

*POLICY PAPER*

**THE TRANSNATIONAL EXPERIENCE OF  
DOMESTIC CIVIL SOCIETY ORGANISATIONS:  
ITALIAN CSOs EXPLORING THE EU  
MULTILEVEL POLITY**

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## **1. Executive summary**

This policy paper sheds light on the transnational political mobilisations that take place in the European Union's (EU) complex multilevel polity by exploring the opportunities and limits that Italian civil society organisations (CSOs) have encountered in the last decades. These are presented as a relevant case study for the transformation of CSOs' political activism in a time dominated by populist politics and the reduction of the civic space. In the same period of time in which the relationship between civil society and political parties was changing at domestic level, the EU political and legal space has seen a notable consolidation opening new avenues for the mobilisation of CSOs at European level. The examples analysed include legal actions, legislative proposals, advocacy, and monitoring actions carried out by CSOs operating mainly in the field of protection of the fundamental rights of migrants and LGBT+ people, gender, and environmental issues. Although there are considerable organisational and political obstacles to successfully using the transnational arena, the case of the Italian CSOs shows how the European multilevel system offers important opportunities to contrast populism. Our findings indicate that national civil society organisations are increasingly including transnational action into their toolkit. The transnational commitment of CSOs in a "vertical" sense is the most common one, but in order to address common challenges the "horizontal" dynamics should be actively fostered. The final part of the paper is devoted to recommendations addressed to the EU institutions and civil society to strengthen European participatory democracy.

## **2. Background**

Over the past twenty years, populism has characterised politics in liberal democracies, including in consolidated EU democracies like Italy (Albertazzi & McDonnell, 2008; Caiani and Graziano 2016; Fella and Ruzza 2009). By invoking a direct relationship between leaders and citizens and by eliminating intermediate bodies, populism has strongly delegitimised participatory democracy and the role of

civil society. Furthermore, in this same period, the idea of a civil society that transcends national boundaries working to build transnational, European, or global networks has also been questioned as a result of the rise of Euroscepticism.

Nonetheless, many civil society organisations (CSOs), active on issues as diverse as migration and LGBT rights at domestic level, have undertaken transnational initiatives to pursue their goals. Against this backdrop, we examined a few cases of transnational mobilisation and looked at how the EU multilevel system influenced their work. We studied in particular the experiences of some Italian civil society organisations that used the opportunities offered by the European Union and experienced its limits. For some CSOs, the EU has become the "minimum perimeter" of activity, in the words of one of our interlocutors, others have been experimenting with the transnational space only recently, for many it is still a distant horizon.

### **3. Method and data**

This work is based on 28 in-depth, semi-structured interviews with representatives of some Italian civil society organisations operating mainly in the field of defence of the fundamental rights of migrants and LGBTI people, gender issues, and environmental issues. In addition to using the academic literature on the subject, we consulted press releases, campaign flyers, sector reports, media articles, and court decisions. At an empirical level, we have analysed some cases of transnational civic initiatives that use the European multilevel system, including legal actions, legislative proposals, consultations, and monitoring actions. The work we carried out resulted in the drafting of two reports and two academic papers<sup>1</sup>.

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<sup>1</sup> Luisa Chiodi, Fazia Mat, Serena Epis, (2021). *Italian civil society: from target to antidote to the crisis of democracy?* OBCT/CILD; Luisa Chiodi e Serena Epis (forthcoming) *La tutela transnazionale dei diritti fondamentali: esperienze della società civile italiana nello spazio civico europeo*, OBCT/CILD; Luisa Chiodi, Fazia Mat and Oliver Schmidtke (forthcoming) *Seizing Transnational Opportunities in Times of Populism: The Transformation of Civil Society Organizations' Activism in Italy* in Chiara Milan & Aron Buzogany (eds.) *Transnational Political Mobilisation*, Palgrave; Chiara Milan and Luisa Chiodi, (2022) "Grassroots European solidarity. Italian solidarity movements in the Western Balkans in the 1990s and 2020s and their visions of Europe", *Southeastern Europe* n.46 pp. 248–270.

## **4. Key findings**

In the last three decades, Italian civil society organisations have gradually gained independence from being “transmission belts” of political parties towards society (Albareda, 2018). Recently, as populism has spread across the political spectrum, Italian CSOs have been targeted by a criminalisation campaign for their work on behalf of migrants and have found themselves isolated in their efforts to respond to the public delegitimation of their role. In the same decades, the EU has consolidated its political and legal space by expanding its competences in terms of the protection of fundamental rights. Following these developments, a few CSOs have increasingly started to use European channels of participation as well as legal frameworks introduced for the protection of fundamental rights, taking advantage of these opportunities to protect democracy in an innovative way.

