EU CIVIL SOCIETY AT A CROSSROADS

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The rise of extreme parties across Europe is motivating “people of good will” to speak out and get activated, the director of the European Union Agency for Fundamental Rights told EURACTIV.com.

Michael O’Flaherty is director of the European Union Agency for Fundamental Rights, the EU’s centre of fundamental rights expertise.

He spoke to EURACTIV.com’s Sarantis Michalopoulos in a telephone interview ahead of the conference Empowering civil society to act and grow in Europe.

**What is the current state-of-play of civil society organisations in Europe and what are the main challenges they are facing?**

We have been talking about challenges in civil society and the so-called shrinking civil society space for years but we have been looking outside Europe. And we overlook the extent to which we also have problems within the EU.

The record is uneven across EU member states but we see five different types of pressure on civil society. In the first place, we have challenges

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thrown up by the regulatory environment, for example, when anti-terrorism law creates problems for the gathering of civil society groups like legitimate demonstrations in the streets. Secondly, we see quite serious problems with regards finance and funding and there are many problems here, the issue in Hungary is the most recent and dramatic but there are many forms of funding issues, such as removing human rights advocacy from charitable status for purposes of the taxation laws.

A third area is access to the decision-making process. Civil society groups are only effective when they have access to decision-making. We have an uneven record of transparency laws in Europe and the less transparent the public services the harder is to influence or to know what influence you are having. We also see an uneven quality of consultation process across Europe. The general concern in many countries is that civil society does not get any feedback about the impact of its interventions.

The fourth area we are concerned about is the issue of safety. We have been reporting on attacks on civil society groups in very different contexts across Europe in recent years and the situation is worrying. It depends on what a civil society group is working on. If one works for LGBT he will probably face issues in some countries. The same for Roma issues. If you work in support of the Jewish community you can be a target of attack. The attacks can be hate speech, but they can also be hate crimes. In the context of migration, for example, we have seen attacks physically on facilities and buildings. In some places, we also see an inadequate response by the authorities to this kind of crimes.

If you are a foreign funded organisation you are a suspect organisation and this can give fuel for people to attack physically people who work for such an organisation.

The final area of pressure on civil society has to do with the weak capacity. Sometimes people think that the richest corner of the world will have the richest civil society. Simply this is not the case. Civil society groups are struggling in very many different places to survive. They are struggling because of financial problems, because of the way the money is given to them, for projects but not for core expenses. They are struggling because they don't have the money and they cannot pay the salaries and therefore they cannot keep the good staff. Because of this lack of resources, we find many civil society groups there is inadequate attention paid to the well-being of the staff. Most of the times, the groups are dealing with the most heroine human situations, rescuing people in the Aegean for example, and this fantastic work needs to be backed up by psychological support for the workers themselves and this inadequately in place.

**According to your agency's data, has the number of EU citizens engaging with NGOs increased or decreased in recent years?**

This is something we know from particular data. We do know that there has been an increase in civil society visibility within the context of the arrival of refugees. There is no doubt about that. I visited the hotspots in Greece and in Italy on a number of occasions. I remember at the beginning of the last year when I went to the Greek hotspots, we saw hundreds even thousands of people volunteering to work on the Greek islands that had no previous civil society experience. That's an indicator of an increased recognition of the importance of civil society for helping communities.

In addition, social media has made it much easier to organise and has created a more informal civil society network.

**The Hungarian government recently imposed strict restrictions on NGOs that receive foreign funding. Is it a crackdown on dissent?**

I don't talk about crackdowns. It's not my business to attribute motivation for what governments do. It's my business to analyse what they do. Our agency shares with the European Commission, the United Nations and others, a great concern about the recent NGO legislation in Hungary for multiple reasons.

Fundamentally, because it raises very important issues of international human rights and the European Union law. Regarding the international human rights law, it raises issues of the freedoms of assembly and association for example. It also limits the rights to participate in public affairs.

In terms of EU law, we worry about the negative impact of this law for honouring the four freedoms.

**In Brussels, a recent European Parliament own-initiative report called on the European Commission to reject funding for NGOs that oppose its “strategic commercial and security objectives”. Do you agree with its spirit?**

Of course I cannot agree with the general spirit of this report. It's inconsistent with international human rights standards.

It was an unhelpful contribution which was not only problematic from a legal point of view but also fails to understand the critical role that civil society plays in a healthy democracy.

Civil society does not have always to agree. Demanding some kind of homogenised agreement on economic or commercial goals or whatever else it's not the essence of democracy.

