitteilungen/2022/Presse2022/221130_Hasspostings.html.

3.3.2. Fostering resilience to mis- and disinformation

Fostering resilience to the impact of mis- and disinformation is another core component of protected civic space. Mis- and disinformation can undermine the public's willingness and ability to engage constructively in democratic debate. It does so by convincing people to believe incorrect content that may demonise political opponents; reinforce polarisation or distort policy debates; and inhibit access to timely, relevant and accurate information and data. Concerns about the risks posed by false information are at an all-time high due to the rapid increase in the spread of false or misleading content online. The emergence of social media platforms that allow virtually anyone to instantaneously be a source of information (including disinformation) has amplified the problem. Even beyond responding to threats posed by false and misleading information, it is key for governments to think through how to build information integrity – that is, how to support information ecosystems that create the conditions for accurate information to spread, and that enable citizens to make informed decisions and engage in constructive civic dialogue (OECD, 2024[54]). Similar to countering hate speech, the scale of the challenge means that it is crucial that initiatives are developed in partnership with non-governmental actors, including citizens as sources and consumers of disinformation.

A whole-of-government and whole-of-society policy framework to strengthen information integrity and counter disinformation

Through the OECD DISMIS Resource Hub, the OECD is analysing a broad range of governance responses to the spread of disinformation (OECD, 2024[54]). The framework offers a comprehensive overview of government actions and focuses on three pillars:

1. **Enhancing transparency, accountability and plurality of information sources**, which explores how governments can improve the transparency of online and social media platforms, promote pluralistic, independent and competitive media and information markets and counter specific risks in the information ecosystem (see Recommendation 4: Foster a public interest information ecosystem that promotes access to information and protects independent media).
2. **Fostering societal resilience to disinformation**, including strengthening media and digital literacy, reinforcing government communication for key information, strengthening public participation and building an understanding of the information ecosystem through research.
3. **Upgrading governance measures and institutional architecture to uphold the integrity of the information space,** notably related to government co-ordination and strategic guidance, capacity building in public administration and the continuous development of agile regulatory governance for information integrity. (OECD, 2024[54]) (see Figure 3.8).

Figure 3.8. OECD framework to strengthen information integrity

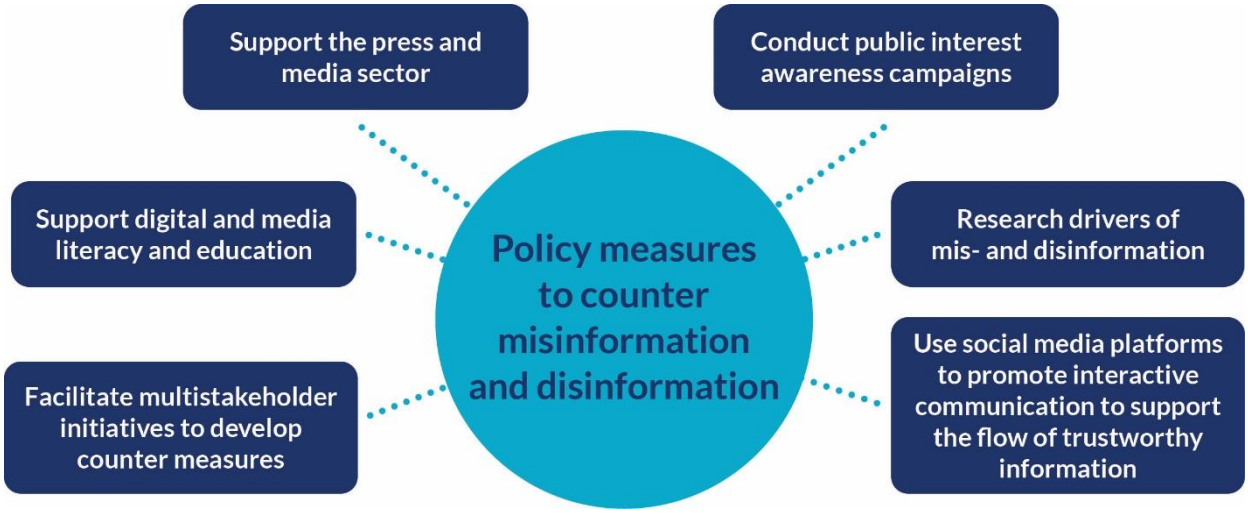


Governments can undertake a host of other measures (Figure 3.9), such as:

- Developing and testing regulatory responses aimed at increasing online platforms' transparency.
- Strengthening engagement with online platforms to fight mis- and disinformation.
- Facilitating understanding of the role of algorithms in spreading content.
- Promoting more responsible business environments.
- Funding or facilitating research on sources and sponsors of such content.
- Promoting transparency regarding beneficial ownership and disclosure of entities sponsoring content.

They can also implement measures that **address the structural and economic drivers** that affect the spread of mis- and disinformation by strengthening the media sector; encouraging diversity and editorial independence; and ensuring high-quality and trustable news provision, including from public broadcasters, as part of a healthy public interest information ecosystem (see Recommendation 4: Foster a public interest information ecosystem that promotes access to information and protects independent media). In addition, governments can **support information and digital and media literacy efforts** at all levels of the education system to equip children and adults with the necessary skills to differentiate between accurate and false or misleading information (OECD, 2021[55]). Figure 3.9 provides an overview of relevant policy measures that support civic space.

Figure 3.9. Policy measures to counter mis- and disinformation as threats to online civic space



Within the EU, the Regulation on the transparency and targeting of political advertising has introduced rules aiming at countering information manipulation and foreign interference in elections, referendums and the legislative process (Box 3.9).

Box 3.9. The European Union's Regulation on the transparency and targeting of political advertising

Including transparency rules and related due diligence obligations for the provision of political advertising and related services, the EU's Regulation on the transparency and targeting of political advertising aims to counter information manipulation and foreign interference in elections, referendums and the legislative processes in the EU and EU member states. Provisions require that political advertisements be available with a transparency label and an easily retrievable transparency notice. Targeting political advertising online is permitted only under strict conditions, and rules forbid profiling based in certain personal data such as racial or ethnic origin and political opinions.

Source: European Union (2024[56]), Regulation (EU) 2024/900 of the European Parliament and of the Council of 13 March 2024 on the transparency and targeting of political advertising, https://eur-lex.europa.eu/eli/reg/2024/900/oj.

Government communication responses to mis- and disinformation

By delivering effective government communication responses that provide accurate and timely information that is in the public interest and which responds to citizens' concerns, governments can play a key role in building societal resilience to mis- and disinformation. Crucially, trust is necessary for effective responses. Citizens need to trust public institutions to provide factual information; likewise, a continued flow of evidence-based information can help build trust, fill data vacuums, and strengthen the relationship between citizens and the state. Governments can use a variety of tools, including social media, to promote trustworthy information through official channels, actively engage with users and respond to inquiries.

In democracies, where citizens are encouraged to question information and where governments themselves are sometimes accused of providing disinformation, this is not a straightforward endeavour (Pilichowski, 2023[57]). The risk of politicisation of the government communication function is another challenge to be wary of, which can stand in the way of an effective role for this function, as seen during the COVID-19 pandemic, for example (WPP & Kantar Public, 2023[58]).

Based on relevant emerging practices in countering mis- and disinformation, the OECD *Good Practice Principles for Public Communication Responses to Mis- and Disinformation* (OECD, 2023[59]) help define the factors that strengthen government communication's contribution to tackling this phenomenon (Box 3.10).

Box 3.10. OECD Good Practice Principles for Public Communication Responses to Mis- and Disinformation

Institutionalisation – Governments should consolidate interventions into coherent approaches guided by official communication and data policies, standards and guidelines. Public communication offices and a co-ordinated cross-government approach at national and subnational levels are key.

Public interest-driven – Public communication should strive to be independent of politicisation with specific measures to ensure clear authorship, impartiality, accountability and objectivity.

Future-proofing and professionalisation – Public institutions should invest in research and use strategic foresight to anticipate the evolution of technology and information ecosystems.

Transparency – Transparency, including about assumptions and uncertainty, can reduce the scope for rumours and falsehoods from taking root, as well as enable public scrutiny of official information.

Timeliness – Public institutions should develop mechanisms to act promptly by identifying and responding to emerging narratives and recognising the speed at which false information can travel.

Prevention – Prevention requires governments to identify, monitor and track problematic content and its sources; fill information gaps to reduce speculations and rumours; anticipate disinformation tactics and risks; and identify actions, such as "pre-bunking" or debunking.

Evidence-based – Government interventions should be informed by trustworthy and reliable data, testing, and behavioural insights that recognise emerging narratives and improve practices.

Inclusiveness – Official information should be designed and diversified to reach all groups in society, with messages tailored for diverse publics (e.g. respect for cultural and linguistic differences and attention to under-represented or disengaged groups).

Whole-of-society collaboration – Government efforts should be integrated within a comprehensive approach in collaboration with relevant stakeholders, including the media, the private sector, civil society, academia and citizens.

Source: OECD (2023[59]), "Good practice principles for public communication responses to mis- and disinformation", https://doi.org/10.1787/6d141b44-en.

3.4. Recommendation 4: Foster a public interest information ecosystem that promotes access to information and protects independent media

Information ecosystems that recognise information as a public good are a crucial component of protected civic space and fundamental to democracies. Access to information and a free and independent media allow citizens and stakeholders to gather information on policy debates and public action, form opinions, offer insights and expertise, participate in the decision-making process, and monitor and scrutinise government activities. A well-functioning independent media system is also associated with lower corruption levels and functions as the first line of defence against democratic backsliding and autocratisation, processes that start undermining media freedom and financial viability (OECD, 2023[60]). In OECD member countries, media freedom standards are relatively good compared to the rest of the world but have deteriorated in recent years and are considered "problematic" or "bad" in a quarter of countries (OECD, 2022[2]). Governments can take a wide range of actions to support and sustain public interest media and a healthy information ecosystem,[6] recognising the many different actors involved. These include public sector workers responsible for access to information and open data, media workers, citizens, CSOs (e.g. fact checkers, media monitors, not-for-profit media providers, think-tanks), platforms that distribute online content and oversight officials. The following provides guidance on two key components of a public interest information ecosystem that governments can support:

- promoting access to official information and data
- protecting free, independent and pluralistic media.

3.4.1. Promoting access to information and data as a public good

Access to timely, accurate, up-to-date and high-quality information and data from public bodies, including open government data (OGD), supports an informed and active citizenry that can engage in constructive public debate. Defined as "stakeholder access to, and use of, public information and data concerning the entire public decision-making process, including policies, initiatives, salaries, meeting

agendas and minutes, budget allocations and spending", public information includes any records held by a public body, regardless of the form in which the information is stored, its source, and its date of production (OECD, n.d.[61]). At the same time, when released proactively and in open and digital formats, open government data can help society monitor government activity and policy progress.

Access to information has been recognised as a fundamental right and enshrined in many constitutions across the world. Dedicated legislation makes the right operational in many contexts. According to the Global Right to Information Rating, these laws have been introduced in 134 countries, (Centre for Law and Democracy, n.d.[62]) including 37 OECD member countries. Figure 3.10 outlines some of the most common elements of these laws, including specific provisions on the need to publish open government data as a response to the digitalisation of society, the economy and the public sector (OECD, 2018[63]).

Figure 3.10. Common elements of access to information laws



Relevant legal provisions include request procedures, such as options for anonymity, means of filing, potential fees, timeframes, exceptions and exemptions, and appeals processes in the case of a denied request. They also often cover both proactive and reactive disclosure. In practice, this means that beyond a minimum set of mandatory disclosure, public bodies are often required to voluntarily share information that may be of interest to citizens and CSOs. Effective implementation of these laws requires training and capacity building across the public administration. Aside from the law itself, several countries provide

practical guidelines both for public officials on implementation and for citizens and stakeholders on how to exercise their right to request and receive information, which can be useful in this regard (see Box 3.11).

Box 3.11. Practical guidelines for access to information alongside the law

Guidelines from the Civil Ombudsman in Norway

Norway's Access to Information Law, initially enacted in 1970 and updated in 2006, provides a "how-to" guide to public administration. The Civil Ombudsman oversees enforcement, handles violation cases and has created guides for both officials and requesters to enhance implementation.

Dedicated webpage from the Treasury Board of Canada Secretariat in Canada

The Treasury Board of Canada Secretariat has a webpage to facilitate easy access to information. It assists citizens, stakeholders and public officials in making or finding requests. The page offers policy tools, reports and resources, including a manual and best practices for handling requests.

Sources: Norwegian Civil Ombudsman (2022[64]), The Access Guide, https://www.sivilombudet.no/innsynsguiden/; OECD (2022[65]), "Towards good practice principles for government transparency in the use of recovery funds", https://doi.org/10.1787/0d0f2c90-en; Treasury Board of Canada Secretariat (n.d.[66]), Access to Information and Privacy, https://www.canada.ca/en/treasury-board-secretariat/services/access-information-privacy/access-information/information-about-programs-information-holdings/sources-federal-government-employee-information.html.

Despite progress, moving forward requires a shift from passive transparency (merely making information and data available) to targeted transparency (which considers how information and data could be used by citizens and stakeholders and for what purposes), supported by active engagement with civil society. For instance, results from the 2023 edition of the Open, Useful and Re-usable data (OURdata) Index show that "the lack of systematic engagement with potential data users and external stakeholders remains an obstacle preventing OECD member countries from fully realising the benefits of open government data" (OECD, 2023[67]). Fostering a more dynamic civic space requires governments to take a more active role in civic ecosystems by bringing information and data closer to civil society, and by promoting its re-use.

Improving accessibility and inclusivity in access to information

Everyone, regardless of any personal characteristics such as age, gender, sexual orientation, religious belief, legal status and political affiliations, and institutions and organisations, whether governmental or non-governmental, from civil society, academia, the media or the private sector, should have the right to access information. However, in practice, many barriers can pose challenges for certain groups in exercising this right, which governments can endeavour to reduce in several ways. Many countries are leading the way in fostering inclusivity and accessibility (Box 3.12), by taking the following measures:

- **Using plain and simple language:** Simple, clear and concise language that avoids jargon and technical terminology is crucial to ensure citizens with low levels of literacy or those without advanced language skills in the country in which they live can access services.
- **Outreach in Indigenous and minority languages:** Ensuring that guidance around access to information is available in the most common minority and Indigenous languages in each country is key to encouraging uptake of this right.
- **Improving accessibility for people with disabilities:** Examples of relevant measures include designing websites in accordance with the internationally established Web Content Accessibility Guidelines. These address a wide range of disabilities, including visual, auditory, physical, speech,

cognitive, language, learning and neurological disabilities. They also provide guidelines on making content more accessible for older users.

- **Ensuring anonymity:** Protecting the identity of those trying to access information is essential in contexts of restricted civic space. Anonymity can reduce the risk of arbitrary denials, profiling, bias or reprisals by government officials responding to requests.
- **Minimising costs:** High fees can deter economically disadvantaged citizens from making requests or render it impossible for them. Even if filing a request is free, additional costs – related to photocopying or mailing – may arise in obtaining the information. In this case, relief for those with limited resources is vital and fees should be transparent; minimal; applied equally to all persons; consistent across the public sector; and solely cover costs, not generate profit.

Box 3.12 reviews promising practices from **Colombia** and **New Zealand**.

Box 3.12. Good practices for ensuring more inclusive access to information

Improving accessibility for people with disabilities and Indigenous groups in Colombia

The Attorney General's Office in Colombia has introduced tools for officials to ensure more accessible public information. Initiatives include sign language videos explaining the Transparency and Access to Information Law, translation of the law into braille and macrotypes for those with visual impairments, and translation into six Indigenous languages to serve the country's two million Indigenous citizens.

Commitments to web accessibility in New Zealand

New Zealand's government promotes web accessibility for all, especially individuals with special needs. Recommendations include using alt text for images[1], offering detailed descriptions for visual elements, providing captions and transcripts for videos, using HTML elements[2], ensuring adequate colour contrast and enabling keyboard-only navigation[3].

1. Alt or alternative text is a text-based representation of non-text content (e.g. images, videos) so that people with visual or cognitive disabilities can access and understand the content.
2. HTML elements help screen reader users better navigate and interact with the layout of a website or webpage.
3. Keyboard-only navigation ensures that users can engage with web content using only the keyboard, without relying on a mouse or other devices.

Sources: OECD (2022[2]), *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance*, https://doi.org/10.1787/d234e975-en; Government of New Zealand Accessibility (n.d.[68]), Accessibility, https://www.digital.govt.nz/standards-and-guidance/design-and-ux/accessibility/.

Ensuring effective co-ordination and oversight

A co-ordination and oversight body for access to information, with a clearly defined mandate, sustained resources, an adequate level of independence and capacity for enforcement, is essential for its implementation. Most countries have a dedicated oversight body for access to information, which can take the form of an information commission; an agency or ombudsman with a specific mandate related to access to information; an ombudsman with a wider mandate; or a central government authority. In addition, many OECD member countries have legal provisions for an office or officer(s) to act as focal points. The independence and enforcement capacity of these bodies is crucial. Some do not have the necessary capacities to monitor and sanction non-compliance or adequate resources (human and financial) or independence to effectively fulfil their mandate (OECD, 2022[2]). Furthermore, oversight bodies often only have the competency to issue opinions or recommendations, leaving the public entity to decide whether to comply or not. This can lead to weak implementation of relevant laws.

Figure 3.11 illustrates some of common responsibilities of oversight bodies. These range from advising public institutions on their legal obligations to monitoring compliance with relevant laws, managing appeals processes, handling complaints, initiating investigations into potential violations of the rights and training public officials.

Figure 3.11. Common responsibilities of oversight bodies for access to information



3.4.2. Protecting free, independent and pluralistic media

Media freedom and pluralism are central to the functioning of democratic societies as they help to ensure the availability and accessibility of a range of information and views, on the basis of which people can form and express their opinions and exchange information and ideas (Council of Europe, 2011[69]). Restrictions on the media environment, on the other hand, including media concentration, capture, and monopolies, can hamper balanced and multifaceted debate on matters of public interest and promote one-sided views that can ignite polarisation, in addition to impeding transparency and accountability. Figure 3.12 provides an overview of key legal safeguards that help to protect media freedom, including limits to concentration in the media sector, protection for journalistic sources and editorial independence, transparency obligations on media ownership and the allocations of advertising revenues, and guarantees of stable funding for public service broadcasters.

Issues related to the protection of freedom of expression and SLAPPs are addressed under Recommendation 2: Protect and facilitate freedom of expression and the right to access public documents

and data under Recommendation 4: Foster a public interest information ecosystem that promotes access to information and protects independent media. Physical protection for media workers is discussed separately under Recommendation 5: Safeguard and protect at-risk human rights defenders, as well as CSO members, activists and media .

Figure 3.12. Key legal safeguards that help to protect press freedom



Preventing media concentration and promoting media pluralism

Media pluralism is key to the functioning of democratic societies, ensuring the availability of a diverse range of views and enabling citizens to form opinions of their own. A pluralistic media environment, with transparent media ownership structures, also allows the media to play their fundamental role as watchdogs of the executive power (Council of Europe, 2018[70]). High media concentration, in contrast, which is often driven by powerful market players, poses a risk to diverse information sources (Centre for Media Pluralism and Media Freedom, 2022[71]), thereby hampering freedom of expression and informed public debate (Council of Europe, 2009[72]). It also increases the risk of media capture. This refers to individuals or groups exerting significant control over media organisations in a way that influences content and coverage, posing a threat to editorial independence (Nelson, 2017[73]). National laws on media ownership, with criteria to assess concentration levels and ownership, can help to mitigate this. At the EU level, the European Media Freedom Act establishes a common framework for media services, aims to protect journalists and media providers from political interference, ensures transparency of media ownership and obliges EU member states to oversee mergers of media providers that could harm pluralism (European Council, 2023[74]; European Parliament, 2024[75]). Such mergers can be approved if media outlets provide evidence that these will not negatively impact diverse perspectives and editorial independence. These measures complement the EU Merger Regulation, which sets a combined market share threshold of 15%-25% for companies in the same market (European Commission, 2013[76]). In Latin

America, several countries have introduced regulations to encourage media diversity, including constitutional bans on monopolies and extreme concentration and limits on individual media licenses (UNESCO, 2017[77]).

