

Five trends for civic space in Europe during COVID-19

The COVID-19 health emergency produced consequences on our societies, economies and democracies that are unprecedented in Europe in times of peace. We have changed our life to protect ourselves and others. We have all been expected to act responsibly as individuals and as a community.

The institutions of the European Union and the Member States have taken decisions dictated by the urgency to slow down the spread of the pandemic. The need to provide a quick and strong response in a short time has increased the use of exceptional powers by the Governments at the expenses of the Parliaments and other institutions entitled to act as institutional checks and balances while imposing strong restrictions on individual and collective freedoms.

The European Civic Forum¹ observed these trends through the Civic Space Watch², a platform collecting resources on threats to fundamental rights as well as positive initiatives, including those aimed at countering these threats. Launched in early 2018, the platform has so far gathered over 800 resources from dozens of local, national and European organisations active in 26 EU countries. These resources were analysed in an annual report **Activizanship #5 – Civic Space Watch report 2020 – Stories from the lockdown**³ looking at trends emerged across the European Union and six case studies, including one on Germany. In this article I will present five overarching trends that have emerged during the pandemic.

1. COVID-19 shakes the socio-economic, political and cultural landscape

Decades of insufficient public investment in and privatization of the healthcare sector and social protection infrastructures have debilitated Europe's capacities to respond efficiently to the health crisis. As a consequence, many states have restricted freedom of movement and the access to public space in order to decrease the pressure on the health system - struggling to meet the demands of the population and to keep the limited available means accessible to the highest risk groups.

¹ European Civic Forum: <https://civic-forum.eu/>

² Civic Space Watch: <http://civicspacewatch.eu/solidarity-amid-covid-19-crisis/>

³ Activizanship #5 – Civic Space Watch report 2020 – Stories from the lockdown: https://civic-forum.eu/wp-content/uploads/2020/11/INT_ACTIVIZEN5_BAF.pdf

The health crisis developed quickly into a social and economic crisis, with tens of millions of people put out of work, many losing partially or in total their sources of income and, in large numbers becoming unable to meet the basic needs of their families for food, housing and health protection.

The economic shock triggered by the consequences of the health emergency is exacerbating societal needs and existing inequalities. States did implement measures trying to compensate, at least in part, the disrupting effects on households and businesses, shown a willingness to act unseen in the last decades. But these economic measures have often been insufficient and limited. The vulnerabilities experienced by those who were already vulnerable multiplied as support plans did not include or only partially many categories. Adding to those who were already fragile, entire groups were exposed to socio-economic difficulties.

The question how to guarantee the democratic life in a situation of emergency has been a challenge in the context of the Covid-19 crisis. In order to take shift decisions, a general tendency to concentrate powers at the Government level while limiting the role of institutions in charge of checks and balances has been reported across Europe. In this context of emergency where institutional mechanisms of separation of powers and accountability are shrinking, civic actors' role as checks and balances become more crucial. However, these have been critically weakened with the narrowing of civic space and downsizing of their capacities to act. Most governments also closed the public space and restricted fundamental rights claiming it was necessary for protecting people' lives. To enforce these decisions, they often relied on the power of fear and resorted to coercive measures, raising concerns on their implementation in a number of cases. In countries where the functioning of democracy and the rule of law was already strained, authorities have taken advantage of the situation to further concentrate their powers and to pass controversial legislation unrelated to the COVID-19 emergency. As we move towards a normalisation of the virus in our lives, in the long-term, the danger is to normalise emergency and coercive practices that have emerged.

As a result of these developments, civil society had to stretch way beyond usual capacities under very trying circumstances, when often dialogue with institutions was difficult and capacities to maintain their operating means were challenged.

Looking at the future, the societal despair caused by the socio-economic hardships and uncertainty for the immediate future risk to fuel distrust in institutions. The general feeling of joining forces in a common struggle and high trust in Governments that has characterised the first phase of the emergency has quickly been replaced by contestation, including in the form of protests in the streets. Regressive political parties and movements are already trying to surf these societal tensions with various degrees of success depending on the country.

2. The deterioration of civic freedoms continues

The COVID-19 pandemic posed specific challenges for the sector, but often reproduced and magnified some of the trends already emerged and documented in previous years. Other restrictions to civic freedoms were introduced during the health crisis but were not related. All of them cumulate and create an extremely testing environment in which civil society is operating.