Our reports and papers analysed some of the results in the protection and extension of fundamental rights achieved by the Italian CSOs in recent years. First of all we examined a few cases where CSOs resorted to legal disputes. **Strategic litigation**, which some interlocutors have referred to as "the new frontier" in the defence of basic rights, is one way some organisations frequently take advantage of the binding arrangements of the EU. The multi-level European legal framework has offered CSOs the possibility to respond to the populist wave on numerous occasions, including, for example, regarding the protection of the rights of third-country nationals.

Civil society organisations have regularly compelled the repeal of discriminatory provisions enacted through administrative actions and national laws to restrict their access to social benefits thanks to the availability of directives like the one on the single permit 2011/98/EU. In the face of scarce financial resources, Italian CSOs express particular appreciation of the importance and usefulness of the tools that can lead to the achievement of concrete results such as by presenting a case before national courts and resorting to European law or by bringing cases both at the Court of Justice of the EU in Luxembourg (CJEU) and the European Court of Human Rights (ECHR) in Strasbourg.

Second, we looked at examples of mobilisation that seize the opportunities stemming from a supranational political system where there can be **heterogeneous**

**arrangements across member states.** The expansion of fundamental rights in other countries, as in the case of same-sex marriage, has created incentives for Italian civil society to achieve a similar result in their country. Against a background where several parties were gaining support with an anti-feminist, anti-gender, and anti-LGBT political agenda, Italian civil society organisations upheld the right to same-sex-marriage and appealed to the Italian Constitutional Court and the European Court of Human Rights, both of which convicted Italy.

The rulings contributed to the CSOs' efforts to enrich the public debate but, as it should be, they have been unable to circumvent parliament's responsibility to introduce relevant legislation. When the Italian Parliament finally passed a law on "civil unions" that was more restrictive than the one on equal marriage, this led to discrepancies between the Italian provisions and those adopted in other Member States and, as a consequence, created the ground for new civil struggles even in areas where the EU lacks specific competences, such as family law.

As mentioned, Italian CSOs have few avenues for financing their activities but clearly the availability of resources – funds, personnel, and skills – has a profound effect on their capacity to use the instruments offered by European polity. The organisations we interviewed expressed a preference for **funds directly managed by the EU** as compared to those run by national authorities: although fundraising with EU calls requires a great deal of energy and specialist skills, they are preferable because they guarantee greater autonomy compared to funds managed by national institutions that exercise a tighter political control. A striking example is that of the European funds for the integration of migrants under FAMI managed by domestic authorities. Some CSOs recalled their difficulty in responding to the smear campaign that targeted solidarity initiatives with migrants in 2015-16, also for the fear of being penalised in fundraising by national donors.

At the same time, our research confirms the intrinsic limitations of a few European **participatory mechanisms**, whose function in facilitating bottom-up contribution at the European level remains in many ways limited. Namely, we examined a case of European Citizens' Initiative (ECI), one of the EU tools aimed at enhancing the participation of European citizens in the European decision-making process, while creating an opportunity for connecting civil societies of different

member countries. In its current form, the ECI is often disappointing in its results. This is primarily due to the discretionary power of the Commission to take legislative action or not on the issue at hand, which highlights the mismatch between the expectations created among citizens and the legislative outcomes obtained through the ECI (Alemanno, 2022; Salm, 2018). On the other hand, while the collection of one million signatures requires a strong capacity for vertical coordination between umbrella organisations and national coalitions, it does not facilitate the creation of horizontal connections between actors residing in the different member countries, thus losing the opportunity to create Europe from below, as often heralded by the European institutions themselves.

It is especially difficult for civil society organisations **to have a voice in the intricate EU's multilevel governance system**, which leads to disappointment after years of engagement and not many achievements. For example, civil society's contribution was extremely important in the European Parliament's elaboration of the reform of the Dublin Regulation in 2018, but the Council of the EU, the co-legislator where the representatives of Member states sit, did not take the proposal into consideration. Otherwise, as in the case of the proposed directive advocated by the European civil society CASE coalition against Strategic Lawsuits Against Public Participations (SLAPPs) to which we contributed, it was the EU's lack of competence to limit the results achieved.

The fundamental role attributed to civil society in **monitoring** the work of national institutions in the adoption and implementation of European policies (Sissenich, 2010; Sudbery, 2014) is also limited for various reasons when there is no solid legal basis on which to leverage. Various Italian CSOs involved in the protection of fundamental rights regularly collaborate in the monitoring of EU agencies, international regional organisations (CoE and OSCE), or the UN system. However, our respondents do not hide their frustration at struggling to produce a constructive response from national institutions through non-coercive tools in contexts of political crisis, such as the one we have been experiencing for some years. The so-called 'boomerang effect' (Keck and Sikkink, 1998) – the international pressure on one's own national authorities, which in the European polity would have particular reason to exist given the shared institutions – cannot work without

convinced adherence to common principles and institutions. Moreover, with the current political context hegemonised by populist, eurosceptic, and sovereigntist forces, transnational initiatives rather attract accusations of offering foreign actors the power to interfere with democratically elected governments.