Transparent media ownership is crucial for an independent media landscape. To achieve this, it is key for national authorities to maintain an updated public record of ownership, including beneficial ownership, of media outlets (see Box 3.13). The European Media Freedom Act establishes a standard for the information that media outlets need to publicly disclose to their audience, including potential conflicts of interest, and also calls for transparent audience measurement systems (European Parliament, 2024[75]).

Box 3.13. Good practice: Preventing media concentration and strengthening transparency on media ownership

Regulation of media concentration in Norway

To curb media concentration, Norway has imposed limits on media ownership through the Media Ownership Act. This restricts any media group from owning over one third of shares in a traditional (e.g. TV, newspapers, radio) national media outlet. Similar constraints apply to local media ownership. The Norwegian Competition Authority oversees evaluation and any necessary interventions.

Media ownership transparency in Austria

The Media Act Law, amended in 2011, requires media outlets to publicly disclose their direct and indirect owners, including all shareholders. Beneficial owners need to be identifiable as natural persons, not enterprises. This information is made available on the media company's website or in other accessible documents and is updated annually. The Austrian Communications Authority is tasked with maintaining an up-to-date online record of media owners.

Note: Originally, the Norwegian Media Ownership Act set the threshold for media group ownership at 40% of shares. This was amended in 2005.
Sources: Government of Norway (2005[78]), Norwegian Media Ownership Act, https://www.regjeringen.no/globalassets/upload/kkd/medier/guidelines_media_ownership_act_nov_2005.pdf; Government of Austria (2011[79]) Austrian Media Law, https://www.ris.bka.gv.at/geltendefassung.wxe?abfrage=bundesnormen&gesetzesnummer=10000719.

Economic sustainability of the media sector profoundly impacts media independence, concentration and pluralism. There has been a significant shift from print to digital media in recent years, coupled with low media sector profitability. The COVID-19 pandemic exacerbated these trends, particularly affecting smaller outlets, leading to a struggle for survival in many contexts. This can result in news deserts at the local level, diminishing public debate and civic participation. Local media are also key to holding local and regional authorities accountable, in their capacity as watchdogs (Council of Europe, 2023[80]). Against this backdrop, governments can provide financial support to the media sector in a number of different ways (Figure 3.13) as part of protecting a public-interest media and the information ecosystem. Stable and predictable funding for public service broadcasters based on independent assessments of operating costs can help to sustain them, coupled with targeted tax cuts (e.g. a reduction in corporation tax) for public service or public interest media; targeted, transparent funding for local public interest media whether public or private; and transparent advertising revenues to public and private media to disseminate public interest information e.g. health information during COVID-19.

In many OECD member countries, there are no guidelines on fair and transparent advertising allocations (European Commission, 2022[81]), with an associated risk of governments favouring media outlets that provide more government-friendly views than others. Recognising this, the European Media Freedom Act requires EU member states to establish transparent, objective, proportionate and non-discriminatory procedures for the allocation of state advertising that can serve as a model for other regions (European

Parliament, 2024[75]). Furthermore, public authorities will be required to keep a public record detailing the legal names of media providers, the amount spent per outlet and the advertising services that were provided.

Figure 3.13. Key measures to support economic sustainability of the media sector



In addition to the above, governments can ensure that media providers take positive measures to promote a more pluralistic media landscape by considering the following:

- **Legally mandated quotas to promote diversity** e.g. allocating a percentage of coverage to local or regional interests, the views of minorities and different social groups.
- **Legally mandated monitoring of diversity of coverage** using metrics such as gender, race/ethnicity, disability, region, age, sexual orientation and minority interest, for example, to ensure representative coverage.
- **Legally mandated monitoring of diversity in hiring practices** to ensure that media workers are representative of the wider population.

Box 3.14 outlines good practices on ensuring diverse media coverage from **Germany, Norway** and **Estonia**.

Box 3.14. Good Practice: Promoting diverse media coverage and views

Reaching minority communities in Germany

Deutsche Welle, a German public broadcaster, has channels in several different languages, including Persian and Arabic. The latter channel opened in 2015, during a period in which Germany welcomed more than a million refugees, to keep minority communities in Germany informed about news that directly concerned them. Amongst other content, the channel also offers German courses for Arabic speakers.

Designated funding for coverage of Indigenous communities' news in Norway

The Media Support Act in Norway actively supports media outlets offering coverage of Sami current affairs. More concretely, production grants are offered to channels that have the Sami population as their primary target audience, thus publishing in a Sami language or covering matters of particular interest to the Sami community.

Broadcasting in Russian to combat disinformation in Estonia

In 2015, the Estonian public broadcaster launched a channel in Russian, in order to inform the Russian minority in the country on Estonia's current as well as international affairs. Following the invasion of

Ukraine by Russia in 2022, the Estonian government increased funding for the Russian channel to combat disinformation.

Sources: Deutsche Welle, (2015[82]), https://www.dw.com/en/dw-launches-arabic-language-tv-channel-for-europe/a-18915281; Government of Norway, (2021[83]), https://lovdata.no/dokument/NLE/lov/2020-12-18-153; Freedom House, (2023[84]), https://freedomhouse.org/report/2023/reviving-news-media-embattled-europe/case-studies/how-public-service-media-estonia-and-germany-are-bridging.

Protecting journalistic sources

Media workers can only fulfil their social role as purveyors of information, contributors to societal debates, intermediaries between citizens and the state and public watchdogs if the media environment in which they work is fully independent and their working conditions allow them to report freely and without fear. Ensuring that they can protect their sources is a crucial part of the enabling environment (European Parliament, 2024[75]). International guidance stresses that any interference with source protection, such as searches of workplaces or homes, seizure of journalistic material or disclosure orders, should conform to the principles of necessity and proportionality and only apply when no alternative to disclosure exists and when the subject is a matter of public interest (UN Human Rights Committee, 2012[85]). Without such safeguards, sources may be hesitant to assist the press, hindering the flow of information. Box 3.15 shows good practices from the **Netherlands** and **Canada** in protecting media workers and their sources from undue interference.

Box 3.15. Good practice: Legislation that protects the confidentiality of journalists' sources

The Source Protection Act in the Netherlands

Since 2018, the Source Protection Act has provided enhanced protection for the confidentiality of journalists' sources, even if these sources do not explicitly demand confidentiality (European Federation of Journalists, 2018[86]). The act provides for a preliminary consideration by a judge before the police can access data from a source and only to prevent a serious crime. This means that the police can no longer use its own resources to identify journalists' sources. The law is accompanied by a set of instructions for prosecutors and law enforcement bodies.

The Journalistic Sources Protection Act in Canada

The 2017 Journalistic Sources Protection Act in Canada provides legal safeguards for journalists regarding information disclosure (Parliament of Canada, 2017[87]). This law applies to a wide range of individuals who engage in journalistic activities. It explicitly outlines the types of sources that are protected and allows journalists to object to disclosing information likely to identify a source.

Sources: European Federation of Journalists (2018[86]), Netherlands: New "Source Protection Act" finally enters into force, https://europeanjournalists.org/blog/2018/10/04/netherlands-new-source-protection-act-finally-enters-into-force; Parliament of Canada (2017[87]), Journalistic Sources Protection Act, https://laws-lois.justice.gc.ca/eng/annualstatutes/2017_22/FullText.html.

Governments can take legal and practical steps to protect media workers and their sources from undue interference. These include:

- Explicit **legal protection for journalistic sources,** extending to any kind of journalism and across all platforms, services and mediums (and ensuring that exceptions are narrowly defined, strictly governed by law, necessary and proportionate).

- Ensuring that **media workers are protected from unlawful surveillance** (see Recommendation 7: Respect privacy and ensure personal data protection to avoid arbitrary intrusion and interference in civic life).
- Ensuring that **law enforcement actors and members of the judiciary are trained** on the principles of journalistic source protection.
- Instigating a **transparent and independent judicial process**, with an appeals mechanism, to investigate cases where sources are threatened.

Protecting the information ecosystem in the age of AI

Technologies such as AI offer new opportunities for media and citizens to share and receive information. However, AI-driven tools can affect the information ecosystem in several ways, and generative AI in particular poses challenges to the authenticity of media content in all its forms, whether written, audio or visual, as well as people's trust in the information space more broadly (OECD, 2024[54]). As noted by the OECD, policymakers around the globe are grappling with the implications of AI, as private sector technology companies lead its development (Lorenz, Perset and Berryhill, 2023[88]). Related concerns are being voiced by a host of different actors, from civil society to media actors themselves. A recent report highlights that "widespread social, political, and economic repercussions could include disinformation on key scientific issues, perpetuating stereotypes and discrimination, distorting public discourse, creating and spreading conspiracy theories and other disinformation, influencing elections, distorting markets, and even inciting violence" (Lorenz, Perset and Berryhill, 2023[88]).

AI tools are already being used to censor content, distribute news based on the predicted preferences of certain groups, and push sensational content to increase user engagement and revenue, all of which contribute to more polarised "echo chambers" on social media and other online platforms (OSCE, 2020[89]). Challenges regarding mis- and disinformation have deepened with the advent of "deepfakes" and other forms of false and misleading videos and images (Lecheler and Weikmann, 2023[90]) while audience-centred research has found that readers and linguistic experts alike are often unable to discern between AI-generated and human-generated content (Clerwall, 2014[91]; Casal and Kessler, 2023[92]; Lorenz, Perset and Berryhill, 2023[88]). The OECD has documented that generative AI can be used to "create a large amount of realistic fake profiles on online platforms, animate networks of fake or bot accounts, and overcome the detection capabilities recently created by governments, platforms or other stakeholders to identify co-ordinated inauthentic behaviour on platforms" (OECD, 2024[54]). Indeed, the question of provenance of online information – meaning the traceability of the origin, creative process, ownership, and history of content – has become increasingly important to ensuring information integrity and credibility, especially in cases where content is a mixture of both AI-generated (synthetic) and human-authored (authentic) text.

If not implemented via a trustworthy approach, AI can exacerbate existing challenges for the information ecosystem in the digital age (OECD, 2024[54]). The OECD Recommendation on Artificial Intelligence calls for actors that create or use AI to "foster a general understanding of AI systems[7]" and to "respect the rule of law, human rights, democratic and human-centred values throughout the AI system lifecycle". It also states that "mechanisms should also, where technically feasible, be in place to bolster information integrity while ensuring respect for freedom of expression" (OECD, 2024[93]). The latest wave of AI tools – including Chat GPT and its competitors – has advanced at a rate that far outpaces government regulation in this area (Centre for News, Technology and Innovation, 2024[94]). Governments, technology companies, online platforms and media outlets all have a role to play in promoting regulation and oversight of AI systems. The few approaches that exist at present vary from direct regulation, guidance and guidelines, to self-regulation by the industry (Centre for News, Technology and Innovation, 2024[94]) with some companies, such as Microsoft and Meta, pledging to watermark AI-generated content (The Verge, 2024[95]; The Verge, 2023[96]). The OECD has noted that the risks could "demand solutions on a larger,

more systemic scale" (Lorenz, Perset and Berryhill, 2023[88]), encouraging governments to "increase transparency and responsibility, including, where relevant, through regulatory efforts, of relevant actors to better understand and mitigate potential and actual impacts of generative AI tools" (OECD, 2024[54]). Restricting the use of deepfakes in some specific and well-defined contexts could also help mitigate the threat to information ecosystems that is posed by false and misleading content (OECD, 2024[54]). A human-rights-based approach to regulation and oversight would require that governments and oversight bodies act to identify, assess and mitigate the risks posed by these rapidly evolving technologies on an ongoing basis (see **Safeguarding independent oversight bodies to monitor, identify and address restrictions on media freedom** below).

Emerging understanding suggests that concrete steps can be taken to protect information ecosystems and press freedom in the era of AI. Reporters Without Borders and 16 partner organisations published the Paris Charter on AI and Journalism in 2023 which emphasises the need to "determine a set of fundamental ethical principles to protect the integrity of news and information in the AI age" (Reporters without Borders, 2023[97]). The principles stipulate that human agency and responsibility are crucial to editorial decisions, that the difference between authentic and synthetic content must be clear, and call for media outlets to be invited to participate in discussions on AI governance at the national and global scale (Reporters without Borders, 2023[97]). Key emerging requests from civil society on actions that could be taken by AI companies include the following:

- a tailored certification system for AI-generated content, similar to the Fair Trade certification system
- transparent, easily identifiable labelling of online content that differentiates between authentic and synthetic content (e.g watermarking, data provenance markers)
- transparency standards regarding training sets used by AI companies and the integration of human inputs and values into the training process
- guarantees to allow people to routinely identify when they are engaging with synthetic actors or systems that deploy such content (e.g. chatbots, virtual assistants)
- systematic testing of AI systems to identify and manage flaws and vulnerabilities ("red-teaming")
- impact and risk assessments to identify, mitigate and avoid potential biases, inaccuracies and misrepresentations by AI-generated content
- regulation to impose guardrails on AI companies and oblige them to set and adhere to standards (International Partnership for Information and Democracy, 2024[98]).

Safeguarding independent oversight bodies to monitor, identify and address restrictions on media freedom

National independent media regulatory authorities play an important role in guaranteeing a diverse and independent media landscape, as well as overseeing the regulation of the audiovisual sector. These authorities address various aspects of media regulation, including those related to pluralism, media ownership, transparency, the protection of minors, cultural diversity and combatting hate speech. They grant broadcasting licenses, handle complaints from the public, monitor programmes' compliance with legal obligations and adopt codes of practice. They usually have the power to issue warnings, fines or revoke licenses for non-compliance. Ensuring their independence, both in law and in practice, is crucial for them to function effectively, without interference from political or commercial interests.

Oversight bodies for AI could also be essential actors at the national level to examine the extent to which AI systems and tools are amplifying existing challenges in the information space, guide and enforce regulation, analyse current trends, and foresee and help mitigate future risks. Such bodies could also lead inclusive and participatory processes that engage with researchers, CSOs, media actors, academics, public sector actors and other stakeholders to determine the rules and criteria for AI-generated content and its dissemination.

3.5. Recommendation 5: Safeguard and protect at-risk human rights defenders, as well as CSO members, activists and media workers

Human rights defenders[8] (hereafter "defenders"), CSO members, activists and media workers play an essential role in bringing critical issues to the attention of policymakers and the public[9]. This includes generating evidence-based information and analysis, advocating for the rights of different groups, monitoring and documenting abuse and violations where they exist, and holding decision-makers to account. While this often brings them gratitude and recognition, it can also expose them to harm, ranging from stigmatisation and public harassment to violent attacks and killings. Creating and maintaining a safe environment for them requires governments to take special protection measures (OECD, 2022[2]). While these groups are more affected by physical violence in only a few OECD member countries[10], harassment, intimidation and verbal attacks are a growing concern in many OECD member countries, and there is a growing consensus that all countries can do more to counter intimidation and threats to protect them, including when they are forced to flee or are exiled to other countries.

At the EU level, for example, since 2016 the Guidelines on Human Rights Defenders have requested EU missions to address the situation of defenders in reports on their countries of accreditation, noting in particular the occurrence of any threats or attacks against them (European Union, 2016[99]). The EU also provides support through a financial instrument and operates the ProtectDefenders.eu mechanism, offering relocation, monitoring, training and financial support (European Commission, 2022[100]). More recently, the 2023 European Commission Recommendation on promoting the engagement and effective participation of citizens and civil society organisations in public policy-making processes, urged member states to take steps to protect CSOs on domestic territory from "threats, criminalisation, intimidation, harassment as well as attacks and other forms of criminal acts, both offline and online" (European Commission, 2023[101]). A number of OECD member countries have developed initiatives and programmes in response to threats (OECD, 2022[2]) but overall, more opportunities exist for OECD member countries to provide greater protection both within their jurisdictions and abroad. The following provides guidance on:

- Ensuring that comprehensive legal and policy frameworks, as well as protection mechanisms, are in place on national territory.
- Gathering data to monitor intimidation, threats, attacks and killings.
- Providing protection mechanisms to at-risk persons around the world.

(See also Recommendation 10: Protect civic space both domestically as well as in non-member countries as part of a coherent policy on supporting CSOs in partner countries).

3.5.1. Ensuring comprehensive legal and policy frameworks, as well as protection mechanisms, in line with national needs

Centres of government can play an important role in recognising and publicly acknowledging the important role that defenders and rights advocates, CSOs, activists and media workers play in society, thereby setting the tone for public institutions and officials to adopt a zero-tolerance approach to any form of intimidation, threats, attacks or killings. Such recognition can contribute to a positive public discourse regarding their role in society and can take place using a variety of channels and mechanisms, including international conferences or fora, public statements, awards, government funding programmes and other forms of direct engagement.

In most OECD member countries, defenders, CSO members, activists, and media workers are protected by the general rule of law and related institutions. Dedicated legislation and response programmes are only in place in a minority of members in Latin America and on the basis of particular needs or threats. A variety of challenges in these and other countries, such as a lack of resources, remote territories, absent

rule of law, bureaucratic regulations, negative public perceptions, political instability and impunity can prevent these mechanisms from providing adequate and timely protection (OECD, 2022[2]).

A comprehensive protective policy framework – in line with national needs – requires a co-ordinated effort across a diverse range of government agencies. It also requires the identification of the many institutions that play a role in safeguarding at-risk persons. These include centres of governments, ministries of interior, ministries of social welfare or social affairs, dedicated police units and security forces, the criminal justice system, oversight mechanisms and government communicators, all playing a role in the creation of co-ordinated, integrated and effective protection systems.[11] Focal points to co-ordinate efforts and foster interagency collaboration, coupled with dedicated training for public officials to recognise the particular threats that these groups face, can help.

Comprehensive legal frameworks are also key. The International Service for Human Rights – in consultation with over 500 defenders from every region of the globe and 28 high-level experts – developed a Model Law for the Protection of Human Rights Defenders in 2016, which can serve as a guide for countries wishing to develop a dedicated framework for at-risk persons (International Service for Human Rights, 2016[102]). Inclusive definitions that recognise the range of people who may be in need of protection are a key part of any such framework. In addition, governments can publish guidelines in accessible language to make people aware of the resources available to them (Box 3.16).

Box 3.16. Model law for the protection of human rights defenders

The Model Law provides technical guidance on how to implement the United Nations Declaration on Human Rights Defenders (HRDs) at the national level. It contains detailed, precise legal provisions relating to:

- the rights of HRDs and the responsibility to defend rights
- the obligations of states and public authorities to protect and enable the work of defenders and to prevent, investigate and remedy violations against them
- the establishment of a mechanism to protect HRDs.

Detailed annexures propose model provisions on the effective operation of a protection mechanism and processes and principles to ensure that other laws are developed, interpreted and applied in accordance with the Model Law. In addition to providing technical legal guidance and tools, the Model Law also highlights the main elements necessary for creating a safe and enabling operational environment for HRDs:

- a conducive legal, institutional and administrative framework
- measures against impunity and access to justice for violations against defenders
- strong, independent and effective NHRIs
- effective protection policies and mechanisms, including public support for the work of defenders
- special attention to risks and challenges faced by women defenders and those working on women's rights and gender issues
- non-state actors' respect and support for the work of defenders
- safe and open access to the United Nations and international human rights bodies.

Note: This can be adapted to address the needs of a range of at-risk persons, in line with national needs.
Source: International Service for Human Rights (2016[102]), Model Law for the Recognition and Protection of Human Rights Defenders, https://ishr.ch/defenders-toolbox/resources/model-law.

Effective protection mechanisms include functioning, accessible and efficient reporting mechanisms for those who are threatened or attacked. These can either be dedicated structures that people can report to, or more general and already existing complaints mechanisms established by law

enforcement or NHRIs. Especially in high-risk contexts, an early warning protection system with emergency helplines and easily accessible support services can help to anticipate and mitigate threats. Protection mechanisms include physical protection measures and psychological support where threats are made, but also provision for emergency needs, including housing, financial support, healthcare, and legal assistance, coupled with access to robust support networks such as psychological support. The effectiveness of a protection system requires co-operation between law enforcement authorities, the judiciary, authorities at local, regional and national levels, NHRIs, equality bodies and CSOs that play a role in monitoring of threats against at-risk groups. It is crucial that the criminal justice system is able to introduce accountability measures through prompt and impartial investigations and prosecutions. Training for police and the judiciary is also essential to enhance their ability to effectively investigate and prosecute cases involving targeted threats and violence, thereby ensuring a comprehensive and reliable framework to safeguard at-risk individuals.