Freedom of assembly has been under great pressure. As the COVID-19 virus spread across the region, national authorities started to restrict the public space and limit the possibility for gatherings of people. During the first wave of the pandemic, in most EU countries freedom of assembly was restricted as a byproduct of restrictions on movement and gatherings, without specifically mentioning the right to peaceful assembly, and leaving certain ambiguity as to what activities were permitted and which were restricted due to the »*broad and vague*« wording. Often, the vagueness in addressing the right to peaceful assembly resulted in excessive discretion left to competent authorities to decide whether to allow assemblies. During the second and third wave of lockdown, while many countries have introduced exceptions to allow public demonstration, there are few exceptions. For example, Hungary introduced a blanket ban⁴.

The COVID-19 pandemic has been framed as a matter of public security and many countries repurposed anti-terrorism framework introduced in previous years or expanded the powers of law enforcement bodies to enforce the COVID-19 related restrictions and the closing of public space. In this context, citizens lost confidence in using the public space for the most basic everyday needs let alone occupying it for the purpose of public participation and protest. Even when the deployment of the security apparatus to enforce the restrictions and the security discourse were not directly targeting civic freedoms, they created a climate of mistrust and terror that affected people's ability to make use of the public space and exercise their fundamental rights. In some case, the sole act of gathering in the streets and living the public space became an act of protest and resistance.

In some cases, the coercive apparatus in place to police the COVID-19 rules was applied against people exercising their right to peaceful assembly, with peaceful protesters facing administrative and criminal sanctions for breaking the COVID-19 restrictions raising concerns on the intent of authorities to curtail dissent. For example, in Poland, the increased administrative and criminal sanctions⁵ have been deployed against anti-abortion protesters, and now

⁴ HUNGARY: New rules put a total ban on protests infringing on the right to freedom of assembly: <http://civicspacewatch.eu/hungary-new-rules-put-a-total-ban-on-protests-infringing-on-the-right-to-freedom-of-assembly/>

⁵ POLAND: Women rights demonstrations wake up the country, in the context of restricted civic space during the pandemic: <http://civicspacewatch.eu/poland-women-rights-demonstrations-wake-up-the-country-in-the-context-of-restricted-civic-space-during-the-pandemic/>

one of the leaders of the protests has been charged with »insulting police« and »causing epidemic threat«⁶ risking up to 8 year prison sentence.

These powers have also been used to control and sanction freedom of expression and association and to collect and use private data, including through cellphone, tracing apps and other technologies, like facial recognition in public spaces.

Parallely, new laws have been introduced restricting civic freedoms beyond COVID-19. Following the footsteps of the Hungarian law on the transparency of organisations supported from abroad dubbed »Lex NGO« that was ruled a breach of the right to association by the European Court of Justice, in 2020 other countries have proposed or introduced legislation officially aimed at improving transparency, but the facto discriminately overburdening and stigmatizing the sector. For example, Greece introduced a new register for migration NGOs⁷ increasing the burden on the sector and the interference of the State.

Following the terrorist attacks in France, the Government also ordered the dissolution a leading civic organization working against islamophobia⁸ based on political considerations rather than objective legal grounds and is now discussing a law on »Strengthening Republican values«⁹ that will potentially endanger the entire sector. In Denmark, a new law restricting freedom of assembly¹⁰ is currently under discussion.

3. The dialogue between civic organisations and governing bodies is challenged during the crisis

Civic and social organisations are in a privileged position to understand the impact of policies and lack of thereof on the wider population and specific groups. Thus, they can be important allies for authorities that want to tackle societal vulnerabilities and environmental concerns by providing data and proposals. However, the exceptional circumstances triggered by the

⁶ POLAND: Leader of Poland's abortion protests charged with »insulting police« and »causing epidemic threat«: <http://civicspacewatch.eu/poland-leader-of-polands-abortion-protests-charged-with-insulting-police-and-causing-epidemic-threat/>

⁷ GREECE: Joint Ministerial Decision regulating the registration of migration-related NGOs: <http://civicspacewatch.eu/greece-joint-ministerial-decision-regulating-the-registration-of-migration-related-ngos/>

⁸ FRANCE: CSOs react to Minister of Interior order of dissolution of an organisation working on islamophobia: <http://civicspacewatch.eu/france-minister-of-interior-threatening-to-close-down-anti-racist-civil-society-organisation/>

⁹ FRANCE: Government Aims to Strengthen Respect Of Republican Values: But How Does This Affect Civic Space?: <http://civicspacewatch.eu/france-government-aims-to-strengthen-respect-of-republican-values-but-how-does-this-affect-civic-space/>