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Do you fear more political pressure on European NGOs in the future? Not necessarily from extreme political parties but also the mainstream ones.

I am more interested in seeing how we strengthen civil society than worrying about possible future threats. There is a lot that we can do. For example, we can do a better job in monitoring the attacks on civil society. We are looking at the possibility of supporting the establishment of an observatory regarding the health of the EU civil society.

We are exploring ideas such as setting up a kind of EU fund for civil society. We want to see a stronger focus on the legal dimensions of the pressure on civil society. A healthy civil society is not only a democratic good but a legal obligation. We need to pay more attention to this dimension.

Do you believe that the rise of extreme parties across Europe will further pressure EU civil society?

I will put in another way. The rise of extreme parties is motivating people of good will to speak out and get mobilised and activated. So, I am confident about the capacity of the civil society to push back.

But that doesn’t for one minute relieve us of our duty to support civil society in every appropriate way.
European civil society organisations are exploring ways to address the mounting pressure on them, clarify their role and empower themselves to tackle future social challenges.

Speaking at the Empowering civil society to act and grow in Europe conference on Tuesday (27 June), several activists presented the current state-of-play of NGOs in the EU.

Factors ranging from a lack of funding and structure to political pressure by right-wing populists have sparked a discussion about their future.

**ONLINE CONSULTATION IS NOT ENOUGH**

Waltraud Heller, of the EU Agency for Fundamental Rights (FRA), told EURACTIV.com that the challenges are very different depending on the country and what an activist is working on.

“What we can say is that generally, activists have the subjective feeling that it’s getting harder and there is some evidence, which supports that,” she noted, stressing that the legislation is narrowing in some countries partly as a side effect of anti-terrorist, transparency, lobbyist or tax laws.

She also emphasised that a recent law in Hungary on foreign funding rules, in her view, aims to make it more difficult for civil society groups.

Heller explained that what is needed is a wider debate on whether NGOs are classical lobby organisations or not. “For me, it’s problematic to treat them like the business sector [...] there must be a structured way of dialogue with civil society.”

The official said she was sceptical about the online consultation process, often used by national governments and the EU institutions regarding a new legislation.

“There is a possibility for input but they are not the right tool. They have a value as well as limitations,” she

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stated, adding that there is often a lack of structures where conversations can take place between a public service and civil society.

For Heller, what is missed on the side of public institutions are the skills and knowledge about different tools of consultation and participation, such as focus groups, which is the case at the local level.

“We need to also empower governments and public services to work on this and there must be an understanding that proper participation needs skills, time and resources. We have to understand that it’s an inherent part of the process that guarantees a more democratic outcome,” she said.

NO OFFICIAL DATA ON ATTACKS

The creation of a notification system where attacks against activists could be reported has always been a priority for civil society organisations.

Heller said that activists don’t really see any mechanisms to use if they have a complaint. “It could be an ombudsman. But what are the channels for reporting, for example, hate speech online?” she wondered.

Currently, there is no database to report these kinds of incidents. Firstly, because there is no such structure on an EU and national level and second, because activists take this kind of abuse for granted as part of their job and don’t report them.

The FRA official said that a good example is Germany. When one wants to report an incident and files a complaint, there is a for provision “being a civil society activist” as one of the reasons an activist is attacked.

A NEW NARRATIVE

Kélig Puyet, the director of Social Platform, stressed that the ongoing changes in civil society are both a symptom and a cause of a weakening of our democracies.

For the activist, the role of NGOs is exactly ensuring that democracies survive.

“We are one important link connecting people in Europe with decision-makers, and our meaningful involvement is key to remedying growing mistrust in political institutions,” she said.

“Transparent and inclusive decision-making processes and adequate financial and regulatory support will contribute towards this,” she added.

Many activists also stressed that the civil society has become a casualty of right-wing populism, which tries to target NGOs to gain public support.

“NGOs defend the groups the right-wing populists attack like migrants and ethnic minorities […] they are responsible for the progress that right-wing populists are trying to rescind: feminism, racial equality and gay marriage,” said Israel Butler, a Civil Liberties Union for Europe activist.

Butler explained that NGOs needed to change the way that people think of them and of what they do.

“There are not many people out there willing to stand up and fight to protect civil society because they don’t know what we do, or they don’t understand what we do,” he said, adding that there is an urgent need to change the narrative.

“We have to change the misconceptions about democracy and human rights and the rule of law,” Butler noted.

For democracy, the activist said that it’s not about the rule of the majority. “It’s about making a government that might have a particular direction but takes into account the interests of everyone.”