The participation of targeted persons and groups in the formulation of relevant policies, legislation and protection mechanisms helps to ensure that first-hand knowledge regarding challenges, concerns and needs are taken into consideration and that policies are informed by real world experience. Informing relevant persons of the available protection and support services is crucial. Independent impact evaluations of protection programmes are also important, in consultation with affected persons, to assess their effectiveness. By assessing which parts of a programme are working and which are not, relevant authorities are in a much better position to experiment and innovate to respond to needs, thereby improving programming over time.

Gathering data to monitor intimidation, threats, attacks and killings

Regular monitoring of intimidation, threats, attacks and killings, facilitated by effective data gathering, plays a crucial role in safeguarding the rights of at-risk persons. Having a solid monitoring system in place:

- Helps to identify patterns and trends.
- Facilitates early warning and responses to specific or emerging challenges (e.g. threats in a particular geographic area, against a particular group of persons).
- Serves as an evidence-base for legal reforms or programmes.
- Serves as an evidence-base to hold perpetrators to account.
- Helps to assess the impact of prevention and response initiatives.

Data on threats and attacks can be gathered in already existing national databases (e.g. crime statistics, criminal justice database) or as part of a dedicated register, depending on national needs. To fill any data gaps, governments and national statistics offices can consider partnering with non-governmental actors monitoring threats, attacks and killings, such as CSOs and research institutes. NHRIs can play a crucial role as they often serve as complaint mechanisms, allowing individuals to report incidents of harassment, threats or attacks. Reports documenting instances of hate speech and SLAPPs are also pivotal components of analyses on threats, intimidation and attacks.

A co-ordinated approach to data collection that considers datasets alongside one another can help relevant authorities to diagnose challenges and understand trends. In **Denmark**, public institutions are working to improve data collection on threatened defenders, for example, by joining up data from official and unofficial sources (Box 3.17). Disaggregation of data (e.g. by gender, affiliation, area of work, protected characteristic and location) helps to identify at-risk groups[12]. Systematic publishing of up-to-date, comprehensive, standardised, anonymised and disaggregated country-wide data, including as open data, is also a way to raise awareness, monitor the effectiveness of protection programmes, foster the necessary political will to address related challenges, and increase transparency and accountability for threats and attacks. It is essential that any databases (and related reporting) are developed with careful consideration

for the safety and privacy of at-risk individuals (see Recommendation 7: Respect privacy and ensure personal data protection to avoid arbitrary intrusion and interference in civic life). Involving at-risk groups themselves in the design and implementation of national registers can also enhance effectiveness and relevance.

Box 3.17. Good practice: Strengthening official statistics on killings and harassment of human rights defenders in Denmark

The independent state-funded Danish Institute for Human Rights (Danish Institute for Human Rights, 2022[103]) is the co-creator of the Inclusive SDG Data Partnerships initiative. The initiative aims to generate official data on defenders worldwide through alliances in several countries. The partnerships comprise national statistics offices, CSOs and NHRIs. They identify missing data on specific issues and groups and plan how to fill the gaps. For example, in some countries, official data are either non-existent or are not disaggregated by threatened group (e.g. Indigenous peoples, women, LGBTI persons, environmental activists) or thematic focus.

Source: Danish Institute for Human Rights (2022[103]), Bringing human rights defenders into official statistics, https://www.humanrights.dk/result/bringing-human-rights-defenders-official-statistics.

Table 3.3 summarises the key measures that OECD member countries and other countries can consider to protect at-risk persons operating on national territory, focusing on:

- recognition of their key role in society
- legal and policy frameworks
- protection mechanisms
- monitoring, analysis and evaluation of intimidation, threats, attacks and killings
- participation in related policymaking and protection initiatives.

Table 3.3. Selected measures to protect and support at-risk persons operating on national territory

Focus area	Measures	Responsible Institution
Recognition		
Awareness-raising	• Awareness-raising and recognition through awards, public funding, positive government communications	Centre of government, line ministries, NHRIs
Legal and Policy Framework		
Legal and policy framework	• Comprehensive legal and policy framework that addresses protection issues, in line with national needs	Centre of government, line ministries, legislature
Guidance	• Published guidelines in accessible language to make at-risk persons aware of the resources available to them • Training for police and the judiciary to effectively investigate and prosecute cases of targeted threats and violence	Centre of government, line ministries, NHRIs
Protection Mechanisms		
Protection and support	• Early warning and protection systems established in countries with heightened risks • Protection measures for at-risk persons who report threats • Easily accessible support services, including psychological support • Co-operation between NHRIs, other complaints mechanisms, law enforcement and CSOs • Adequate and predictable public funding to effectively protect and support at-risk persons or persons having suffered an attack • Provision for emergency needs (e.g. housing, funds, health, legal support), access to support networks	Centre of government, line ministries, police, NHRIs, CSOs
Monitoring, Analysis and Evaluation		

Focus area	Measures	Responsible Institution
Data collection	• Published official, national data on instances of intimidation, threats, attacks and killings (respecting anonymity) • Cross-institutional co-operation to improve data collection	Centre of government, dedicated mechanism, national statistics offices, police
Data analysis to identify risks	• Regular evidence-based analysis to identify key risks and targets	Centre of government, line ministries
Evaluation of protection programmes	• Regular impact evaluations of protection programmes	Centre of government, line ministry
Participation		
Involvement of at-risk persons	• Involving at-risk persons in any measures (e.g. protection programme design, drafting of policies, national registers) designed to support and protect them	Centre of government, line ministries

Recognising the particular threats that journalists and media workers face, several countries have taken positive steps to protect their vital role through specific strategies, guidelines, policies and initiatives (Article 19, 2023[104]) Examples include a multi-stakeholder forum on journalists' safety in **Greece**, a co-ordination centre on acts of intimidation against journalists in **Italy** and a hotline to report aggression for journalists and media workers in **Belgium** (Article 19, 2023[104]). Box 3.18 illustrates three good practices on dedicated measures from OECD member countries.

Box 3.18. Good practice: Measures to protect journalists

National action plans in the United Kingdom and Lithuania

In 2021, the **United Kingdom** adopted an action plan to protect journalists due to rising reports of abuse, threats and attacks against them (Government of the United Kingdom, 2021[105]). This aims to reduce such incidents and hold perpetrators accountable. Measures include raising awareness, training police and journalists, enhancing the criminal justice system's response and supporting victims in enhancing their safety. In **Lithuania**, a comprehensive action plan to safeguard journalists was adopted in 2023. Measures include specialised training sessions for prosecutors, police officers and judges to address threats against journalists effectively. Moreover, targeted training sessions and consultations between law enforcement agencies and journalists' associations aim to prevent threats and attacks during public gatherings and demonstrations. Additionally, efforts are underway to develop a mechanism for documenting and gathering data on various forms of attacks against journalists, whether physical or online (Article 19, 2023[104]).

Press safety initiative in the Netherlands

In 2019, the government established the PersVeilig (Press Safety) initiative to provide a comprehensive package of measures and act as a liaison platform to engage law enforcement agencies and media organisations to adequately address threats to the safety of journalists. Its responsibilities include research and monitoring, training, support for journalists following violence and abuse, and enhancing journalists' safety on and offline (Government of the Netherlands, n.d.[106]). Activities include a hotline for journalists to report physical, verbal, sexual and other threats and a 'Stop Conversation' where police can visit the home of anyone who harasses journalists online to speak to them, in cases where the threshold of criminal liability has not been reached.

Sources: Government of the United Kingdom (2021[105]), Government publishes first ever national action plan to protect journalists, https://www.gov.uk/government/news/government-publishes-first-ever-national-action-plan-to-protect-journalists; Government of the Netherlands (n.d.[106]), Persveilig, https://www.persveilig.nl/about-us.

3.5.2. Protecting human rights defenders around the world

OECD member countries are protecting at-risk people on national territory, in addition to persons fleeing to their territories from other jurisdictions through asylum and special protection programmes. Training for visa officers and police border guards on protection needs and legal obligations, coupled with rest and respite for people who are relocated short-term, may be lifelines for affected persons. Access to legal support, banking, education, housing, healthcare, psychological support, work permits and family relocation is also critical.

A number of OECD member countries have also introduced explicit guidelines, policies or programmes to help protect human rights defenders in partner countries. These efforts can complement measures implemented by partner country governments. Box 3.19 highlights three separate efforts.

Box 3.19 Good practices in supporting human rights defenders

Guidelines on Supporting Human Rights Defenders globally from Canada

The Canadian government, in collaboration with civil society, has developed Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders (Global Affairs Canada, 2019[107]). Aiming to enhance the protection of defenders worldwide, the guidelines offer practical advice for officials at Canadian missions (both at headquarters and abroad), while recognising that there is no one-size-fits-all approach.

Support for human rights defenders worldwide from the Netherlands

The Netherlands offers financial aid to human rights defenders operating globally through its Human Rights Fund. The Shelter City initiative provides a safe haven for at-risk defenders for three months, enabling them to work and receive training. In addition, each year, the Ministry of Foreign Affairs offers the Human Rights Tulip award to a human rights defender or human rights organisation to support their work. The winner receives EUR 100 000 to continue and expand their efforts (Government of the Netherlands, n.d.[108]).

Support to environmental defenders in development co-operation from the United States

USAID's 2022-2030 Climate Strategy protects and supports environmental defenders by emphasising collaboration with Indigenous Peoples and local communities for more inclusive decision-making in climate actions (USAID, 2022[109]). USAID also works with national, regional and local governments to strengthen protection programmes, advocate for environmental defenders' rights, address impunity and uphold the rule of law (Landlinks, 2023[110]).

Sources: Government of Canada (2019[107]), Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders, https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/human_rights-droits_homme/rights_defenders_guide_defenseurs_droits.aspx?lang=eng#a1; Government of the Netherlands (n.d.[108]), Supporting human rights defenders, https://www.government.nl/topics/human-rights/human-rights-worldwide/supporting-human-rights-defenders; Landlinks (2023[110]), Environmental Defenders are Under Threat: Here's what USAID Can Do to Help, https://www.land-links.org/2023/01/environmental-defenders-are-under-threat-heres-what-usaid-can-do-to-help/; USAID (n.d.[111]), Localization, https://www.usaid.gov/localization; USAID (2022[109]), Climate Strategy 2022-2030, https://www.usaid.gov/sites/default/files/2022-11/USAID-Climate-Strategy-2022-2030.pdf.

Figure 3.14 lists measures that OECD member countries, including embassy staff, can consider in partner countries. Common initiatives include donations of financial assistance for protection programmes, relocation possibilities and public diplomacy efforts, including meetings with defenders in-country.

Figure 3.14. Measures that OECD member countries, including embassy staff, can adopt in partner countries to protect at-risk persons



3.6. Recommendation 6: Protect and facilitate freedom of peaceful assembly and the right to protest

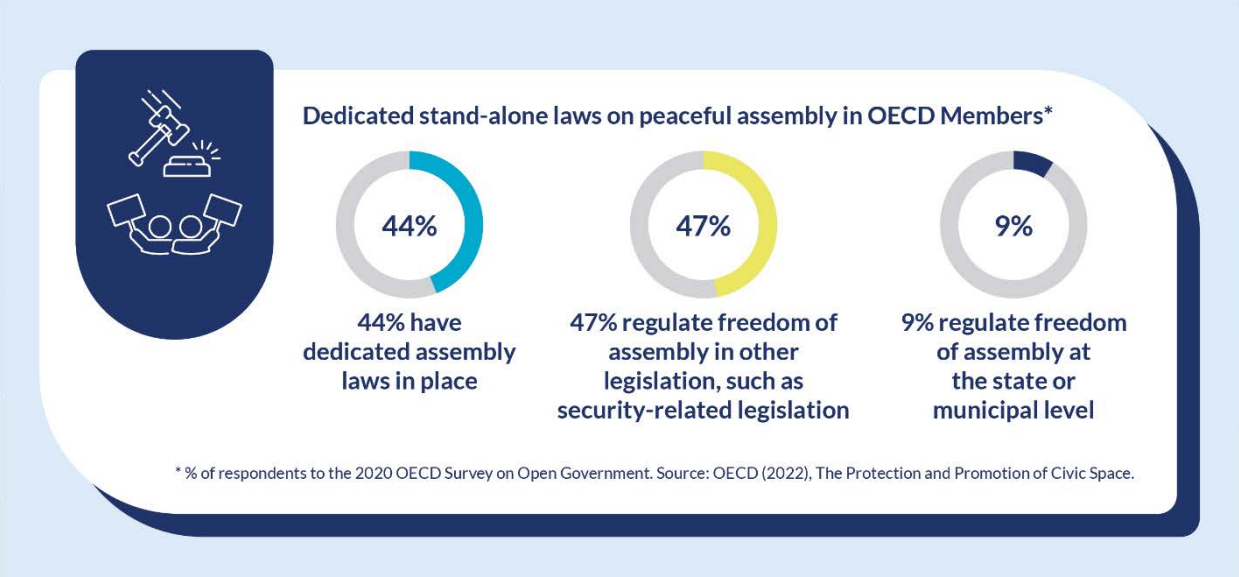
The right to assemble peacefully is a prerequisite for an open and democratic society and its protection is an obligation of states under international law (UN, 1966[1])**. It includes the right to hold meetings, sit-ins, strikes, rallies, events and protests** (UN Human Rights Committee, 2020[112]; OSCE/ODIHR/Venice Commission, 2020[113]). Surveyed OECD member countries permit and facilitate this right and citizens exercise it as a key way to advance common interests and voice opinions on policymaking, public spending, social affairs and foreign policy issues. Peaceful protests offer a means to draw public attention to important issues, thereby creating avenues for more inclusive policymaking and developing stronger democratic processes and institutions. But against a background of international crises, polarisation on a wide range of issues, mass protests and social movements, coupled with a democratic decline in some OECD member countries, the context in which this right is being facilitated is increasingly complex. Between January 2019 and December 2023, there were 26 large protests of more than 100 000 people in 12 OECD member countries with the majority taking place in **France** and **Spain**, followed by **Poland** and the **United States** (Carnegie Endowment for International Peace, 2024[114]). The following provides guidance on concrete ways for governments to protect and facilitate freedom of peaceful assembly, as a key component of democratic life, through:

- dedicated legal frameworks
- facilitation of the right in practice:
  - Enhancing transparency and trust through information portals
  - Establishing dialogue mechanisms between law enforcement and assembly organisers
  - Operating procedures for law enforcement
  - Ensuring the safety of media workers during assemblies
  - Responding proportionately to disruption of daily life, traffic and civil disobedience.

3.6.1. Strengthening freedom of peaceful assembly through dedicated legal frameworks

As a complement to the right of freedom of assembly that is guaranteed by most OECD member countries' constitutions, dedicated assembly laws allow governments to elaborate on relevant procedures and mechanisms, in addition to clarifying the obligations of public authorities, the police and assembly organisers (Figure 3.15). These laws can serve as a guide for consistent and standardised decision-making, thereby reducing the likelihood of discretionary powers being used. They provide legal certainty and clarity by offering citizens a comprehensive understanding of their right to assemble, including any restrictions, and the protections afforded to assembly participants. They can also frame the exercise of this right in a positive manner, thereby fostering increased trust between citizens and the state.

Figure 3.15. Laws on peaceful assembly



Source: OECD (2022[115]), *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance*.

A review of national assembly laws in OECD member countries shows a number of good practices. Some explicitly stress the state's duty to facilitate peaceful assemblies and provide organisational support, as well as the responsibility of law enforcement to ensure safety and security. Delineating the respective responsibilities of law enforcement and assembly organisers in maintaining public order and security helps to establish clarity and accountability. Notification procedures for assemblies are a common way for countries to facilitate the right.

Notification procedures for peaceful assemblies

Advance notification by organisers is required in most OECD member countries to enable state authorities to facilitate peaceful assemblies by, for example, clearing streets or providing security. Notifying authorities does not imply a need to seek permission, but functions as a tool to support authorities to co-ordinate events, reduce disruption, safeguard competing rights and enable individuals to make arrangements in cases where an event might impede their freedom of movement. The necessary notification period differs from country to country. In practice, a balance can be sought by ensuring that the notification period is long enough for authorities to prepare for an event but not so long as to jeopardise the right by making assemblies impossible to organise. An appropriate means to strike the necessary balance is to require different notification periods depending on the specificities of an assembly, such as the expected number of participants, the place and the time, or the expected disruption to traffic and public

order. These differentiated notification periods have been introduced by a number of OECD member countries. Spontaneous assemblies, held in reaction to events such as government announcements or decisions, are also recognised in some OECD member countries' legal frameworks, with corresponding adjustments for notification times and procedures. In light of legal obligations, a certain degree of tolerance may be exercised in cases where assemblies occur without prior notification to authorities. This approach can avoid the criminalisation of un-notified assemblies, as suggested by international standards (OECD, 2022[2]).

Legal frameworks may define specific timelines for state authorities to respond to notifications and require authorities to provide detailed reasons in case of a refusal, in addition to providing avenues for assembly organisers to appeal. In order to streamline and simplify procedures, authorities can ensure that organisers have to inform a single state authority rather than having to navigate multiple entities. They can also establish rules specifying that decisions regarding refusals in specific locations should be made on a case-by-case basis, thereby avoiding blanket bans, in line with international guidance (OECD, 2022[2]).

Several national laws mention the importance of ensuring non-discriminatory handling of assemblies so that advance notifications – or requests, as relevant – to hold an assembly are addressed fairly, transparently and on an equal basis. In addition, laws can emphasise that the subject matter of an assembly cannot serve as grounds for refusal, thereby aligning with international standards that underscore the importance of avoiding restrictions based on the content or message that an assembly seeks to convey. Figure 3.16 provides a summary of good practices than can help to protect freedom of peaceful assembly.

Figure 3.16. Summary of good practices from national legal frameworks on the protection of peaceful assembly



3.6.2. Facilitating the right to peaceful assembly in practice

Similar to other civic freedoms discussed in Recommendations 1 and 2, in practice, restrictions on peaceful assembly at national level are mostly based on public safety, public order, national security and public health and morals, in line with international standards. However, these are interpreted in different ways depending on the context. Interpretations of what constitutes a threat to public safety or morals, for example, may vary considerably based on the historical and social context, and may also change over time in response to events (e.g. terrorist threats or attacks, the rise of social movements). National courts play a key role in upholding the right when restrictions are introduced by authorities.

Facilitation of peaceful assembly requires a significant investment by the state in terms of administration, security provision and training for security forces. While organisers may assist state authorities, international guidance places overall responsibility for public safety, in addition to the associated costs, with public authorities (OECD, 2022[2]). The UN Special Rapporteur on freedom of assembly and of association provides guidance for governments on a number of key issues (OECD, 2022[2]) that recognises the complexity of related decision-making.

Outbreaks of violence during assemblies are a risk and highly trained law enforcement are key to facilitate their peaceful conduct. When violence does occur, comprehensive legal frameworks, operating procedures and dialogue between law enforcement and assembly organisers can help to ensure that responses are proportionate, necessary and in line with international standards, with a primary focus on protecting the right to peaceful assembly and peaceful participants. This can be a complicated task when groups of protestors seek to damage property and cause disruptions to public services, spaces and property, and requires a differentiated approach to violent and non-violent participants. Acknowledging that there is not always a clear dividing line between assemblies that are peaceful and those that are not, international guidance states that there should be “a presumption in favour of considering assemblies to be peaceful” (UN Human Rights Committee, 2020[116]) so that what may be isolated acts of violence are not attributed to the organisers, or to the assembly as a whole. Dispersal of assemblies can be required but only in the rarest of circumstances, preceded by clear warnings, and conducted in an impartial manner, without targeting specific groups or individuals (OECD, 2022[2]).