The engagement of CSOs at consultation level is often limited by the lack of resources. A striking example of this was the inadequate contribution of the Italian CSOs to the consultations on equality bodies. Although it would be necessary to campaign for the Italian institution in charge, UNAR (Ufficio nazionale antidiscriminazioni razziali), to become independent from political control as required by the European Directive 2000/43 EC, the CSOs lack the strength to give this case priority among the many that they pursue, even though they would directly benefit from doing so (Chiodi, 2021).

The alliance between European institutions and CSOs in terms of the protection of fundamental rights could be strengthened by **attributing the due relevance to the contribution of civil society** even when it comes to pure monitoring. An exemplary case in this sense is the recent **Rule of Law Reports** prepared by the European Commission for each member country, which involves various CSOs in a consultation process which precedes and follows its drafting. In the first two years of life of this new tool, the CSOs complained of the ineffectiveness of these reports. The lack of transparency regarding the inclusion of the organisations met by the Commission's representatives and the limited media visibility of the occasion are other factors that contribute to making the process less inclusive, accessible, or relevant.

The transnational commitment of CSOs in a "**vertical**" sense - i.e. for the adoption of common standards at the European level or to ensure their respect at national level - is the most common in the European political space, maintaining its original imprint of a project born from the cooperation of nation states. However, equally important should be the work of establishing "**horizontal**" networks between civil societies. The power of transnational solidarity in Europe has been demonstrated on numerous occasions when there has been a crisis: for example in the 1990s with the humanitarian movement during the wars in the Balkans, more recently on the Balkan route and this year in the reception of refugees from Ukraine.

As we discuss in our papers, European CSOs have taken steps to support each other against widespread policies criminalising solidarity with migrants, responding to these in the national courts and engaging in the ECI "We are a welcoming Europe"<sup>2</sup>. In order to address common challenges, the horizontal dynamics that the current EU nation-state framework discourages should instead be actively encouraged, not least because it would entail the added benefit of fostering a sense of **European identity** among public opinion.

Contrary to popular belief, it is not difficult to foster **transnational solidarity** in the protection of human rights. A fundamental role in directing public opinion is played by the political classes who today favour the reception of refugees from Ukraine while a few years ago they closed the Balkan route. In this latter case, for instance, CSOs and volunteers have contrasted illegal pushbacks of asylum seekers by cooperating across EU and non-EU countries defending the principles on which our legal system is based. While this is not an isolated example, among the members of the CSOs there is a strong disappointment towards the European institutions that have not had enough strength to oppose the xenophobic, populist, or sovereigntist drift in our continent, in the same milieu that placed great hopes in European integration back in the 1990s. There is still a pool to draw from, as seen by the pledge to promote the ECI "We are a Welcoming Europe", but **confidence** in the European idea needs to be restored.

Our research highlights that, after several disappointments, CSOs started relating to the EU in a pragmatic fashion, looking at what European institutions offer in terms of practical responses, such as legal provisions that are more advanced than the domestic ones or resources that can help them to carry out their work. In any case, this approach does not prevent the emergence among civil society actors of a sort of European identity, when they are personally involved in transnational experiences.

In the current context, some CSOs have acquired a role of defence of minorities or disadvantaged groups to the detriment of their more traditional role as intermediary entities articulating the interests of society towards politics. Such a role as cultural and social forerunners is essential to the functioning of democracy

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<sup>2</sup> We Are a Welcoming Europe - Migration Policy Group ([migpolgroup.com](http://migpolgroup.com))

but it weakens them in the face of populist political forces that attack them questioning their representativeness.

Although there are considerable organisational and political obstacles to successfully using the transnational arena, the case of the Italian CSOs shows how the European multilevel system offers important opportunities for the protection of fundamental rights, helping to deal with the drifts of populism. Our findings indicate that national civil society organisations are increasingly including transnational action into their toolkit.

In terms of wider impact, our analysis indicates the importance of the transnational civic space for giving minorities a voice at the national level in times of crisis, but also for deepening democratic processes in member countries and in the European Union itself. The hope that European integration can continue to increase the spaces for transnational civic action should be nurtured with conviction to make sure that results improve over time.