Regarding the rule of law, he added, it’s not about unelected judges blocking the will of the people. “It’s about making sure that dangerously powerful governments keep to commitments that they made previously, as part of the democratic process.”

Human rights, Butler concluded, are not about privileges used by undeserving criminals or terrorists to take advantage of the deserving majority. “They are about preserving the dignity of every human being,” he said.
At a time when civil society is being challenged by restrictive policies at national level, the EU must do its part to defend civic space, writes Kélig Puyet.

Kélig Puyet is the director of Social Platform, the largest civil society alliance fighting for social justice and participatory democracy.

Civil society organisations work for and with different groups of people in Europe, in particular, those in the most vulnerable situations whose voices are rarely heard. Civil society defends people’s rights, brings their needs directly from the ground to the forefront in decision-making processes, and empowers them to have more control over their lives.

In recent years there have been a number of laws introduced in European Union member states which have, intentionally or not, impacted our ability to carry out our activities and act as watchdogs. Perhaps the best known recent example is the passing of a law in Hungary branding organisations that receive €24,000 or more in funding from non-national sources as ‘foreign-funded’. But restrictive rules have been rolled-out in Western Europe too, as we heard from participants in our workshop on ‘Empowering civil society to act and grow in Europe’ as part of the European Economic and Social Committee’s Civil Society Days 2017.

Growing social inequality has fuelled deterioration of trust in our democracies. Enabling and strengthening civil society organisations can be part of the solution. To send a strong signal to the member states, Social Platform believes there are a number of principles that should be recognised and reinforced at EU level.

Four steps to empower civil society organisations to participate

Kélig Puyet: “The EU should recognise civil society as an important stakeholder by moving away from its informal, piecemeal approach to a structured civil dialogue.” [Phil Mike Jones/Flickr]
First, civil society organisations must have the right to be consulted in decision-making. This sounds basic, but trends in EU member states mean that we cannot assume this right is a given. In countries where the right to participation is respected, it is often applied in a limited way; while a civil society organisation may be consulted on a specific piece of legislation being introduced it is the government that sets the agenda, with no opportunity for us to put forward areas we would like to consult on and share expertise. Better partnership between civil society and governments should be fostered to encourage a safe space where topics of interest to all actors can be discussed.

Second, there is a need for transparent and open decision-making processes. Perhaps the best example of why this is needed is the 2011 “cash-for-amendments” scandal in the European Parliament, a sting by undercover reporters which saw three politicians accept money in exchange for tabling amendments to legislation. Episodes like this could be prevented through the introduction of a ‘legislative footprint’ that would provide exhaustive information about whom and what has influenced a certain piece of legislation or policy, and how and when this influence occurred, thus avoiding conflicts of interest.

Transparency is key but there should be no system in place to restrict the representation of different interests in decision-making processes. Take, for example, Austria, where there is a proposal for civil society organisations to have to pay an annual fee in order to lobby decision-makers.

Third, there should be protective regulatory and financial frameworks for civil society organisations. Developments in several EU member states show a worrying trend towards more short-term project-based funding for non-governmental organisations, instead of long-term support for our core work. Complicated and difficult procedures for applications and reporting are also burdensome barriers for many small NGOs to overcome, which often prevent them from focusing on their core business and prioritising impact delivery. Social NGOs face increasing difficulties in providing much-needed services with limited financial resources and little or no capacity to act as advocates. Civil society organisations link decision-makers with citizens and communities, and it is through ambitious funding partnership initiatives that the EU’s social objectives can reach people in different member states.

Fourth, the EU should recognise civil society as an important stakeholder by moving away from its informal, piecemeal approach to a structured civil dialogue. The Treaty on the European Union obliges EU institutions to engage in a dialogue with civil society. However, in practice, fruitful exchanges with EU institutions far too often depend upon the goodwill and individual engagement of decision-makers and civil servants. An inter-institutional agreement on civil dialogue would set out common guidelines and practices when it comes to a partnership with civil society organisations. The guidelines would also set mandatory requirements to ensure the balanced composition and transparency of appointments in EU advisory and stakeholder groups between representatives of industry and businesses, social partners, governments, civil society organisations and independent experts.

By abiding by these four principles on participation, transparency, regulatory and financial frameworks, and formal recognition of civil dialogue, the EU would send a clear signal to member states that civil society is a key actor in decision-making that must not be silenced. Until then, civil society must not rest on its laurels. It is our duty to ensure that our democratic systems work for – and with – the people.