Enhancing transparency and trust through information portals

Online portals that explain the rules, obligations and rights of citizens, assembly organisers, administrations and law enforcement before, during and after assemblies can help to ensure clarity and transparency. An accessible format and plain and appropriate language(s) (e.g. including minority languages) can help to facilitate understanding. States can promote transparency and trust by publishing data on facilitated assemblies (e.g. starting point, route, subject matter, date), including on notifications or requests that were denied and related justifications. Moreover, monitoring and publishing on any injuries suffered by either police or participants during assemblies can also help to strengthen transparency and accountability, as well as access to redress. One such example is that of the Independent Police Conduct Authority (IPCA) in **New Zealand**, which gathers and publishes data on complaints regarding police conduct more broadly and issues reviews of policing at different protests, including injuries of police and protestors. A 2023 review of the policing of a protest and occupation of Parliament in February and March 2022 covered violence directed at and by the police (New Zealand Independent Police Conduct Authority (IPCA), 2023[117]).

Establishing dialogue mechanisms between law enforcement and assembly organisers

Facilitated dialogue between the police and assembly organisers presents an opportunity to collaboratively assess situations, forge concrete agreements and mitigate risks, including of escalation, before an event. Establishing communication structures during the preparatory phase of a

demonstration can significantly reduce the likelihood of misunderstandings and foster the development of proposals to address potential areas of conflict. By initiating dialogue *before* an event, communication channels between organisers and police command can be established, thereby ensuring a more co-ordinated and rapid response to potential escalations *during* the event (Box 3.20). In the spirit of shared responsibility, as in the case of **Sweden**, a dialogue characterised by mutual respect, empathy, openness and honesty can yield positive outcomes for all parties (Box 3.20).

Operating procedures for law enforcement on the facilitation of peaceful assemblies

Operating procedures and protocols for law enforcement provide guidance to ensure that responses to any violence that occurs are in line with international standards and that force is only used as a last resort. This helps to avoid disproportionate or unilateral responses. Public dissemination of these and adequate training for law enforcement are essential, alongside accessible independent complaints and redress mechanisms to address any damage to property or disproportionate or excessive use of force by security personnel. Accountability can be enhanced by ensuring that law enforcement is sufficiently trained in handling crowds, is individually identifiable, uses de-escalation tactics and isolates persons posing an imminent threat to the safety of persons or property. Box 3.20 provides a good practice from **Colombia** and **Sweden**.

Box 3.20. Good practice: Reducing tensions and the use of force during public assemblies

Dialogue Police in Sweden

The Dialogue Police in Sweden (Government of Sweden, 2019[118]) are specially trained to police large crowds during gatherings and protests. Their purpose is to maintain order and security for participants, including by acting as liaisons between organisers and the regular police before and during events. Dialogue police officers receive special training and co-operate with other actors, such as social services, parents' associations, public transport providers and local businesses who may be affected by demonstrations.

Operational procedures for public assemblies in Colombia

Following a 2020 Supreme Court ruling on the use of police violence during peaceful assemblies, the government of **Colombia** issued *The Statute of Reaction, Use and Verification of the Legitimate Force of the State and Protection of the Right to Peaceful Protest* in 2021. The administrative act regulates the use of force during peaceful demonstrations and provides guidelines to public authorities on giving priority to dialogue and mediation, in addition to protecting the rights of vulnerable groups and journalists covering protests. The police are instructed to use preventive actions; plan and organise their interventions; and avoid situations that threaten the life, property and personal integrity of people taking part in assemblies. The statute also emphasises the need for differentiated use of force for peaceful and violent protesters.

Sources: Supreme Government of Sweden (2019[118]), Dialogue police – the work of the police, https://polisen.se/om-polisen/polisens-arbete/dialogpolisen; Court of Colombia (2020[119]), STC7641-2020 Supreme Court Ruling, https://www.cortesuprema.gov.co/corte/wp-content/uploads/relatorias/tutelas/B%20OCT2020/STC7641-2020.doc; Government of Colombia (2021[120]), Degree 003 of 2020 – Statute of Reaction, Use and Verification of the Legitimate Force of the State and Protection of the Right to Peaceful Citizen Protest, https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=154406.

Regular post-debriefing sessions *after* demonstrations can also help to build trust between the police and organisers, enabling all parties to reflect on the event, share perspectives and identify areas for improvement. In the **United Kingdom**, in guidance issued to organisers of public events, the metropolitan police advise that organisers, stewards and safety officers are debriefed to gather information useful to both the police and organisers and to improve planning and management of public events (United Kingdom Metropolitan Police, n.d.[121]). In the **United States**, the Community Oriented Police Services at the Department of Justice suggest after-action reviews in which members of the community, law enforcement and other stakeholders have a discussion and establish processes to incorporate their learning into police training and procedures for future protests (United States National Policing Institute and Community Oriented Police Services office, 2022[122]).

Recognising protests as a form of citizen participation is also pertinent to the broader discourse on citizen engagement. Addressing the root causes of protests and engaging with protesters holds potential for fostering constructive dialogue between citizens and governments and funnelling citizen participation into decision-making processes if the appropriate institutional channels are in place. In this aspect, the creation of institutional mechanisms to take stock of citizen's demands gains importance, with initial examples of good practice in OECD member countries, such as **Costa Rica**, where governments respond to protests and anticipate them by establishing dialogue channels through which citizen demands are identified and addressed (Box 3.21).

Box 3.21. Good practice: Tying together freedom of peaceful assembly and democratic participation through open dialogue

In May 2022, the government of **Costa Rica** established a mechanism to address citizens' demands expressed through demonstrations in a constructive manner. This initiative features direct dialogue channels between public institutions and citizens prior, during and after demonstrations. Beyond facilitating direct communication to address citizens' concerns, the mechanism also helps to mitigate the risk of violent escalation during protests.

In practice, when a demonstration occurs, government representatives proactively engage by attending the demonstration site and initiating open dialogue with demonstrators as the first line of response to protests. Also preventively, before demonstrations take place, once relevant leaderships are identified, representatives from the central government discuss existing concerns with the population in many different areas of the country. Follow-up agreements and cross-institutional co-ordination help to address the range of demands of the population.

Source: OECD (2024[123]), OECD Webinar: Protecting and promoting civic space: Good practices from Latin America, https://www.youtube.com/watch?v=AOO6qTnASqc.

Ensuring the safety of media workers during assemblies

Media workers play a critical role as witnesses to assemblies and protests and can sometimes be subject to harassment, violence and arrest in doing so (UNESCO, 2020[124]). According to Reporters without Borders, media workers are at risk of being targeted by both law enforcement and participants (Reporters without Borders, 2023[125]). Recognising this, many countries – including **Germany**, **Italy**, **Slovak Republic** and **Sweden** – have taken positive steps to protect journalists during assemblies, (Reporters without Borders, 2023[125]). In addition, **France** places a particular focus on protecting journalists during assemblies though its 2021 National Law Enforcement Plan (Schéma national du maintien de l'ordre) (Government of France, 2021[126]). It assigns a dedicated official for this purpose at all major public events as well as a dedicated exchange channel to provide real-time information and resolve

any difficulties. The plan specifies that journalists can move freely among security arrangements (e.g. barriers and fences), wear protective equipment and position themselves behind law enforcement if necessary (Government of France, 2021[126]). A monthly liaison committee was also introduced in 2022 as a channel between authorities and representatives of journalists and media organisations (Government of France, 2021[126]). In **Austria,** the police deploy media contact officers during demonstrations to protect journalists (Austrian Federal Ministry of the Interior, 2021[127]). They function as a direct contact for media representatives who feel threatened or attacked or who want to report a suspicious incident. Moreover, these officials are responsible for reporting on criminal or administrative violations of journalists' rights.

Responding proportionately to civil disobedience

Civil disobedience has experienced a surge in recent years, led by activists who use high-profile actions such as blocking public spaces, interrupting events or gluing themselves to artworks to draw attention to specific issues and to advocate for reforms. While there is no universal definition of civil disobedience, it is understood as an act of deliberative law-breaking to promote a goal that is in the public interest, conducted in public and of a non-violent nature (UN Special Rapporteur on Environmental Defenders, 2024[128]). These actions often serve as a form of dissent, sparking a lively public debate about the legitimacy of disruptions as a form of protest (Box 3.22). In practice, national courts are left to decide how to interpret relevant laws and the sometimes grey areas between civil disobedience, proportionality and the public interest.

Box 3.22. Acts of civil disobedience

Given the increasing urgency of the climate crisis, environmental defenders, which the UN defines as "individuals and groups who, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights relating to the environment, including water, air, land, flora and fauna" have been at the forefront of protests in recent years (UNEP, n.d.[129]).

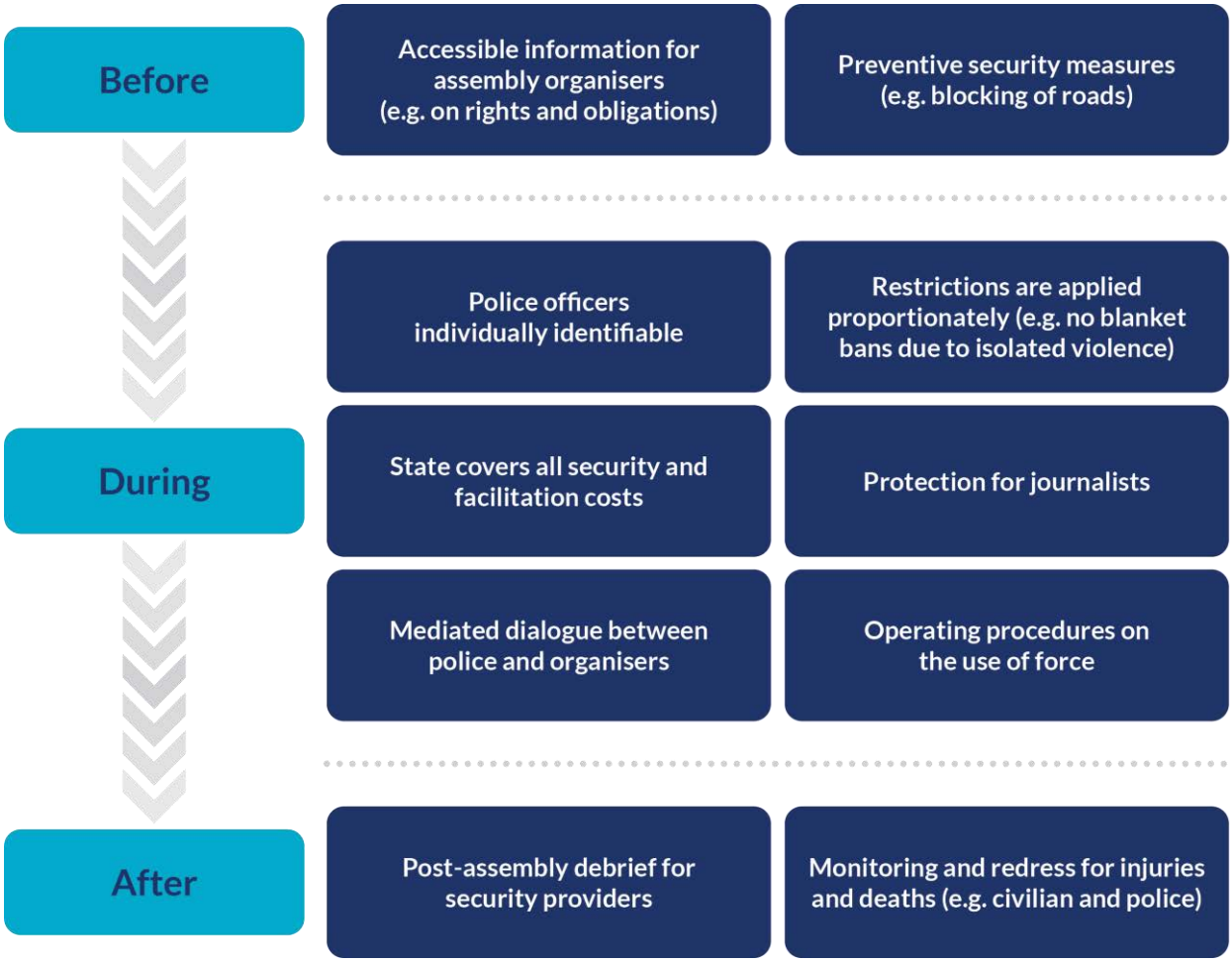
With rare exceptions, while disruptive, these protests are peaceful and non-violent (Council of Europe, 2023[130]). In such cases, the United Nations Human Rights Committee advises caution in responding to them, noting that peaceful collective civil disobedience or direct-action campaigns are protected by international law under the rights of freedom of expression and freedom of peaceful assembly (UN Human Rights Committee, 2020[116]). It advises that "mere pushing and shoving or disruption of vehicular or pedestrian movement or daily activities do not amount to "violence"". The Special Rapporteur on the rights to freedom of peaceful assembly and of association emphasises the need to recognise and allow civil disobedience and non-violent direct-action campaigns in advancing climate justice, given the significant public interest involved (Special Rapporteur on the rights to freedom of peaceful assembly and of association, 2021[131]). The European Court of Human Rights has also cautioned that while states may prosecute protestors who have taken part in violent activities, sanctions imposed should be proportionate (European Court of Human Rights, 2022[132]).

Sources: UNEP (n.d.[129]), Who are environmental defenders?, https://www.unep.org/explore-topics/environmental-rights-and-governance/what-we-do/advancing-environmental-rights/who; Columbia Law School (n.d.[133]), Global Climate Change Litigation, https://climatecasechart.com/non-us-climate-change-litigation/; CoE (2023[130]), Crackdowns on peaceful environmental protests should stop and give way to more social dialogue, https://www.coe.int/en/web/commissioner/-/crackdowns-on-peaceful-environmental-protests-should-stop-and-give-way-to-more-social-dialogue; Reuters (2022[134]), At COP27, protesters within U.N. venue demand climate finance, https://www.reuters.com/business/cop/cop27-protesters-within-un-venue-demand-climate-finance-2022-11-09/; UN Human Rights Committee (2020[116]), General comment No. 37 (2020) on the right of peaceful assembly, https://ukraine.un.org/sites/default/files/2021-07/GC37%20ENG.pdf; European Court of Human Rights (2022[132]), Guide on the case-law, https://www.echr.coe.int/documents/d/echr/Guide_Mass_protests_ENG.

Despite the above recognition of civil disobedience as a legitimate exercise, there is a trend of governments repressing and criminalising those who exercise it, especially environmental defenders. The UN Special Rapporteur on Environmental Defenders identifies four areas where this trend is visible: in political and media discourse, legislation and policy, law enforcement and by national courts (UN Special Rapporteur on Environmental Defenders, 2024[128]). Mentions of ecoterrorism or the depiction of civil disobedience as a threat to democracy are common in OECD member countries and negatively affect the public perception of protesters. Environmental civil disobedience is commonly included as "extremism" in lists of terrorist threats in national legislation. According to the Special Rapporteur, multiple cases of harassment of peaceful protesters engaging in civil disobedience have been observed in EU countries, including unjustified fines, excessive identity checks, indiscriminate arrests (for protesters and journalists), pre-trial detentions for minor offences, police brutality and disproportionate sentences during protests (UN Special Rapporteur on Environmental Defenders, 2024[128]). Against this backdrop, OECD member countries can seek to ensure that responses to civil disobedience are proportionate, by avoiding excessive restrictions and law enforcement responses.

Figure 3.17 summarises the key measures that countries can take to facilitate freedom of peaceful assembly before, during and after events.

Figure 3.17. Good practices to facilitate peaceful assembly, including protests



3.7. Recommendation 7: Respect privacy and ensure personal data protection to avoid arbitrary intrusion and interference in civic life

3.7.1. Protecting privacy and personal data as key components of a vibrant civic space

The right to privacy is a prerequisite for a vibrant civic space, as it helps to create the conditions for people to inform, express and organise themselves, whether as individuals or as part of organisations, without undue interference or fear of repercussion (OECD, 2022[2]). It covers a person's physical and psychological integrity and the right to freedom from arbitrary or unlawful interference with one's privacy, family, home or correspondence, embracing multiple aspects of one's physical and social identity (UNGA, 1948[135]; UN, 1966[1]). The right to privacy establishes boundaries on the state's ability to intervene in the lives of citizens and CSOs by creating a protected space where they can pursue lawful activities freely without undue scrutiny. International standards recognise certain limitations on the right. Public authorities can legitimately interfere with it to protect a range of policy areas, namely national security, public safety, the economy, health or morals and the rights of other people, or to prevent disorder or crime, where actions are lawful, necessary and proportionate. But, as in other areas discussed in the Guide, interpretations of the parameters of such limitations can vary and the courts play a crucial role in defending the right to privacy and providing redress for violations by public actors. One of the most debated aspects of the right is the intersection between privacy, personal data and state security interests, including surveillance, particularly in the context of rapidly developing new technologies and restrictions on civic space in some contexts. Indeed, the right to privacy has evolved over time in a symbiotic relationship with technological developments (OECD, forthcoming[35]). The following provides guidance on four key areas that help to protect the right to privacy as a core component of protected civic space:

- Safeguarding against the increased use of surveillance technology.
- Mitigating risks associated with personal data collection, retention and use.
- Strengthening independent oversight to protect privacy.
- Empowering individuals' control over their data.

3.7.2. Safeguarding against the increased use of surveillance technology

In recent years, CSOs, think-tanks and rights bodies have repeatedly expressed concerns about the overreach of the state and the private sector in private life – and their related risks (Hare, 2022[136]; UN, 2020[137]; OECD, 2022[2]).[13] Undue surveillance violates the right to privacy as such, in addition to affecting the exercise of other civic freedoms such as freedoms of expression, association and peaceful assembly. It may have a negative effect on the expression of public opinion, for example, whereby individuals or CSOs refrain from engaging in lawful conduct (e.g. such as making a statement or attending a protest) because they are afraid of being identified as one group or another. Evidence of spyware being used to target media workers, political figures and civil society has grown in recent years (UN Human Rights Council, 2023[138]), with several high-profile cases involving sophisticated software such as Pegasus and Predator (European Parliament, 2023[139]; FRA, 2023[140]).

In 2023, the Council of Europe's Commissioner on Human Rights reported that there was ample evidence that these forms of spyware have been exported and used illegally for surveillance purposes rather than public safety, with inquiries launched in many European countries (Council of Europe, 2023[141]). Furthermore, in the same year, a European Parliament special committee concluded that the EU required further regulation of the industry after finding evidence of illegitimate use in two EU member states. A 2023 European Parliament recommendation to the Council and the Commission following the investigation stated that there was a clear need for common EU standards in this area based on international law (European Parliament, 2023[142]). In parallel, UN Special Rapporteurs have consistently called for a global moratorium on the exportation and sale of such technology, until robust legal and regulatory frameworks

are established (UN OHCHR, 2021[143]). Within this context, regular independent human rights-based assessments of the use of surveillance technology to ensure that any potential costs to society (e.g. intrusion, lack of trust, violations of privacy) do not outweigh any possible benefits, can help to increase accountability.

Concerns about surveillance, data protection and privacy reflect a growing demand for ethical practices to complement data protection and privacy regulations and a growing interest in ensuring that data and technology are used in ways that respect the public interest and deliver trustworthy outcomes for citizens (OECD, 2021[144]). According to the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, new technologies, including biometric, surveillance and drone technology, are being misused worldwide to restrict and violate human rights (UN Human Rights Council, 2023[138]). She has also acknowledged the role of the UN Security Council in mainstreaming and legitimising the use of these new technologies through resolutions such as Security Council Resolution 2396 (2017) (UN Security Council, 2017[145]), which requires countries to develop systems to collect biometric data in counter-terrorism contexts, thereby creating a global mandate for the use of such technology.

The use of surveillance technology during public protests is a particular concern for civic space protection due primarily to privacy concerns and the risks associated with data misuse (see Box 3.23). Common types of surveillance used during protests include police drones, facial recognition technologies, data and "cloud" extraction from seized mobile phones, social media monitoring and "IMSI catchers" to identify participants in a protest through their mobile phone numbers (Privacy International, 2021[146]).[14] In particular, biometric facial recognition technology can disproportionately impact those with darker skin tones, who – due to a lack of diversity in algorithmic training and systemic biases embedded in the technology – are at risk of higher rates of misidentification and an increased likelihood of false positives (UN Human Rights Council, 2022[147]; Amnesty International, 2023[148]). Moreover, gait recognition technology (GRT) can be used to analyse the shape of an individual and their unique ways of walking or running to identify them (Privacy International, 2021[146]).