¹⁰ DENMARK: New security package risks restricting the right to peaceful assembly and discriminating against minorities: <http://civicspacewatch.eu/denmark-new-security-package-risks-restricting-the-right-to-peaceful-assembly-and-discriminating-against-minorities/>

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

Generally, across Europe, the emergency procedures reduced the opportunities for consultation and influence by shifting the power from the legislative branch to the executive one. Additionally, the closing of the public space together with the overwhelming presence of COVID-19 news on the media made it difficult to get other messages across and created new challenges for civil society to put pressure on governments when institutional frameworks for dialogue were not respected, not available or restricted. Even in countries with a relatively open dialogue between civil society and governments, the quality and the impact of the exchanges depended on the Ministry as well as on previous relations between the individual civic organisation and authorities. Additionally, consultation processes at national levels did not always lead to a concrete impact on policy and sometimes civic organisations were left with a feeling that the civil dialogue was a mere ticking-the-box exercise. Lack of meaningful dialogue with the sector is deemed to be an important factor for lack of reactivity of the government to many societal emergencies (i.e. DE, EL). Additionally, as a general trend, the civil dialogue is particularly rare on European matters. This was true also during the pandemic.

In some countries, civil society reported that the time available for consultation was shortened or suspended in disregard of institutional frameworks of civil dialogue on some policies adopted. In some countries, authorities not only disregarded civil society but also made moves that will affect the quality of public participation in the future. For example, in Slovenia, the government repeatedly attempted to restrict the participation on environmental organisations¹¹.

4. Economic difficulties of the sector soar during the crisis

In many countries, funding for the sector had already been affected by the financial crisis and funding restrictions, especially concerning civic organisations with watchdog and advocacy functions. In this context, the COVID-19 crisis additionally had a huge economic and financial impact on many parts of the civic sector. This issue has a short-term impact, with many organisations at risk of being forced to stop or downscale their operations. It also has long-term consequences: the landscape of civic organisations is undergoing a fast and profound change as many will stop existing or completely change their activities, in the absence of meaningful support from public institutions.

¹¹ SLOVENIA: New push to restrict environmental and nature conservation NGOs: <http://civicspace-watch.eu/slovenia-new-push-to-restrict-environmental-and-nature-conservation-ngos/>

Public support for the sector often arrived quite late with many governments prioritizing funding for businesses first. Only a minority of the European countries created specific funding for the sector fit for its specificities, like Austria¹². Many other countries included NGOs in some of the measures supporting employers and businesses but, in most cases, only a part of civic organisations was actually eligible for this support, and this funding was unfit or the specific needs of the sector.

In some countries, the economic difficulties caused by the lockdown implemented in most EU countries have been exacerbated by the decision of public authorities to shift the priorities of national and EU funding for NGOs to tackle the health emergency. In some cases, these moves raised suspicion that they were aimed at disadvantaging specific sub-sector of NGOs that are critical of the authorities, like in Croatia where the government limited public funding to service provision organisations¹³.

5. Civil society unlocks its potential

The COVID-19 pandemic has also been characterised by an awakening of *active* citizenship to ensure at the widest possible scale effective access to basic rights that the crisis has put at risk. Many have found creative ways to be useful to their communities, to offer social and cultural tools against isolation, to volunteer for providing support to the weak and vulnerable which often happen to be the poorest, to act as watchdogs vis a vis the consequences of the democratic and social crises, and to propose societal alternatives. Everywhere, organized civic actors, as well as citizens and people spontaneously, have been and are in the front line to witness the precarious situations people suffer from, trying to respond to people's needs, to alert on the limitations and adverse consequences of implemented public policies, to react against abuses of power, to put solidarity for all at the centre of the response to the crisis. Civic space under the lockdown has been narrowed but, even under detrimental conditions, has shown a high level of dynamism.

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¹² Austria's civic space rating upgraded: <https://www.civicus.org/index.php/media-resources/media-releases/4622-austria-s-civic-space-rating-upgraded>

¹³ JOURNALISTS FACE LAWSUITS AND ATTACKS; MEDIA OUTLETS FACE POSSIBILITY OF CLOSURE DUE TO PANDEMIC: <https://monitor.civicus.org/updates/2020/06/17/journalists-face-lawsuits-and-attacks-media-outlets-face-possibility-closure-due-pandemic/>

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