## **5. Recommendation to strengthen European participatory democracy**

As discussed above, the European multilevel legal framework plays a fundamental role in strengthening civil society's capability to protect fundamental rights, specifically with regards to the CSOs' work of advocacy and the protection of minorities and vulnerable groups through litigation. In return, protecting and expanding this European multilevel legal framework ensuring the protection of fundamental rights requires cogent support for the work of civil society organisations in European countries.

Sharing the same political space, each EU member state has the responsibility and the right to intervene to ensure compliance with agreed principles and norms by all members. Since the EU mostly functions on the voluntary adherence by member states, the contribution of civil society is particularly important to improve the functioning of democracy, including on the transnational level.

However, the current tools made available by the European institutions are not sufficient to promote the participation of civil society in the decision-making

process. Furthermore, the current institutional framework is predominantly based on relations between the centre and the periphery, even in the case of civil society participation.

**Therefore we recommend that the European institutions:**

- Strengthen existing tools of civic participation and introduce new ones to support the growth of spaces for transnational civic action. To grow the European civic space, it is necessary to increase both the vertical dimension of European governance and the horizontal links between civil societies from different countries.
- The vertical dimension needs to be safeguarded to foster an effective relationship between the centre and the periphery, while civil society operating domestically needs to be supported in the onerous work of connecting local issues with European dynamics.
- With regard to the horizontal dimension, it should be noted that international solidarity always emerges in times of crisis (for example in the 1990s, currently on the Balkan route, in welcoming refugees from Ukraine) and could be actively supported to face common challenges, having the advantage to foster the sense of belonging to the EU.
- It is important to guarantee support to CSOs in terms of greater availability of resources to operate but also of convinced institutional involvement in decision-making processes.
- The greater commitment to participatory democracy must also take the form of renewed attention to consultations with the CSOs, so that they are transparent and inclusive and not merely formal, to avoid the disaffection towards the EU precisely on the part of the allies of European integration.
- It is preferable to increase directly managed funds over domestically managed ones to guarantee the independence of CSOs from the control of domestic authorities and to favour the alliance between CSOs and

European institutions in promoting respect for fundamental rights in member countries.

- The capacity of the CSOs to adequately inform national public opinion of legislative dossiers and of the functioning of the European institutions needs to be strengthened.
- It is necessary to recognise that civil society's contribution to the protection of fundamental rights in the EU cannot find adequate expression in the limited duration of projects but needs a long term commitment both for raising public opinion's awareness and for carrying out advocacy activities on legislative dossiers at hand.

Although the CSOs are not prejudicially either for or against the European institutions, many of the regulations protecting fundamental rights in the EU have arisen from the long-term commitment of European civil society in favour of this type of development. Currently, many of the key regulations affecting the work of the people engaged in upholding fundamental rights stemmed from the political climate at the turn of the 2000s, but considering the difficulties encountered in remedying the deficiencies in the current EU provisions, our interlocutors wondered whether they would be passed again today.

**For these reasons, we recommend that civil society organisations:**

- Strengthen the commitment to seize the opportunities offered by the European space by:
  - becoming more familiar with existing tools;
  - working on their expansion and strengthening to protect fundamental rights;
  - raising awareness of the EU decision-making process in the general public;
  - engaging in transnational coalitions with the common goal of defending the space for civic action in their respective countries and in the EU.

- The reputation of civil society has been compromised by years of shrinking of the civic space and therefore it is important to work to recover credibility.
- To this end, a self-reflexive effort on the part of CSOs is needed to evaluate all the reasons for the disaffection of public opinion.
- CSOs should work to ensure closer coordination between small and medium-sized organisations that make up the bulk of Italian civil society. Similarly, they should endeavour to increase the impact of their work thanks to the acquisition of greater specific weight at the national level, which would also allow them to count at the European level.
- It is also necessary for CSOs to place themselves at the service of grassroots associations which lack the tools to reach the European level, while they have the privilege of having strong relationships at local level, reducing the reasons for conflict, jealousy, and the tendency to dominate.
- In this uneven effort by CSOs to remain aware and connected to the domestic context while asserting themselves at the European level thanks to highly specialised skills, one must also avoid closing oneself in bubbles of any kind, from the notorious Brussels bubble to the communities they defend the rights of.
- In addition to their fundamental role in protecting minorities and disadvantaged groups, CSOs need to undertake a long-term commitment to spreading the culture of rights in society in the broadest sense.
- Last but not least, CSOs need to give priority to improving relations with the media in order to spread awareness of the opportunities and limits of the European multilevel space and to obtain greater public recognition of the results obtained thanks to the transnational expansion of the civic space.
- Finally, today, as the international context becomes increasingly polarised, it is essential that national CSOs are committed to spreading the value of transnational solidarity inside and outside Europe.

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