Box 3.23. Surveillance during public protests

Biometric identification technologies, such as facial recognition, fingerprinting and iris scanning capture physical and behavioural traits for identification purposes, particularly in the context of national security and counter-terrorism. Automated (or semi-automated) facial recognition technology can be applied either in real-time, or retroactively to identify people in video footage in public spaces, obtained as CCTV recordings or from drones. The use of biometrics to surveil protests poses a particular risk to the rights to privacy and freedoms of expression, peaceful assembly and association, according to the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (UN Human Rights Council, 2023[138]).

The threat of the use of surveillance technology to identify protesters can be enough to deter people from engaging in public protests and expressing their opinions, depending on the context (ECNL, 2022[149]). Additionally, there are concerns that the growing acceptance of facial recognition technology for purposes such as online banking, smart phone access and mobile app functions, is contributing to its normalisation in public spaces, where it is not possible to opt out (Dauvergne, 2022[150]).

While the use of such technology has grown at a fast pace in areas such as policing, airports, schools, banking, workplaces and public transport (Bischoff, 2022[151]), regulations are largely absent, except for a few countries – such as **Belgium** and **Luxembourg** – that introduced strict rules or banned the technology entirely in certain public spaces (Bischoff, 2022[151]; Reuters, 2022[152]). In 2021, **Italy** issued a nation-wide moratorium on video surveillance systems that use facial recognition technologies, in the

absence of a law on the subject (Italian Data Protection Authority (DPA), 2022[153]). The ban applied to any use by public bodies at both the national and subnational levels of government (e.g. municipalities) as well as to public spaces such as schools, workplaces and public transport. The moratorium was in place up to December 2023 (European Digital Rights (EDRi), 2021[154]).

Note: Comparitech is a pro-consumer website (comparitech.com) that provides information, research, reviews and tools to promote cyber security and privacy online.
Sources: ECNL (2022[149]), CT AND TECH: MAPPING THE IMPACT OF BIOMETRIC SURVEILLANCE AND SOCIAL MEDIA PLATFORMS ON CIVIC SPACE, https://ecnl.org/publications/ct-and-tech-mapping-impact-biometric-surveillance-and-social-media-platforms-civic; Dauvergne (2022[150]), Identified, Tracked, and Profiled. The Politics of Resisting Facial Recognition Technology, https://www.elgaronline.com/monobook-oa/book/9781803925899/9781803925899.xml; Bischoff (2022[151]), Facial recognition technology (FRT): Which countries use it? [100 analyzed], https://www.comparitech.com/blog/vpn-privacy/facial-recognition-statistics/; European Parliament (2021[155]), European Parliament Resolution of 6 October 2021 on Artificial Intelligence in Criminal Law and its Use by the Police and Judicial Authorities in Criminal Matters, https://www.europarl.europa.eu/doceo/document/TA-9-2021-0405_EN.html.

In May 2024, the European Parliament and Council adopted the EU AI Act. The regulation aims to safeguard "fundamental rights, democracy, [and] the rule of law" by prohibiting certain applications of AI, including biometric identification systems that use sensitive characteristics (e.g. political, religious and philosophical beliefs, sexual orientation, race); pulling images from the Internet or CCTV to create facial recognition databases; and any AI use that could exploit vulnerabilities of already vulnerable groups (e.g. youth, elderly, people with disabilities) (European Council, 2024[156]).

3.7.3. Mitigating risks associated with personal data collection, retention and use

The rapid rise of data-driven technologies has increased the risk of breaches in data protection, influencing both individuals and CSOs in their online and offline behaviour. These breaches can result from accidents or theft, malicious hacking, and unauthorised access or disclosure by state and non-state actors alike. There are also risks associated with data obtained in one setting being used for other, or unknown, purposes if not regulated and depending on the technical aspects of the dataset (Dauvergne, 2022[150]).

Public bodies often need to collect and process personal data for service delivery and access (e.g. for health, education or tax services, as well as for criminal investigations or identification purposes), revealing details about the private sphere of individuals, such as membership of organisations, participation in protests, religious or social affiliations, sexual orientation and health status. The latest OECD Survey on Drivers of Trust in Public Institutions (OECD, 2022[157]; OECD, 2024[158]) found that, on average, half (52%) of the population in 30 surveyed countries trusted their governments to use their personal data "for legitimate reasons". Governments are working to strike a balance between public information access and personal data protection, which may involve withholding certain information to safeguard privacy (OECD, 2022[159]). In this respect, the OECD Privacy Guidelines provide guidance on how to protect the right to privacy when collecting, processing and sharing personal data (Box 3.24). Furthermore, in December 2022, OECD member countries and the European Union adopted the Declaration on Government Access to Personal Data Held by Private Sector Entities. This is the first intergovernmental agreement on common approaches to safeguarding privacy and other human rights and freedoms when accessing personal data for national security and law enforcement purposes (OECD, 2022[160]).

Box 3.24. The OECD Privacy Guidelines

The OECD Recommendation on Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data (the OECD Privacy Guidelines), adopted in 1980 and revised in 2013, promotes the global free flow of information with guidance on how to protect the rights of individuals while collecting, processing and sharing personal data (OECD, 2013[161]). The principles are as follows:

1. **Collection limitation** – Personal data collection should be obtained by lawful and fair means and, where appropriate, with the knowledge or consent of the data subject.
2. **Data quality** – Personal data should be relevant for its intended purpose and accurate, complete and updated as needed.
3. **Purpose specification** – Intended purposes should be specified at the data collection stage and subsequent use should be limited to those specified or compatible with the original intent.
4. **Use limitation** – Personal data should not be disclosed, made available or used for other purposes without the consent of the data subject or under the authority of the law.
5. **Security safeguards** – Personal data should be protected by reasonable security safeguards against risks like loss, unauthorised access, destruction, use, modification, or disclosure.
6. **Openness** – There should be a general policy of openness about personal data developments, practices and policies. Means to access information about personal data should be readily available.
7. **Individual participation** – Individuals should have the right to obtain confirmation if a data controller holds their data; have data relating to them in a timely, reasonable and understandable manner at a fair cost; be given a reason if a request is denied and be able to challenge the denial; challenge data relating to them and, if successful, have data erased, rectified, completed or amended.
8. **Accountability** – A data controller should be accountable for complying with measures which give effect to the principles stated above.

The OECD continues to provide guidance on the Privacy Guidelines, as with the Chapter on Accountability of the Implementation Guidance, published in 2023 (OECD, 2023[162]).

Source: OECD (2013[161]), Recommendation of the Council concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0188.

Given the vast amounts of personal data collected by public and private actors, comprehensive legal frameworks governing personal data protection help to set minimum standards for all actors who collect and manage personal data. Personal data protection can be effectively guaranteed through purposeful national legislation coupled with accessible institutional oversight mechanisms, such as data protection agencies and ombudsman offices, to protect individual rights (Box 3.25). Monitoring compliance with relevant laws, conducting impact assessments and ensuring effective oversight mechanisms are also essential.

Box 3.25. Good practice: Legislation governing personal data protection

Many countries around the globe have strengthened their legal frameworks to increase data protection in recent years (OECD, 2023[163]), including **Israel** (Government of Israel, 2017[164]), **Chile** (Government of Chile, 2018[165]), **Lebanon** (Government of Lebanon, 2018[166]), **Ukraine** (Government of Ukraine, 2020[167]), **Brazil** (Government of Brazil, 2018[168]), **Korea** (Government of Korea, 2020[169]), **Uruguay** (Government of Uruguay, 2020[170]), **Japan** (Government of Japan, 2021[171]) and **Argentina** (Council of Europe, 2023[172]).

Within the EU, recent instruments have become trailblazing data-related regulations. These include: the EU Directive on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties and on the free movement of such data of 2016; the General Data Protection Regulation (GDPR) of 2016; the EU Directive on open data and the re-use of public sector information of 2019; and the European Data Governance Act of 2022..

The 2016 EU Directive on personal data processing in law enforcement forms part of broader EU data protection reform by ensuring the protection of personal data of individuals involved in criminal proceedings, whether they be witnesses, victims or suspects (EU, 2016[173]). The Directive establishes a framework to safeguard the right of individuals to the "protection of their personal data while guaranteeing a high level of public security" and harmonises the protection of personal data by law enforcement authorities in EU member states and Schengen countries.

The GDPR was introduced to give individuals control of their personal data and simplify the regulatory environment for international business (OECD, 2023[163]). It set a standard for comprehensive regulation in this area (World Bank, n.d.[174]) that has inspired other countries' legislations. Crucially, "data protection by design" is built into the GDPR, meaning that data privacy features need to be embedded into projects at an early stage, also considering privacy-enhancing technologies (OECD, 2023[175]). In addition, there are strict rules on what constitutes consent from a data subject and extensive rights for data subjects, including the right to access data, rectification, erasure, and restrict processing. It also requires public authorities to undertake a Data Protection Impact Assessment before processing data, in particular when using new technologies in a way that presents a high risk of violating individual rights (Article 35).

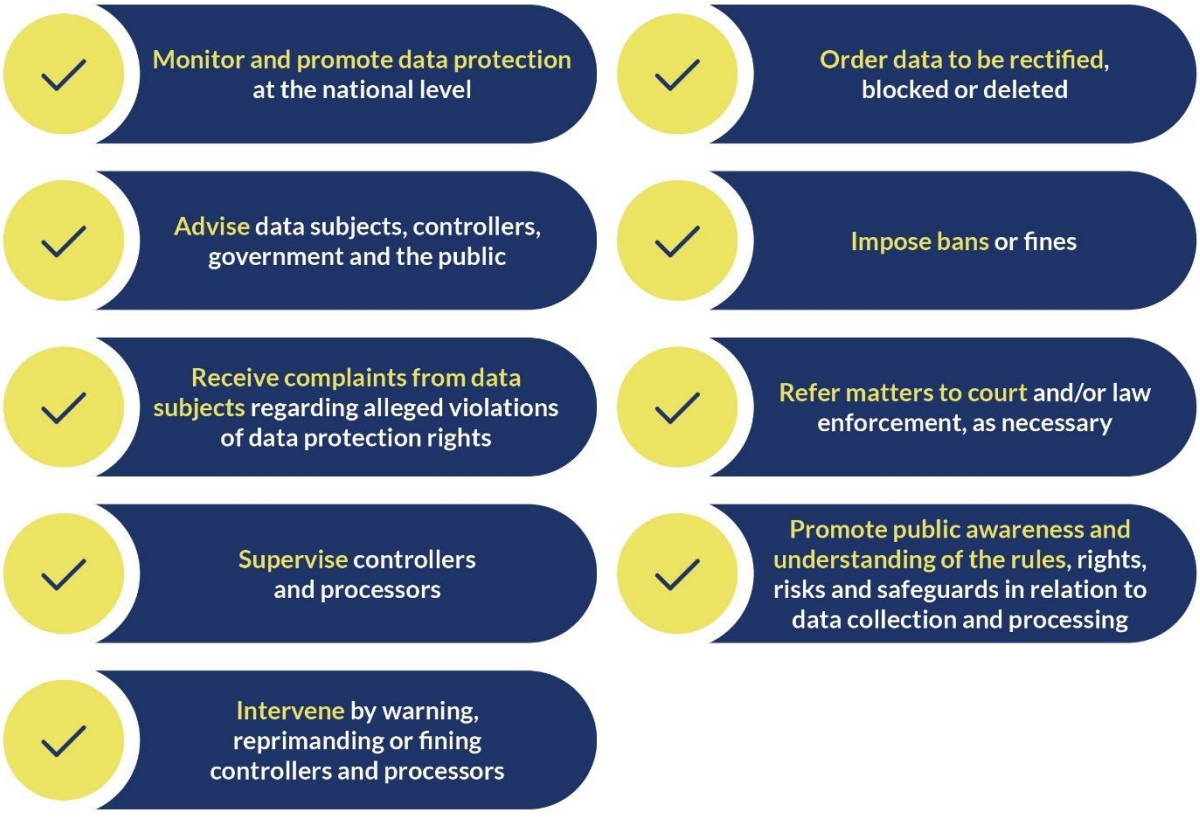
In addition to providing key principles for collecting and storing personal data, the GDPR requires all EU member states to establish an independent supervisory authority to monitor the application of relevant legislation (EU, 2016[176]). It calls for the appointment of data protection officers in organisations and businesses that collect, store and process personal data. It also regulates the transfer of personal data to third countries or international organisations that are not bound by GDPR rules or other regulations of a similar scope, allowing the transfer of data only if the receiving organisation or business can provide appropriate safeguards.

Sources: OECD (2023[163]), General Data Protection Regulation, https://stip.oecd.org/stip/interactive-dashboards/policy-initiatives/2021%2Fdata%2FpolicyInitiatives%2F26736; World Bank (n.d.[174]), Data protection and privacy laws, https://id4d.worldbank.org/guide/data-protection-and-privacy-laws; European Union (2016[176]), Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0679; European Union (2016[173]), Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02016L0680-20160504.

3.7.4. Strengthening independent oversight to protect privacy

Accessible and well-resourced data protection authorities are critical to protecting privacy and personal data in the digital age. The 2013 revision of the OECD Privacy Guidelines made explicit the need to establish authorities to ensure privacy laws are effectively applied and supervised. Figure 3.18 outlines some of the main responsibilities of these authorities, ranging from monitoring and promoting data protection at the national level, to providing advice, receiving complaints, making interventions and imposing fines, and referring matters to national courts.

Figure 3.18. The roles of independent data protection authorities



Building citizens' trust in government policies and practices in the digital era is essential. Governments and independent data protection authorities can help to foster trust by promoting transparency and communicating effectively on data protection, including via accessible portals. Data protection authorities can provide tailored, accessible, up-to-date guidance for individuals and organisations involved in processing personal data and address complaints in a timely and transparent manner. Similarly, independent ombudsman offices with a mandate to address complaints against the police can provide redress in the event of complaints regarding surveillance or data misuse by law enforcement.

The establishment of advisories for ministries or government agencies on privacy-related issues that include expert non-governmental actors (e.g. academics, CSOs, think-tanks, NHRIs) can also help governments to build trust, stay informed regarding citizens' concerns and take advantage of non-governmental expertise. Public consultations are being used by a number of OECD member countries to hear from citizens, promote more inclusive policymaking, and build consensus on contested privacy issues

(Box 3.26). Some of these explicitly recognise that minorities or vulnerable groups may have particular privacy concerns in a society.

Box 3.26. Good practice: Public consultations on privacy issues

Consultation on the use of biometric technologies in New Zealand

In 2022, New Zealand's Office of the Privacy Commissioner launched a consultation on the "Privacy Regulation of Biometrics in Aotearoa New Zealand". The call for submissions noted that biometric technologies can have major benefits, like convenience, efficiency and security, but also significant risks, such as surveillance, profiling, lack of transparency as well as bias and discrimination (New Zealand Privacy Commissioner, 2022[177]). The findings will inform the rules to help organisations to innovate and benefit from emerging technologies while also protecting people from harm.

Focus on minority concerns in a consultation on the Privacy Act in Canada

In 2020-21, Justice Canada held a consultation on updating Canada's Privacy Act (Government of Canada, 2022[178]). Submissions received were listed on the website. The resulting report includes perspectives from First Nations, Inuit and Métis, recognising that these minorities have distinct privacy concerns.

Consultation on Consumer Data Privacy Safeguard Guidelines in Australia

In 2022, the Office of the Australian Information Commissioner sought public views on updates to the Consumer Data Right Privacy Safeguard Guidelines (Office of the Australian Information Commissioner, 2022[179]). It published the revised guidelines with updates marked in tracked changes to ensure transparency on the amendments (Office of the Australian Information Commissioner, 2022[180]).

Sources: New Zealand Privacy Commissioner (2022[177]), Public input sought to inform privacy rules for biometrics, https://www.privacy.org.nz/publications/statements-media-releases/public-input-sought-to-inform-privacy-rules-for-biometrics; Government of Canada (2022[178]), Modernizing Canada's Privacy Act – Engaging with Canadians, https://www.justice.gc.ca/eng/csj-sjc/pa-lprp/dp-dd/index.html; Office of the Australian Information Commissioner (2022[180]; 2022[179]), Consultation on draft updates to the CDR Privacy Safeguard Guidelines, https://www.oaic.gov.au/engage-with-us/consultations/consultation-on-draft-updates-to-the-cdr-privacy-safeguard-guidelines; Office of the Australian Information Commissioner (2022[180]), Draft updates to the CDR Privacy Safeguard Guidelines, https://www.oaic.gov.au/engage-with-us/consultations/consultation-on-draft-updates-to-the-cdr-privacy-safeguard-guidelines/draft-updates-to-the-cdr-privacy-safeguard-guidelines.

3.7.5. Empowering individuals' control over their data

In practice, many governments and public bodies are working to develop tools that can empower individuals to increase control over their data, consent to data processing and be informed and aware of the processing of their data and for what purpose. The OECD developed the Good Practice Principles for Data Ethics in the Public Sector (OECD, 2021[144]) as a means to advance the trustworthy access, sharing and use of data (including personal data) by public bodies and advise a values-driven approach that focuses on openness, integrity and accountability, among others (see Box 3.28). Along these lines, the Good Practice Principles advise governments to develop tools such as digital identity and authentication mechanisms, to enable individuals to access information on the processing of their data in a secure and timely fashion. Box 3.27 provides examples of good practices that allow citizens to control their data.

Box 3.27. Good practice: Providing digital government tools for individuals to have control over their data

Approval for the use of personal data for services in Latvia

In Latvia, citizens have the right to approve the use of personal data for services and authentication on the official state service platform 'Latvija.lv', which provides e-services and unified authentication for other service platforms.

Monitoring access to personal and business data in Portugal

Portugal's 'Public Access manager' enables citizens and businesses to monitor access to their personal and business data, including the creation, display and management of access authorisations. In addition, on the National Health Portal citizen can choose which health professionals and entities can have access to personal medical records, and for what purpose.

Tracking the use of personal data in Estonia

Citizens of Estonia can check their personal data usage by public sector agencies thanks to a data tracker by using their eID on the national eesti.ee portal. The data tracker grants Estonian citizens visibility into who accesses their personal data and for what reasons. As of 2023, this initiative has expanded to encompass sixteen government agencies, including the population register; the Health Insurance Fund; the Estonian Unemployment Insurance Fund; and the Social Insurance Board, among others.

Source: OECD (forthcoming[181]), Implementation Guidance of the OECD Good Practice Principles for Data Ethics in the Public Sector.

Tools such as digital identity systems can help individuals access services and obtain more control over the processing and use of their data. At the same time, these tools also function as highways for processing personal data. Box 3.28 outlines the key features of the OECD Recommendation on the Governance of Digital Identity.

Box 3.28. Good practice: Protect privacy and prioritise security to ensure trust in digital identity systems

The OECD Recommendation on the Governance of Digital Identity (OECD, 2023[182]) focuses on protecting privacy and prioritising security to ensure trust in digital identity systems as follows:

- **Prioritise security** in designing trusted digital identity systems and comply with relevant requirements, aligning with defined Levels of Assurance and/or a risk-based approach, to protect users, service providers and societies, including from identity theft or alteration.
- **Treat user control, privacy and data protection as fundamental tenets of digital identity systems**, and promote privacy-by-design and privacy-by-default approaches that include informed consent, integrity, confidentiality, selective disclosure, purpose specification and limitations on personal data collection and use.
- **Prevent the aggregation of datasets** between services or the retention of unnecessary personal data trails being left when users use digital identity solutions to access different services.
- **Enforce accountability obligations** under existing data protection and privacy laws.

- Introduce robust arrangements to ensure that any **attributes and credentials shared** through a digital identity solution **are accurate, complete, up-to-date and relevant**.
- Identify how to **safely accommodate and protect children and vulnerable groups and minorities** in the design and use of digital identity systems.
- Consider establishing legally recognised mechanisms, as deemed necessary, for users to authorise **representation or delegation** in a manner that is visible to, manageable for and traceable by the user.
- Promote the use of **open standards and open-source software** in the design of the digital identity system and other relevant actions to mitigate the risks to users, service providers and societies associated with dependency on any single hardware or software vendor.

Source: OECD (2023[182]), OECD Recommendation of the Council on the Governance of Digital Identity, https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0491.

3.8. Recommendation 8: Counter the discrimination, exclusion and marginalisation that disproportionately affect certain groups and act as an obstacle to equal participation in public life

Democracy is reinforced when all members of society can exercise civic freedoms and utilise civic space, both online and offline, on an equal basis with others. Discrimination or exclusion, on the other hand, undermine citizens' trust and their ability and willingness to engage with state institutions if they feel undervalued, excluded, unprotected or threatened. All forms of discrimination – whether unintentional unequal treatment; microaggressions; or more extreme forms of differentiated treatment, harassment or verbal and physical attacks – can limit individuals' ability to freely express themselves, assemble and influence public decision-making, in addition to affecting a range of other rights. Despite having non-discrimination laws in place in all OECD member countries, entrenched practices can lead to layers of inequality; cumulative disadvantages; and structural, intersectional discrimination[15] in practice. This typically affects similar categories of people in different societies (Figure 3.19). In turn, this undermines the core of democratic societies, as equality and non-discrimination are essential preconditions for more inclusive, responsive and representative decision-making. The following provides guidance on how to reduce discriminatory practices that act as an obstacle to equal participation in public life:

- Ensuring comprehensive legal frameworks.
- Supporting dedicated equality bodies.
- Strengthening data collection to counter discrimination.
- Countering hate crimes as an extreme form of discrimination.

Figure 3.19. Populations and groups that are particularly affected by discrimination and exclusion from public spaces and decision making



3.8.1. Ensuring comprehensive non-discrimination legal frameworks

Governments can help to foster inclusion, diversity and equal participation by adopting robust anti-discrimination laws. Strong legal frameworks countering discrimination play a crucial role in challenging stereotypes and raising awareness about the challenges faced by vulnerable groups. Overall, there is a trend in OECD member countries to make anti-discrimination legislation more comprehensive and acknowledge different affected groups (OECD, 2022[2]). Over the last two decades, many countries have introduced legislative reforms to protect LGBTI individuals, for example, but discrimination targeting this group still persists in both legislation and practice. Similarly, women, minorities, people with disabilities and other groups may face discriminatory practices.

Regulatory frameworks encompassing affirmative action, parity laws, target setting, quotas, penalties for non-compliance and guidance for public sector employees play a crucial role in fostering diversity, mitigating discriminatory practices and enhancing representation in decision-making. By regularly reviewing existing non-discrimination laws and making non-discrimination and equality an integral component of Regulatory Impact Assessments, OECD member countries can help to identify and eliminate the discriminatory effects of laws, policies and practices. This is particularly important given how the misuse of digital technologies and the digital environment can disproportionately affect vulnerable individuals and groups, exacerbating existing inequalities and giving rise to new forms of discrimination, which may demand the adaptation of existing legal frameworks to emerging challenges such as AI (OECD, 2022[32]; OECD, forthcoming[35]).

3.8.2. Supporting dedicated equality bodies

Dedicated equality bodies provide a specialised and accessible avenue to address cases of discrimination both in the public sector and in society at large. While they may focus on specific sectors or issues, their overarching goal is to ensure that everyone, regardless of their background or characteristics, has equal opportunities and is protected from discrimination. This can concern differentiated treatment (e.g. in accessing a service, recruitment, gender-based harassment) based on a defining characteristic such as gender, age, minority status, religion or skin colour. In recent decades, there

has been a global rise in establishing these independent, dedicated equality bodies. Depending on their respective mandates, they engage in awareness-raising, offer support to discrimination victims, conduct independent surveys, publish reports, collect data to support policy developments and identify patterns of discrimination, and provide recommendations to public bodies on discrimination-related issues.

They may also receive complaints, provide legal services (such as advice, counselling, investigating cases, negotiating reconciliation, influence legislation) and represent individuals or groups facing discrimination. When appropriate, they may employ conciliation procedures and bring cases of discrimination before national courts. Adequate and ring-fenced financial support for these independent bodies helps to ensure they can fulfil their mandates. Legal aid for citizens facing discrimination from public bodies is another, complementary good practice.

3.8.3. Strengthening data collection to counter discrimination

In addition to adopting comprehensive laws and establishing equality bodies, standardised, reliable, disaggregated data (e.g. by age, gender, disability or ethnicity[16])N can provide insights, support evidence-based decision-making and help to raise awareness about the impact of discriminatory practices. When disparities are clearly documented by public bodies, it becomes easier to address related issues through education, dedicated policies and the allocation of resources.

An ethical and inclusive approach to how data are generated, collected, shared and used by public bodies to ensure that data inputs and outputs are representative of society at large can help to counter exclusion. Such an approach also applies to data used to inform AI systems, in order to ensure the outputs of these systems are representative. In the public sector, concerns about how AI affects individual rights and access to services are growing as AI algorithms can transfer biases from the analogue to the digital world through the data they use (OECD, 2022[2]). One of the key concerns surrounding their use in the public sector is the risk of discrimination, which can arise when machine-learning systems are fed data that only consider and reflect certain demographic groups or reproduce prejudices against such groups. Box 3.29 provides an overview of the OECD Good Practice Principles for Data Ethics in the Public Sector, which emphasise the need for data that are fit for purpose and representative.

Box 3.29. The OECD Good Practice Principles for Data Ethics in the Public Sector

In advancing ethical approaches to the generation, access, sharing and use of data in the public sector, the OECD Good Practice Principles suggest that governments, public bodies and public officials should:

- **Acknowledge that human bias or incomplete data can have a negative impact** on the data inputs that inform policies and service design and delivery, and the data outputs that policies and services produce. This can lead to unintended outcomes such as discriminatory decisions or a partial view of problems.
- **Ensure data are fit for purpose, representative of corresponding phenomena and democratic** in terms of the legitimacy and impact of the proposed use. Working on data quality dimensions such as completeness, comprehensiveness, consistency and accuracy can help ensure data integrity and maximise the value of data to the purpose or problem it aims to solve.
- **Monitor and control the quality, suitability and impartiality of data inputs** (including large-scale datasets) by defining and deploying data management rules and practices (e.g. data documentation and validation) and creating an evidence trail to enable assessments of the trustworthiness of data and examinations of its provenance.

Source: OECD (2021[144]), "Good Practice Principles for Data Ethics in the Public Sector", https://doi.org/10.1787/caa35b76-en.

Data collection on diversity

Despite increased attention on discrimination and a recognised need for more inclusive decision-making, in many countries legal frameworks do not allow the state to gather diversity data due to sensitivity around potential misuse and the perpetuation of power imbalances, especially for historically vulnerable groups. Additionally, some countries prohibit the collection of any data on collective identities, aiming for equality by rendering identities invisible. Notably, minority communities themselves may oppose data collection due to past misuse (United Nations Human Rights Office of the High Commissioner, 2018[183]).

At the same time, comprehensive and granular data that encompass the full spectrum of diversity in a population can help to formulate impactful strategies and initiatives and provide services aimed at mitigating prevailing inequalities and discrimination (United Nations Human Rights Office of the High Commissioner, 2018[183]) In OECD member countries, data are often collected for general administrative or statistical purposes (e.g. such as population and household censuses, or national surveys) rather than for equality-related policy action. While there is a growing recognition that such data can highlight instances of discrimination, some countries have broadened the scope of national data collection efforts to explicitly include ethnicity, race and indigenous identity – while upholding fundamental rights and privacy of individuals (see Box 3.30). In general, in countries that allow the gathering of diversity data, there is scope for collecting more and better data to assess the well-being of minority groups and inform the design of more effective and responsive policies. To advance this agenda, it is useful for key actors – such as national statistical offices, equality bodies, NHRIs, media and civil society – to engage high-level data champions, including stakeholders within Parliament and government.

Box 3.30. Good practices on gathering official diversity data

Labour Force Survey data on ethnicity in the United Kingdom

In the quarterly Labour Force Survey (LFS), the UK gathers data on both ethnic background and employment status covering employment, unemployment and inactivity. The LFS for Q2 2024 showed that the unemployment rate for ethnic minorities was over twice as high compared to individuals from a white ethnic background. Furthermore, the data allows for additional breakdowns by age and sex, providing insights into intersectional inequality and informing the development of targeted policy measures to address disparities.

National discrimination monitoring system in Finland

In collaboration with representatives from key ministries, authorities, NGOs and research institutions, the National discrimination monitoring system in Finland collects, analyses and disseminates data on discrimination. Statistics are categorised under five indicator areas: attitudes, experiences and observations of discrimination, reports of discrimination and convictions, hate crime and hate speech, and promotion of non-discrimination. It also fosters collaboration and proposes policy measures to promote non-discrimination.

Consultations with ethnic minorities and Indigenous communities in Colombia

During the 2018 census, Colombia's national statistical office conducted extensive consultations with ethnic minorities and Indigenous communities. The primary emphasis was on refining the wording of census questions and the available answer categories to ensure that ethnic minorities and Indigenous communities could self-identify with precision.

Gathering of data on experiences of discrimination in Ireland

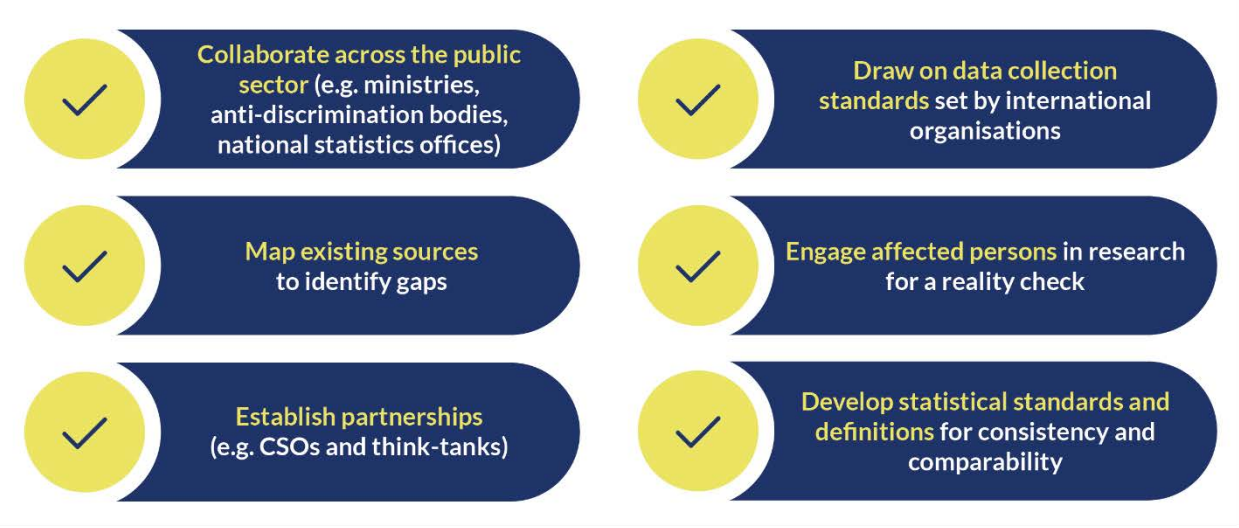
Ireland publishes official data on experiences and perceptions of discrimination, for example, with nine recognised grounds (including family status, sexual orientation, religion, age and membership of the Traveller Community) and a tenth category of being in receipt of Housing Assistance for people seeking accommodation.

Sources: House of Commons Library (2024), Unemployment by ethnic background, https://researchbriefings.files.parliament.uk/documents/SN06385/SN06385.pdf; Government of Ireland, (2022[184]), Experiences and Perceptions of Discrimination in Ireland, https://www.gov.ie/pdf/?file=https://assets.gov.ie/219979/ff3348bc-ff10-4970-880f-ccd5294e43c6.pdf#page=null; DANE (2020[185]), Guía para la Inclusión del Enfoque Diferencial e Interseccional, https://www.dane.gov.co/files/investigaciones/genero/guia-inclusion-enfoque-difencias-intersecciones-produccion-estadistica-SEN.pdf; National Discrimination Monitoring System Finland (n.d.[186]), Discrimination Data, https://yhdenvertaisuus.fi/en/dataondiscrimination.fi.

To identify and fill data gaps, and to avoid a duplication of costs and data collection efforts, these actors can map and cross-reference already existing data sources (European Commission, 2021[187]). Such a mapping process can include census data, national surveys and administrative records from government agencies. Independent think-tanks or research institutions may also have valuable data through their research and activities. Moreover, statistical offices, equality bodies or other relevant national agencies can collaborate with CSOs with specialised knowledge and experience of working directly with communities that are particularly affected by discrimination and exclusion. This can help ensure that data collection methods provide insights into the specific challenges faced by these groups. Involving these communities in developing surveys and answer categories can also help uncover more inclusive findings and accurately capture diverse identities. Due to the trusted role that CSOs play within communities, they can also encourage participation in data collection activities.

Finally, national standards on diversity statistics can provide a structured, comparable and consistent framework for national statistical offices and other government agencies to collect and analyse data and ensure uniformity in data collection methodologies, by facilitating accurate comparisons across time periods. International organisations and agendas, such as the Sustainable Development Goals or the UN High-Level Group for the Modernisation of Official Statistics, can play a pivotal role in setting standards and enhancing national data collection on diversity statistics (UNECE, n.d.[188]). By aligning national efforts with these broader frameworks, advocates can leverage international momentum to drive progress. By offering clear guidelines on processes, definitions and classifications, national standards can help to enhance the quality and reliability of diversity data. They can also provide policymakers with a consistent basis for decision-making and targeted interventions. See Figure 3.20 for an overview on improving the collection of diversity data at the national level.

Figure 3.20. Good practices to enhance diversity data



Note: The figure only applies to OECD member countries where the gathering of diversity data is permitted by law.

3.8.4. Countering hate crimes as an extreme form of discrimination

In its most extreme form, discrimination can lead to hate crimes, defined as crimes that are motivated, or perceived as being motivated, by hostility or prejudice (e.g. based on ethnicity, religion, skin colour, sexual orientation or other defining characteristic. Similar to online hate speech (addressed in Recommendation 3: Protect online civic space, including by countering online hate speech and mis- and disinformation), this broader category of crimes covering a range of behaviours including assault, criminal damage, arson and homicide, acts as an obstacle to equal participation in public life. CSOs and human rights defenders, especially working on increasingly contested areas, such as LGBTI rights, migration and environmental protection, also face increasing challenges, including physical attacks on people and property (OECD, 2022[2]). In that light, it is important that crimes committed against CSOs and human rights defenders are publicly condemned and properly recorded, investigated and prosecuted, including under applicable hate crime provisions when relevant.

Public institutions play a significant role in educating the public about hate crimes and leading prevention and response initiatives. Table 3.4 provides an overview of key measures that law enforcement actors, oversight actors (e.g. NHRIs and ombudsman institutions) and ministries or other public bodies can consider. These can range from establishing a task force, drafting guidance for law enforcement on recognising hate crimes and producing relevant research to raise awareness, to prosecuting crimes and engaging in awareness-raising. Political leadership that recognises the specific harm caused by hate crimes to societal cohesion, in particular, is important to raise awareness. Moreover, professional training and capacity-building activities for law enforcement officers, including guidance on investigative practices and recording of crimes, supported by official guidelines or operating procedures, can be helpful. Independent oversight mechanisms play a particularly important role in providing avenues for complaints.

Collaborations with civil society supporting affected communities are helpful to institutions working to counter hate crimes, including to facilitate joined up referral systems. CSOs can be important partners for national authorities in providing victim support and a critical source of data and information about the prevalence and impact of hate crimes.

Table 3.4. Measures to counter hate crimes as an obstacle to equal participation in public life

Institutions	Selected measures
Law enforcement, police, prosecution	• Create a special task force on hate crimes within a relevant state body • Provide specialised training to enable law enforcement officers to identify bias motivation, flag incidents as potential hate crimes and record cases • Develop standard operating procedures to provide police and prosecutors with the tools to flag possible bias motivation • Document and publish national, disaggregated data and analysis on trends (e.g. types of crimes, locations, motivations, perpetrators, follow up, prosecutions) • Co-operate with relevant state institutions to provide support to victims of hate crimes • Co-operate with civil society to improve support structures for victims and tackle under-reporting (e.g. to promote referrals to support services, provide legal advice, educate affected communities about their rights) • Prosecuting hate crimes
NHRIs; ombudsman institutions	• Document and publish independent disaggregated data on complaints and analysis to ensure accountability • Communicate data, analysis and trends to state bodies and the public to raise awareness • Provide complaints mechanisms/support to victims • Co-operate with civil society to improve support structures for victims and tackle under-reporting
Relevant public bodies or ministries	• Undertake surveys, studies and public research and data • Roll out awareness-raising campaigns to educate the public on the harmful consequences of hate crimes

To ensure that victims of hate crimes have access to justice and can report it to the police, it is crucial that representatives of the criminal justice system are trained to offer effective legal remedies, such as restraining orders or protective measures, to assist victims in feeling secure and to recognise and document such crimes. Numerous OECD member countries such as **Spain, Denmark** and **Finland** have introduced measures to strengthen their responses to these crimes through protocols and guidance, outreach to particularly affected communities, better identification of crimes and enhanced data collection (Box 3.31).

Box 3.31. Good practices: Strengthening police responses to hate crimes

Dedicated protocol for police officers in Spain

The 2020 *Action Protocol for the Security Forces on Hate Crimes* (Spanish Ministry of the Interior, 2020[189]) was developed by a wide range of stakeholders, including the Ministry of the Interior; the police; the *Guardia Civil*; the Observatory for Racism and Xenophobia; the General Secretariat for Immigration and Emigration; the Ministry of Employment and Social Affairs; the Ministry of Health, Social Services and Equality; and CSOs providing support to victims. The guidance aims to help the identification and prosecution of hate crimes. This protocol was revised and extended in 2023 (Spanish Ministry of the Interior, 2023[190]). Likewise, in April 2022, the Ministry of the Interior published its II Action Plan to combat hate crimes (2022-2024) (Spanish Ministry of the Interior, 2022[191]). This includes the lines of action, objectives and measures to be developed to combat this type of crime.

Reaching out to affected communities in Denmark

To tackle under-reporting of hate speech, police in Denmark conduct outreach activities, including information meetings and dialogues with minority communities, to encourage more victims to report such incidents (Danish National Police, 2023[192]).

Identifying hate crimes in Finland

In Finland, researchers from the Police University College, in co-operation with the Ministry of the Interior, the National Police Board, the Ministry of Justice, the Border Guard, the Finnish Security Intelligence Service and the European Institute for Crime Prevention and Control, investigate reports from Finland's police database to identify suspected hate crimes. The results are documented in annual reports (Rauta, 2022[193]).

Sources: Spanish Ministry of the Interior (2020[189]), Action Protocol for the Security Forces on Hate Crimes, https://www.policia.es/miscelanea/participacion_ciudadana/normativa/Protocolo_actuacion_delitos_odio_07-2020.pdf; Spanish Ministry of the Interior (2023[190]), Law Enforcement Action Protocol on Hate Crimes, https://www.interior.gob.es/opencms/pdf/servicios-al-ciudadano/Delitos-de-odio/descargas/PROTOCOLO-DE-ACTUACION-DE-LAS-FUERZAS-Y-CUERPOS-DE-SEGURIDAD-PARA-LOS-DELITOS-DE-ODIO-Y-CONDUCTAS-QUE-VULNERAN-LAS-NORMAS-LEGALES-SOBRE-DISCRIMINACION.pdf; Spanish Ministry of the Interior (2022[191]), II Action Plan to Combat Hate Crimes, https://www.lamoncloa.gob.es/consejodeministros/resumenes/Documents/2022/120422_II_Plan_Accion_contra_delitos_odio.pdf; Danish National Police (2023[192]), Hadforbrydelser i 2021: Rigspolitiets årsrapport vedrørende hadforbrydelser, https://politi.dk/-/media/mediefiler/landsdaekkende-dokumenter/statistikker/hadforbrydelser/hadforbrydelser-2021.pdf; Rauta (2022[193]), Hate Crimes Reported to the Police in Finland 2021, https://www.theseus.fi/bitstream/handle/10024/780352/Polamk_Katsauksia_27.pdf?sequence=1&isAllowed=y.

3.9. Recommendation 9: Systematically protect and promote civic space as an enabler of citizen and stakeholder engagement in public decision making to foster more open, transparent and accountable governance

Chapter 2 provides a suggested approach for how countries can *systematically* protect and promote their civic space. The four-step conceptual framework focuses on the need to **recognise** civic space protection and promotion as a national policy priority; **review** the extent to which relevant policies, laws and institutions are fit for purpose and in line with international standards; **respond** to identified needs and gaps; and **regularly monitor.** This creates an environment in which the pre-conditions are in place for public decision-making to become more open, transparent, participatory and accountable. In addition to taking the above steps, Recommendation 9: Systematically protect and promote civic space as an enabler of citizen and stakeholder engagement in public decision making to foster more open, transparent and accountable governance provides additional guidance on how countries can enshrine participation rights and practices in a range of legal and institutional frameworks and practices to complement and reinforce traditional democratic processes and systems such as elections. It provides guidance on:

- Promoting the use of participatory and deliberative processes.
- Enshrining the right to participation in legal and regulatory frameworks.
- Creating institutional frameworks for participation.
- Embedding deliberative processes in decision making.

3.9.1. Promoting the use of participatory and deliberative processes

In line with the OECD Recommendation of the Council on Open Government (OECD, 2017[194]), participation covers all the ways in which citizens and stakeholders[17] can be involved in the policy cycle and in service design and delivery. Involving citizens and/or stakeholders is equally important, however, their participation should not be treated identically, as individual citizens require participation methods designed to provide them with time, information, resources, and incentives needed to engage, while stakeholders (any interested and/or affected party, such as institutions and organisations) have a lower participation threshold, dedicated resources, and clear interests to participate (OECD, 2022[195]). The Recommendation recognises three levels of participation:

- **Information:** an initial level of participation characterised by a one-way relationship in which the government produces and delivers information to stakeholders.
- **Consultation:** a more advanced level of participation that entails a two-way relationship in which stakeholders provide feedback to the government and vice-versa.

- **Engagement:** when stakeholders are given the opportunity and the necessary resources (e.g. information, data and digital tools) to collaborate during all phases of the policy cycle and in the service design and delivery.

To facilitate this kind of participation, it is crucial for policymakers to consider the following key questions: ***who*** has the right to participate (e.g. citizens, representatives of specialist CSOs or think-tanks, trade unions, other stakeholders) in the decision-making cycle; ***when*** public authorities should involve participants in the decision-making cycle (e.g. early, middle, late stages); and ***how*** they can practically participate.[18] The most common participatory mechanisms are the following:

- **Citizen agenda-setting mechanisms** such as petitions and citizen initiatives that allow the public – subject to a required number of signatures – to place a particular issue on the government's or legislative authority's agenda. Constitutions and laws can include the right for citizens to set the agenda, the conditions for this right to be exercised and its effects on decision-making (whether binding or consultative).
- **The right to legislative initiative** may grant citizens the right to propose new legislation. However, relevant provisions tend to require formal approval by elected representatives (parliament) or support from government. Constitutions and laws can outline the conditions for citizens to exercise this right and outline the necessary procedures.
- **Referenda** grant the electorate the right to vote for or against a topic or proposed legislation and the outcomes may be binding, depending on legislation. Constitutions and laws can define whether, and in which cases, referenda are mandatory and the circumstances in which they can be initiated. Some constitutions permit minorities in a legislature to demand a referendum.
- **Institutionalised and ad-hoc participation and deliberation mechanisms** such as consultative councils, citizens' councils or assemblies, whether they function as one-off or on a regular and ongoing basis.
- **Consultation mechanisms** that allow citizens to express their opinions on a particular topic, question or legislative proposal at the behest of a public authority. Constitutions and laws can include references to mandatory consultations in specific cases (e.g. on major infrastructure projects) and establish the conditions in which such consultations must be organised.

Countries can promote the adoption and use of these mechanisms by creating a favourable environment to involve citizens and stakeholders, namely by (1) adopting legal and institutional frameworks that enable public authorities' use of participatory mechanisms, (2) investing in internal capacities and skills, and (3) supporting experimentation in democratic innovation (e.g. digitally enhanced participation or deliberative processes).

3.9.2. Enshrining the right to participation in legal and regulatory frameworks

Constitutions and laws can help to anchor and institutionalise participation in decision-making. They can include references to mechanisms for democratic involvement and set the rules for interactions with representative institutions such as parliament (see Box 3.32).

Box 3.32. Good practice: Dedicated legal frameworks on the right to participate

Constitutional protection for the right to participate in Brazil

Brazil's 1988 Constitution enshrined a series of participatory mechanisms, such as national councils and conferences, into law to ensure citizen and stakeholder participation in public decision-making. Articles 10, 194, 198, 204 and 216 define the rights of citizens and stakeholders to participate in sectoral policymaking. More recently, through a 2020 amendment, Article 193 establishes that the state guarantees societal participation in formulating, monitoring, overseeing and evaluating social policies.

Law on Deliberative Commissions and Civic Lotteries in Belgium

Belgian Law 2944/001 (2022) provides the legal basis for the organisation of representative, deliberative processes, in particular, the deliberative commissions organised by the House of Representatives. These commissions gather a group of randomly selected citizens and elected representatives to deliberate and develop common recommendations on specific topics. The legislation sets out the requirements and procedures to organise civic lotteries, including the conditions for use of the national registry to facilitate random selection of citizens.

Law on Associations and Citizen Participation in Public Administration in Chile

Chilean Law 20500 establishes definitions and mechanisms for forming associations and defines the role of CSOs in policymaking. The law defines concepts such as "public interest organisation" and details their management characteristics, rights and obligations. The law also creates a Fund for the Strengthening of Public Interest Organisations, intended to finance national and regional projects or programmes involving these organisations.

Sources: OECD (2022[196]), *Open Government Review of Brazil*, https://doi.org/10.1787/3f9009d4-en; Belgian Chamber of Representatives (2022[197]), Law Proposal: Establishing the Principles for Randomly Selected Citizens in the Deliberative Commissions and Citizen Panels, https://www.lachambre.be/FLWB/PDF/55/2944/55K2944001.pdf; Library of the National Congress of Chile (2011[198]), Ley 20500, https://www.bcn.cl/leychile/navegar?idNorma=1023143.

Constitutions and laws in OECD member countries commonly enshrine mechanisms for representative and direct democracy (e.g. elections and referenda). In some cases, they describe the use of consultative mechanisms (e.g. public consultations and requests for comments), but comparatively fewer explicitly foresee deliberative forms of democratic involvement (e.g. Citizen Assemblies). Whilst it is important to enshrine the right to participate in public affairs and the mandate of a participatory process in a regulation or legislation in some cases, experimentation can be beneficial to test new approaches to see what works best in a given context or for a particular policy issue.

Above all, meaningful citizen and stakeholder participation in public affairs requires a shift in behaviour and mindset within the public administration. This involves changes in values, skills, beliefs, behavioural norms and expectations at both individual and institutional levels, based on an understanding of the value and benefits of participatory processes. This understanding can help to move practices from box-ticking exercises to a transformational approach to democratic governance. However, this requires institutions to learn new skills and to adopt new processes and norms that integrate open government and participatory practices as the new normal (OECD, 2023[199]). Engaged citizens with the skills, agency and information to contribute meaningfully are also required. The OECD has elaborated a number of key resources to support countries to build a greater culture of participation (Box 3.34).

It is also crucially important to ensure transparency and equal access among stakeholders influencing policymaking so that democratic processes are strengthened through participation and deliberation, not undermined by undue influence, conflicts of interest or corrupt practices.

3.9.3. Creating institutional frameworks for participation

As a complement to establishing a strong legal basis for participation, countries can institutionalise participatory mechanisms and processes by embedding them within their institutional architecture. For example, by establishing a dedicated office with a clear mandate to foster participation, governments can steer, co-ordinate and support participatory initiatives across the entire public sector. This can help to harmonise practices; provide standardised technical support to public officials; and ultimately strengthen relationships between government, citizens and civil society, in addition to monitoring and evaluating different initiatives to ensure continuous cross-government learning and improvement. To guarantee effective implementation of the legal and policy framework, these centralised units can be supported by focal points within line ministries and at the local level. It is also key that public officials have the necessary budget, training, technical knowledge, guidance, time and political backing to effectively deliver participation mechanisms. Figure 3.21 provides an overview of the potential roles of such offices and institutions, including as providers of training and guidance, as sources of data and learning, as key interlocutors with civil society to avail of their expertise and as co-ordinators of participation activities across government.

Figure 3.21. Potential roles for office(s) or institution(s) dedicated to participation



Institutional arrangements are not one-size-fits-all and can differ depending on the country context. Box 3.33 showcases three examples from OECD member countries.

Box 3.33. Institutional settings for citizen participation at the local, national and international level

Department of Public Service in Colombia

The Department of Public Service oversees the government's efforts to involve citizens in policy processes. Its mandate involves promoting participatory approaches among public service and public management actors. Line ministries are tasked with implementing an institutional citizen participation roadmap and co-ordinating with the Department of Public Service to ensure coherence.

Inter-Ministerial Direction for Public Transformation in France

The citizen participation agenda is co-ordinated by the Inter-Ministerial Direction for Public Transformation (DITP) and its Centre for Citizen Participation. The Centre provides technical support on citizen and stakeholder participation to all public institutions and runs a whole-of-government participation portal.

Office of Public Consultation in Montreal, Canada

The city of Montreal established the Office of Public Consultation as an independent body to carry out public consultations initiated by the city's municipal council or executive committee. The office is also mandated to propose rules to ensure that consultation mechanisms are transparent and effective.

Competence Centre on Participatory and Deliberative Democracy, European Commission

The Competence Centre on Participatory and Deliberative Democracy (CC-DEMOS) is the institutional entity within the European Commission aimed at enhancing democratic engagement across the EU. It provides support, expertise, and resources to foster participatory and deliberative processes, ensuring that citizens and stakeholders can actively contribute to policymaking.

Sources: Colombian Ministry of the Interior (2023[200]) (2022[201]), Política de Participación Ciudadana, https://www.mincit.gov.co/participa/politica-de-participacion-ciudadana; French Ministry of Transformation and Public Service (n.d.[202]), Le Centre interministériel de la participation citoyenne, https://www.modernisation.gouv.fr/associer-les-citoyens/le-centre-interministeriel-de-la-participation-citoyenne; Office of Public Consultation of Montreal (n.d.[203]), Office de consultation publique de Montréal, https://ocpm.qc.ca/fr; European Commission (n.d.[204]), Competence Centre on Participatory and Deliberative Democracy, https://knowledge4policy.ec.europa.eu/participatory-democracy/about_en.

3.9.4. Embedding deliberative processes in decision-making

OECD member countries are increasingly recognising the value of institutionalising participation processes in decision-making, including deliberative processes. Citizen assemblies; citizens' conventions; or mini-publics that bring together broadly representative groups of people to learn together, grapple with complexity, listen to one another and find common ground are increasingly common. These are particularly suited to solving complex policy questions dealing with trade-offs (e.g. related to budget), ethical dilemmas (e.g. end of life, abortion) or long-term planning (e.g. climate resilience).

Making a deliberative process institutional refers to going beyond one-off processes to the creation of permanent mechanisms. Embedding deliberative processes into existing representative institutions – such as Parliaments or local councils – can help reduce the frictions between representative and deliberative democracy and supports a move towards a systemic or continuous approach to democratic decision-making that combines different forms of participation to complement electoral processes (OECD, 2021[205]). There are different ways to embed representative deliberation into public decision-making, as shown by the OECD's eight models. For example, it can take the form of connecting deliberation to parliamentary committees, like in **Belgium**, or by giving people the right to demand a deliberative process, as is the case in **Austria.** Cases collected by the OECD (2023[206]) multiplied from 2020 to 2023, going from 22 to 41 – the majority of which are implemented at the local or regional level. In **France**, the Paris Citizen Assembly (100 members)

deliberated on how to support individuals experiencing homelessness and in **Portugal**, Lisbon's Citizen Council (50 members) deliberated in 2023 on how to make Lisbon a 15-minute city.

Box 3.34 provides an overview of key OECD resources.

Box 3.34. Key OECD resources on citizen and stakeholder participation

The OECD Guidelines for Citizen Participation Processes (OECD, 2022[195]) are intended to support the implementation of Provisions 8 and 9 of the OECD Recommendation of the Council on Open Government. They are for any individual or organisation interested in designing, planning and implementing a participatory process. The guidelines walk the reader through ten steps to design, plan and implement a process and detail eight different methods that can be used to involve citizens in policymaking, illustrated with good practice examples.

The OECD Deliberative Democracy Toolbox (OECD, n.d.[207]) brings together all of the OECD's publications around the topic of deliberation in public decision-making. It includes the flagship *Catching the Deliberative Wave* (OECD, 2020[208]) report, the OECD *Good Practice Principles for Deliberative Processes for Public Decision Making* (Chwalisz, 2020[209]), the *Evaluation Guidelines for Representative Deliberative Processes* (OECD, 2021[210]) and a policy paper on *Eight ways to institutionalise deliberative democracy* (OECD, 2021[205]). This set of resources aims to accompany policymakers in implementing, evaluating and embedding representative, deliberative processes in public decision-making.

Sources: OECD (2022[195]), *OECD Guidelines for Citizen Participation Processes*, https://doi.org/10.1787/f765caf6-en; OECD (n.d.[207]), OECD Deliberate Democracy Toolbox, https://www.oecd.org/governance/innovative-citizen-participation; OECD (2020[208]), *Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave* , https://doi.org/10.1787/339306da-en; Chwalisz (2020[209]), "Good practice principles for deliberative processes for public decision making", https://doi.org/10.1787/b40aab2a-en; OECD (2021[210]), *Evaluation Guidelines for Representative Deliberative Processes*, https://doi.org/10.1787/10ccbfcb-en; OECD (2021[205]), "Eight ways to institutionalise deliberative democracy", https://doi.org/10.1787/4fcf1da5-en.

3.10. Recommendation 10: Protect civic space both domestically as well as in non-member countries as part of a coherent policy approach

The final recommendation in the guide, Recommendation 10: Protect civic space both domestically as well as in non-member countries as part of a coherent policy **examines actions that OECD member countries can take as part of development co-operation and humanitarian assistance, in addition to foreign, trade and climate policy, as part of ensuring a coherent policy approach to civic space protection**[19]**.** Having a coherent approach means being aware of the impact that national policies can have in partner countries and requires sustained, high-level political commitment and leadership to achieve. A long-term strategic vision outlined in a policy or strategy on strengthening civil society in partner countries can help to develop this commitment. Such a policy or strategy can articulate related objectives, including strengthening local ownership, as well as concrete implementation steps, such as establishing mechanisms for oversight, monitoring and evaluation. Integration of this vision into national development co-operation policies, in addition to those governing foreign, trade and climate policy, can ensure alignment and coherence (OECD, 2021[211]). It is important that any such strategy is developed, communicated and implemented in partnership with relevant stakeholders, in particular civil society. The following provides guidance on these topics:

- Co-ordinating across the whole-of-government to protect civic space at the national level.
- Co-ordinating to protect civic space at the international level.
- Supporting civil society organisations in partner countries.
- Upholding the do-no-harm principle in partner countries.

Several OECD standards are particularly relevant for OECD member countries, including the 32 members of the Development Assistance Committee (DAC). These include the OECD *Recommendation of the Council on Policy Coherence for Sustainable Development* (OECD, 2019[212])[20] and the Development Assistance Committee (DAC) *Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance* (hereafter "DAC Recommendation") (OECD, 2021[211]). The updated *Guidelines for Multinational Enterprises on Responsible Business Conduct* are also pertinent (OECD, 2023[43]). Box 3.35 provides an example of a national strategy that considers both the domestic and external dimensions of civic space protection.

Box 3.35. Good practice: Strategy for civil society and citizen engagement 2023-2027 in France

The French Ministry of Foreign Affairs' strategy for civil society and citizen engagement 2023-2027 benefited from a comprehensive consultation process with relevant ministries, civil society actors and other partners. It recognises that, in a context of shrinking civic space, France should raise awareness among bilateral partners and engage in multilateral dialogue to maintain an enabling environment for civil society in partner countries, while also consolidating the environment in France. To achieve this, the ministry will promote legal frameworks that enable civil society, protect civic space and facilitate the implementation of activities carried out by civil society actors.

Source: MEAE (2023[213]), Strategy: Strategic Direction Document for Civil Society and Citizen Engagement 2023-2027, https://www.diplomatie.gouv.fr/IMG/pdf/2023_dos_socie_te_civile-17-03-23_cle856ac4.pdf.

3.10.1. Co-ordinating across the whole-of-government to protect civic space at national level

Similar to civic space protection on domestic territory, ensuring policy coherence for civic space protection in partner countries requires whole-of-government co-ordination across key institutions. These include ministries of foreign affairs, development agencies, diplomatic corps (embassies, consulates, etc.) as well as line ministries and agencies working domestically in policy areas impacting civic space in partner countries, such as private sector investment, trade, migration and security, among others (Table 3.5 and Box 3.36). A forthcoming OECD toolkit *Co-ordinating action to protect civic space* will provide guidance to DAC members and other official donors on internal co-ordination for policy coherence, as well as on co-ordinating among donors, and with international and regional institutions, to more effectively protect and promote civic space. Having a dedicated co-ordinating body or mechanism with a clear mandate can help governments co-ordinate across government entities and public agencies, as well as with civil society actors and the private sector.

Table 3.5. Key actors involved in ensuring a coherent approach to protecting civic space in partner countries

Public institution/actors	Civic space issue	Role/activities
Ministry of foreign affairs	• Support for CSOs (financial, capacity), media • Support for partner country governments in the area of human rights and the rule of law, other regulatory areas • Support (including diplomatic efforts, trial observation, visits in detention) to at-risk persons[1]	• Policies, diplomacy, funding
Ministry/development co-operation agency/co-operation service	• Support for CSOs (financial, capacity), media • Support for partner country governments in the area of human rights and the rule of law, other regulatory areas • Support to at-risk persons	• Diplomacy, funding, strategic foresight exercises
Embassies in partner countries	• Support for and engagement with CSOs (financial, capacity) and media	• Diplomacy, support for and engagement with CSOs through programmes and activities,

Public institution/actors	Civic space issue	Role/activities
	• Support for and engagement with partner country governments in the area of human rights and the rule of law, other regulatory areas	reporting back to capital on policy coherence issues
Other line ministries working on domestic policies with an impact on partner countries (e.g. interior, trade, economy, environment, finance)	• Domestic policies and initiatives can have extensive social, economic and environmental impacts in partner countries, and necessitate engagement with local populations and civil society. Projects on related to resource extraction, infrastructure investments, and trade policies are particularly relevant	• Recognition and consideration of impact of national policies on civic space in partner countries, co-ordination with Ministry of Foreign Affairs/ministry/agency for development co-operation
Visa authorities/police/Ministry of Interior	• Addressing threats to lives of at-risk persons and relocation needs	• (Emergency) visas or long-term residence permits for defenders • Security needs of defenders
Civil society actors and the private sector	• Support for partner country CSOs and at-risk persons • Engagement with partner country CSOs (e.g. in areas affected by resource extraction, infrastructure investments)	• Consultation and engagement in policymaking and implementation, direct engagement in partner countries
International and regional bodies	• Monitoring and support for civic space in partner countries	• Policies, funding, implementation of programmes

1. At-risk persons covers groups discussed in Recommendation 5: Safeguard and protect at-risk human rights defenders, as well as CSO members, activists and media e.g. defenders, CSO members, activists, media workers. This list is non-exhaustive.

Box 3.36. Co-ordinating domestic policies and development co-operation in Iceland

In the framework of the creation of Iceland's Sustainable Development Policy, the Prime Minister's Office is leading the establishment of a new co-operation platform (Sustainable Iceland) to better connect Iceland's international commitments with its domestic goals. The platform, that will work to measure progress made in achieving SDG targets, includes representatives from all of Iceland's ministries and the Association of Municipalities. A mechanism to systematically screen legislation and policies for any transboundary effects, similar to a current screening system in place for gender and environment, could also be introduced as part of the Sustainable Development Policy.

Source: Government of Iceland (n.d.[214]), Sustainable Iceland, https://www.government.is/topics/sustainable-iceland/.

3.10.2. Co-ordinating to protect civic space at the international level

Co-ordination on civic space protection is essential among OECD and DAC members, in addition to international and regional bodies. In practice, co-ordination involves seeking a common understanding of civic space standards and guidance, communicating relevant practices and activities, and enhancing access to and sharing of information, with a view to more coherent, proactive and preventive actions (OECD, 2021[211]). Expanding the evidence base of what works can also help members produce guidelines, standards and other resources to improve coherence through peer learning. Box 3.37 provides examples of recent international co-ordination efforts to protect civic space.

Box 3.37. Good practice: International initiatives to strengthen co-ordination on civic space

Team Europe Democracy

Fourteen European Union member states joined the Team Europe Initiative to promote global democracy and human rights. Team Europe Democracy's (TED) aims for a co-ordinated European response to support democracy, focusing on participation and civic space, with the TED Network facilitating information exchange and strategic dialogue. At partner country level, TED is creating a database of experts to assist EU delegations in developing joint actions.

The Framework for Joint Action

Launched in March 2023 as a joint initiative by the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and other regional bodies, including from the Association of Southeast Asian Nations and Latin America, the *Framework for Joint Action* is an initiative intended to strengthen collaboration and joint action across regional bodies to promote and protect civic space.

The Declaration of Inter-American Principles on the Operation of CSOs

The Declaration of Inter-American Principles on the Creation, Operation, Financing, and Dissolution of Not-for-Profit Civil Entities, adopted by the Inter-American Juridical Committee in March 2023 includes 12 principles on the regulation of CSOs. They were developed by the Inter-American Juridical Committee and the International Center for Not-For-Profit Law through a participatory consultation process with over 100 experts from across Latin America and the Caribbean.

The Open Government Partnership's 2023-2028 Strategy

Protecting and expanding civic space is the third strategic goal in the Open Government Partnership's (OGP) 2023-2028 strategy. The OGP acknowledges worrying trends in civic freedoms and civil society and aims to increase national commitments in this area. The strategy focuses on agility and responsiveness to political opportunities, connecting civic space protection to justice, anti-corruption and climate policy, and promoting collaboration between government and civil society.

Civic space protection at the heart of UN commitments

Public participation and civic space are key pillars of the 2020 Call to Action for human rights from the UN Secretary General. The document warns against restrictions on freedoms like freedom of expression and assembly, and highlights the increasing threats to media workers and defenders. The Secretary General committed to promoting of civil society participation, especially for women's rights and youth organisations. The Call to Action emphasises the importance of an independent and pluralistic media for democracy and accountability. Additionally, UN bodies, such as the Office of the High Commissioner for Human Rights and the UN special rapporteurs, focus on civic space issues.

Sources: European Union (2022[215]), Team Europe Democracy Initiative – TED, https://capacity4dev.europa.eu/projects/team-europe-democracy-ted; UN Special Rapporteur on the Rights to Freedom of and Peaceful Assembly and of Association (2023[216]), Framework for Joint Action: Strengthening co-operation between international and regional human rights mechanisms for the realisation of the rights to freedom of peaceful assembly and of association, https://freeassemblyandassociation.net/wp-content/uploads/2023/03/Joint-Action-for-FoAA-Framework.pdf; INCL (2023[217]), IAJC adopts principles on the operation of civil society organizations, https://www.icnl.org/post/report/iajc-adopts-principles-on-the-operation-of-civil-society-organizations; Open Government Partnership (2023[218]), 2023-2028 Strategy, https://www.opengovpartnership.org/wp-content/uploads/2023/04/OGP-Strategy-2023-2028.pdf; UN (2020[219]), The highest aspiration, a call to action for human rights, https://www.un.org/sg/sites/www.un.org.sg/files/atoms/files/The_Highest_Asperation_A_Call_To_Action_For_Human_Right_English.pdf.

3.10.3. Supporting civil society organisations in developing countries

In line with the DAC Recommendation, a coherent approach to protecting and promoting civic space involves supporting and strengthening civil society in developing countries. This allows civil society actors to defend civic space themselves, and to have stronger accountability relationships in partner countries to provide a counterweight to potential civic space restrictions (OECD, 2021[211]). OECD member countries can consider the most context-appropriate means to do this, including by localising support and recognising, respecting and strengthening the leadership, ownership and capacity of partner country civil society actors in development co-operation; humanitarian action; and research, advocacy and other areas (OECD, 2017[220]). [See also Recommendation 5: Safeguard and protect at-risk human rights defenders, as well as CSO members, activists and media on supporting defenders and other at-risk persons around the world].

As discussed under Recommendation 1: Foster an enabling environment for civil society organisations that facilitates their positive contribution to society**,** a critical means to **localise support to civil society is by providing more direct, flexible and predictable, long-term financial support, including core and/or programme-based support** (OECD, 2021[211]). By increasing support for local civil society actors – as opposed to international CSOs or CSOs based in donor countries – local ownership, capacity and participation can all be strengthened, alongside accountability towards affected people (Kipfer-Didavi and Bitong, 2019[221]). The selection of funding channels impacts the level and quality of the funding received by partner country civil society (see Box 3.38). There are two ways to provide funding:

- direct i.e. aid provider funds local civil society
- indirect i.e. aid provider funds intermediaries, including international CSOs, which fund local civil society.

In particular, the choice between funding modalities going direct to core contributions and programmes initiated by CSOs or indirect through CSOs to implement donor-initiated projects (e.g. earmarked funding) has implications for how partner country civil society use funds and the degree of local ownership. The OECD toolkits on *Funding civil society in partner countries* (OECD, 2023[222]) and on *Shifting power within partnerships* (publication forthcoming) provide detailed guidance in this regard. Box 3.38 provides good practice examples of direct funding for civil society in partner countries from the **Netherlands** and **Sweden**.

Box 3.38. Country examples of direct funding for civil society in partner countries

The Civic Space Fund in the Netherlands

Through the Civic Space Fund, Dutch embassies provide direct funding that prioritises capacity-strengthening in lobbying and advocacy by partner country civil society. The fund aims to create a strong, independent, vibrant and diverse civil society in partner countries.

Direct funding grants from Swedish embassies

Many of Sweden's embassies provide trust-based, multi-year, flexible direct funding for partner country civil society actors, including core, programme or project support. The grants range in size and the collaboration is managed in the same manner as partnerships with Swedish or international CSOs. Partners are chosen according to capacity, relevance and legitimacy.

Sources: Government of the Netherlands (2021[223]), Call for proposals: Civic Space Fund in Indonesia, https://concoursn.com/call-for-proposals-civic-space-fund-in-indonesia/; SIDA (2023[224]), Support to civil society organisations, https://www.sida.se/en/for-partners/civil-society-organisations.

Another way of providing support is by engaging in dialogue with partner countries on the value of an inclusive and independent civil society and the need to protect and promote civic space. As found in the 2020 *Development Assistance Committee Members and Civil Society* report, some DAC members go so far as to even condition their government-to-government support on partner country governments' commitments and actions to provide an enabling environment for civil society (OECD, 2020[225]). Dialogue can take place bilaterally or collaboratively, for instance, involving other OECD member countries or multilateral bodies. One example is the Framework for Dialogue between the DAC and CSOs approved by the DAC in 2018, which established a structure to influence and be influenced, providing a space for consultation with CSOs before key decisions are taken, and facilitating the timely sharing of relevant information (OECD, 2018[226]). Many other ways of creating and fostering an enabling environment for CSOs discussed under Recommendation 1: Foster an enabling environment for civil society organisations that facilitates their positive contribution to society are equally applicable to their work in and with partner countries.

3.10.4. Upholding the do-no-harm principle in partner countries

The do-no-harm principle is equally as important on domestic territory as it is a key aspect of policy coherence, as it recognises that providers' support for civil society may inadvertently lead to a backlash against civil society and restrictions on civic space. For example, the way aid providers support civil society actors may at times divert from the goals and approaches of local civil society actors, thereby reinforcing relationships of accountability to aid providers rather than national stakeholders in partner countries, which may in turn be used by governments as an excuse to shrink civic space (OECD, 2021[227]). In order to avoid doing harm, it is necessary to understand the partner country context and civil society landscape as well as considering the potential unintended consequences of supporting specific policies or organisations (OECD, 2023[222]) It is also crucial to align civil society support with broader development co-operation and foreign policy goals. Regular analysis of a partner country's political economy and needs assessments can help providers in this regard.

3.10.5. Thematic focus: Responsible business conduct

Ensuring policy coherence can be a complex task, partly because civic space protection has so many dimensions. A necessary step towards greater whole-of-government policy coherence is incorporating civic space protection into policy realms such as private sector investment and climate change. For example, businesses play a key role in shaping engagement with civil society due to their extensive social, economic and environmental impacts. This is why fostering responsible business conduct domestically and abroad – in line with the Kampala Principles for effective private sector engagement in development co-operation – including in areas such as resource extraction and infrastructure investment is key to doing no harm (OECD, 2017[228]; OECD, 2023[229]) (GPEDC, 2019[230]; 2023[231]) (Box 3.39).

The OECD Guidelines for **Multinational Enterprises on Responsible Business Conduct reinforce private and public efforts to define and implement responsible business conduct, with an emphasis on contributing to sustainable development, respecting the human rights of those affected by their activities, ensuring transparency in lobbying activities, refrain from discriminatory practices and many more** (OECD, 2023[229]). Moreover, the EU Directive on corporate sustainability due diligence encourages businesses to anchor human rights – including labour rights – and environmental considerations in companies' operations and corporate governance (European Commission, 2022[232]). Against this backdrop, it is important to identify opportunities while also managing risks and trade-offs. State- and non-state-owned enterprises can be required to analyse the impact of their activities on civic space or civil society in partner countries, for example. Box 3.39 provides country examples of responsible business conduct.

Box 3.39. Country examples of responsible business conduct in developing contexts

Evaluation criteria on responsible business conduct in Canada

Through Global Affairs Canada, the government of Canada applies responsible business conduct evaluation criteria when private entities request funding. Global Affairs Canada shares funding applications with environment, gender equality and governance specialists. Assessment criteria include identifying risks and mitigation strategies on themes such as "do no harm" as regards human rights.

Legal framework on responsible business conduct in Norway

Norway's legal frameworks governing responsible business conduct include a Public Procurement Act and a Regulation on Public Procurement, which emphasise the protection and promotion of the environment, human rights, people with disabilities, labour rights and integrity by state, county and municipal authorities and public law bodies in such processes. The Norwegian Agency for Public and Financial Management has developed a risk analysis procedure, called the "high-risk list" for its public procurement and contract management processes that identifies high-risk sectors for human rights protection such as construction, transport and furniture, and offers tools and step-by-step guidance. Norway's Government Pension Fund Global is also the world's biggest sovereign wealth fund, created to manage the wealth produced by Norwegian oil income. While attempting to maximise the profitability of the Fund, there are ethical rules for all investments. Any investments in companies that produce specific types of weapons and tobacco, as well as mining companies and power producers generating primarily brown energy are illegal. Furthermore, companies that violate human rights, cause severe environmental damage or have been found guilty of financial crimes can also be excluded on a case-by-case basis.

Source: Government of Canada (2023[233]), Responsible Business Conduct Abroad: Canada's Strategy for the Future, https://www.international.gc.ca/trade-commerce/rbc-cre/strategy-2022-strategie.aspx?lang=eng; Government of Norway (2023[234]), Public Procurement and Human Rights, https://anskaffelser.no/en/english/public-procurement-and-human-rights#:~:text=The%20Norwegian%20Procurement%20Act%20(%C2%A7,of%20violation%20of%20such%20rights; Council on Ethics, Government Pension Fund Global (2022[235]), Guidelines for Observation and Exclusion of companies from the Government Pension Fund Global (GPFG), https://www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/2022.09.05_gpfg_guidelines_observation_exclusion.pdf.

3.10.6. Thematic focus: Action on climate change

Yet another important thematic area with significant implications for discussions about policy coherence is climate change. Civil society actors play varied climate action roles (see Recommendation 5: Safeguard and protect at-risk human rights defenders, as well as CSO members, activists and media on protection issues), including in advocating for more ambitious climate targets and holding governments to account, undertaking research and analysis to inform policymaking and working on the front lines in climate-affected areas. The need for a coherent policy approach to protecting defenders and civil society actors, both at home and abroad, is, therefore, essential. To facilitate this, governments can co-ordinate their actions to align national policies to international and regional standards on climate change and the protection of defenders and civil society actors fighting for climate justice. The context-specific needs for climate adaptation and resilience also call for governments to fund approaches that are conducive to locally led responses by CSOs, rather than top-down climate action. Similarly, they can encourage businesses to conduct due diligence to assess human rights risks, engage in meaningful consultations with local communities and civil society, and use their influence with governments to prevent or address any negative impacts of their business operations. Box 3.40 provides examples of initiatives to co-ordinate responses to the climate crisis.

Box 3.40. Supporting coherence: National, regional and international action on climate change

Partnering for Climate Initiative in Canada

The Partnering for Climate Initiative aims to "fund projects from civil society, Indigenous Peoples and other organizations in Canada that will support climate change adaptation in Sub-Saharan Africa and other parts of the world". To that end, the Canadian government conducted an extensive consultation process with partners across Canada and the world, including national and international CSOs as well as Indigenous peoples.

DAC Declaration on Aligning Development Co-operation with Climate Change Goals

As part of the DAC's commitment to delivering the SDGs and the Paris Agreement (a legally binding international treaty on climate change), it issued a declaration to maximise the role of official development assistance (ODA) in supporting partner countries to shift policies, regulations and laws in support of mitigation and adaptation to climate change. Therein, DAC members committed to aligning ODA with the goals of the Paris Agreement, recognising that "climate and environmental impacts must be considered in all ODA spend[ing], including in sectors not traditionally associated with climate and the environment".

The Escazú Agreement and the Aarhus Convention

The Aarhus Convention (UN ECE, 2001[236]) and the Escazú Agreement (UN ECLAC, 2021[237]) – both centred on access to information, public participation and justice in environmental matters – in Europe, and in Latin America and the Caribbean respectively – were established to empower citizens and CSOs in environmental matters. Both agreements call for more participatory public decision-making in this area. Both legally binding instruments also include obligations for adhering parties to guarantee a safe and enabling environment for human rights defenders, including by recognising, protecting and promoting their rights in line with international obligations. The agreements require adherents to co-operate to ensure the implementation of all obligations.

Note: As of September 2024, the Escazú Agreement has been ratified by the following countries: Antigua and Barbuda, Argentina, Belize, Bolivia, Chile, Dominica, Ecuador, Grenada, Guyana, Mexico, Nicaragua, Panama, Saint Vincent and the Grenadines, Saint Kitts & Nevis, Saint Lucia and Uruguay. As of September 2024, the Aarhus convention has 47 parties – 46 states and the European Union.
Sources: Government of Canada (n.d.[238]), Partnering for Climate, https://www.international.gc.ca/world-monde/funding-financement/partnering-climate-partenariats-climat.aspx?lang=eng; OECD (2021[239]), OECD DAC Declaration on a New Approach to Align Development Co-operation with the Goals of the Paris Agreement on Climate Change, https://www.oecd.org/dac/development-assistance-committee/dac-declaration-climate-change-cop26.pdf; UN ECE (2001[236]), The Aarhus Convention, https://aarhus.osce.org/about/aarhus-convention; UN ECLAC (2021[237]), The Escazú Agreement, https://repositorio.cepal.org/server/api/core/bitstreams/7e888972-80c1-48ba-9d92-7712d6e6f1ab/content.

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Notes

[1] Core funding is a funding modality directed at supporting CSOs' organisational expenses that cannot be allocated to specific projects, including administrative costs, infrastructure costs, institutional capacity building, board meetings, audit expenses and other recurring costs.

[2] **The European Commission for Democracy through Law**, better known as the **Venice Commission**, is the Council of Europe's advisory body on constitutional matters. It has 61 member states.

[3] Crucially, key criteria used by the European Court of Human Rights to assess cases are the lawfulness of an interference, the legitimacy of the aim pursued by an interference, and "the necessity of the interference in a democratic society" (European Court of Human Rights, 2022[240]).

[4] Memory laws seek to "enshrine state-approved interpretations of historical events and promote certain narratives about the past, by banning, for example, the propagation of totalitarian ideologies or criminalising expressions which deny, grossly minimise, approve or justify acts constituting genocide or crimes against humanity, as defined by international law" (Council of Europe, 2018[241]).

[5] It is important to differentiate between hate speech and the much broader category of hate crimes in relevant laws. Hate crimes are crimes such as assault, arson or homicide that are motivated by hatred or prejudice towards particular persons or groups. To avoid confusion, hate crimes and hate speech can be treated in separate legislation and data can be gathered on both phenomena. See also Recommendation 8: Counter the discrimination, exclusion and marginalisation that disproportionately affect certain groups and act as an obstacle to equal participation in public life.

[6] "Information ecosystem" is understood as the space where citizens, journalists and institutions (governmental, civic and private) create, spread and engage with information, government frameworks and each other (OECD, 2023[59]).

[7] An AI system is a machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations or decisions that can influence physical or virtual environments. Different AI systems vary in their levels of autonomy and adaptiveness after deployment (OECD.AI, 2023[246]). The OECD has also published a Framework for the Classification of AI systems to help policymakers, regulators, legislators and others characterise AI systems deployed in specific contexts (OECD, 2022[250]).

[8] For the purposes of this publication, human rights defenders are defined as persons who, individually or in association with others, act to promote or protect human rights peacefully. They engage in a range of thematic areas such as civic freedoms, freedom from discrimination, environmental and land rights, education, housing, property or healthcare. They may also defend the rights of certain categories of people, often vulnerable groups, such as women, children, refugees and internally displaced persons, Indigenous communities, LGBTI persons, persons with disabilities or other minorities. For the purposes of this publication, environmental defenders are included under the umbrella term of human rights defenders. Environmental defenders are defined by the UN as "individuals and groups who, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights relating to the environment, including water, air, land, flora and fauna" (UNEP, n.d.[129]).

[9] The original wording of this recommendation was "Safeguard and protect human rights defenders, journalists, whistle blowers, and other at-risk groups." This has been expanded for the purposes of this guide.

[10] OECD member countries in Latin America are the most affected by violence targeting human rights defenders, with 232 killings in 2022 (representing 58% of a total of 401 HRDs globally), according to Front Line Defenders (Front Line Defenders, 2023[243]). Frontline Defenders have also noted "a more dangerous landscape for defenders" in the context of Russia's war of aggression against Ukraine (Front Line Defenders, 2023[243]) as well as "serious risks to life and safety" and "increased violence and harassment" towards human rights defenders in the Palestinian Authority in 2023 amid the ongoing conflict in the region (Front Line Defenders, 2023[249]). The International Federation of Journalists found that 120 journalists and media workers were killed globally in 2023, including three in Ukraine and 82 in the Palestinian Authority (International Federation of Journalists, 2023[244]).

[11] A wide range of policy areas are relevant, including human rights protection, criminal justice, migration, refugees and asylum seekers, the security sector, foreign policy, and corporate social responsibility and accountability.

[12] Data would be collected in line with relevant national legislation.

[13] In the EU, there is a perception among some CSOs of being surveilled by law enforcement. In a recent consultation undertaken by the EU Agency for Fundamental Rights (FRA), 21% of 301 CSOs reported concerns about suspected surveillance (N=301) (FRA, 2023[245]).

[14] An 'IMSI catcher' can locate and track all mobile phones that are connected to a phone network in its vicinity (Privacy International, 2021[242]; Privacy International, 2021[146]).

[15] Intersectional discrimination occurs when two or more grounds of identity operate simultaneously and interact in an inseparable manner, producing distinct and specific forms of discrimination. Unlike multiple discrimination, where different grounds of discrimination act separately, intersectional discrimination involves these grounds working together, creating unique and compounded experiences of disadvantage and inequality (Council of Europe, n.d.[247]); (European Commission, 2016[248]).

[16] Data would be collected in line with relevant national legislation.

[17] The term "stakeholder" refers to any interested or affected party, institution or organisation, including from civil society, academia, the media or the private sector, as an essential component of democratic policymaking.

[18] The OECD Guidelines for Citizen Participation Processes provide detailed guidance on these crucial questions (OECD, 2022[195]).

[19] The original wording of this Recommendation referred to development co-operation (OECD, 2022[2]). For the purposes of this Guide, it has been broadened to encompass any activity in partner countries, including development co-operation.

[20] The general need for governments to enhance policy coherence is recognised in Target 17.14 of the Sustainable Development Goals (SDGs).

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Practical Guide for Policymakers on Protecting and Promoting Civic Space

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