Democracy in the EU: Conclusions of the 2018 Annual Colloquium on Fundamental Rights

On 26 and 27 November 2018, First Vice-President Frans Timmermans together with Commissioner Věra Jourová hosted the European Commission’s Annual Colloquium on Fundamental Rights, which this year was dedicated to democracy in the EU.

The high-level Colloquium brought together over 400 politicians, national and EU policymakers, representatives of International Organisations, civil society leaders, academics, legal practitioners, activists, representatives from across the tech industry and the wider business community, trade unions, media representatives and journalists. Participants worked together to identify avenues to foster free, open and healthy democratic governance in an era of low turnout in elections, populism, disinformation and challenges facing civil society.

The debate was informed by discussion papers and the results of a Special Eurobarometer survey on democracy and elections issued on the opening day of the Colloquium. The survey shows that citizens’ satisfaction with democracy in the EU is generally high. Large majorities are satisfied with key aspects such as free and fair elections (70%), freedom of speech (69%), respect for fundamental rights (65%) and the possibility for individual citizens to participate in political life (63%). At the same time, there is a high level of public concern about elections being manipulated through cyberattacks (61%), foreign actors and criminal groups influencing elections covertly (59%), the final result of an election being manipulated (56%), or votes being bought or sold (55%). In addition, while the vast majority of respondents (76%) believe the role of civil society is key to promoting democracy and common values, including in fostering well-informed and pluralistic public debate, only over half actually feel satisfied with the opportunity for civil society to play its role (57%) – only one in ten reporting being ‘very satisfied’.

Against this background, participants agreed to intensify their efforts in protecting and supporting a healthy democracy, addressing reasons for public disaffection, supporting a more informed and pluralistic democratic debate both online and offline, and investing in a vibrant civil society.
At the Colloquium, First Vice-President Frans Timmermans said

“The European project, from the very outset is based on the tripod of democracy, the rule of law and the respect for human rights. You cannot use one of the legs of the tripod against the other. The biggest challenge to democracy, the rule of law and human rights we face is how we adapt to a world that is changing so incredibly fast. Entering the digital world where algorithms steer people into their own echo chambers, and the advent of the fourth industrial revolution means that every person’s relationship with the next person, with society, with the world as a whole changing fundamentally and fast. So collectively we need to find some new answers on how we maintain the rule of law, defend human rights, and reinvigorate our democracy in the interest of all European citizens in this Union.”

Věra Jourová, Commissioner for Justice, Consumers and Gender Equality stressed that

“In 2016, we needed to act in a toxic environment. Hate speech was a serious problem, and we acted and we are monitoring it. I am glad that we can cooperate with IT companies, because I believe that they get it. But we cannot simply rely on the social responsibility of social media to regulate the entire area – for terrorism, for child pornography etc. A risk based approach, with proportionate regulation based on need will be our approach.”

The Colloquium discussions were held over two days – the first with three plenary sessions introducing the main themes, setting the terms for discussion and identifying the main issues. On the second day, two rounds of parallel sessions treated different aspects of the main themes in detail, elaborating on the questions posed, and providing a forum for participants to exchange their ideas for concrete solutions.

**Resilient and inclusive democracy in Europe**

The discussion highlighted that impact of the digital environment on European democratic institutions is a “Gutenberg moment”, signalling a comparable revolution in how democracy is conducted. Europe must reflect on the causes of the challenges confronting democracy and on the responsibility of institutions, political actors and other stakeholders to address public disaffection and citizens’ trust.

The challenges identified were the increased fragmentation of the public debate and the reduced space for social consensus and a common platform for debate to occur. Speakers also pointed to a certain feeling of insecurity and a decreasing sense of common identity and control in European societies, as well as the political disempowerment of underrepresented groups and minorities.

A key factor to address challenges to democracy is to increase **democratic participation**, to ensure that citizens are able to participate in the democratic debate and in elections as equals, and that those elected are truly representative of their constituents. This calls for an **increase in transparency in European democracies** to reinforce the credibility of representatives, and reflection on the inclusivity of European democracies.
This was supported by calls for **easier access to education for everyone**, to foster democratic involvement at more levels, and greater investment in citizenship education.

Participants discussed obstacles to increasing the inclusion and electoral participation of underrepresented groups. It was highlighted that political parties play a critical role in this regard. It was also underlined that a paradigm shift is needed in the approach: the programmes targeting underrepresented and minority groups should stop regarding these groups as recipients of aid and treat them as equal participants. National programmes should seek to include outsiders and focus on empowerment rather than integration.

Plain language is required to close the gap between policy and reality and connect with real issues as citizens experience them.

**Supporting broad participation and representation in democratic societies**

The discussants recognised that citizens are more likely to engage in democratic processes if they feel their legislatures represent them. For this reason, they stressed the importance of addressing discrimination in a way that allows for the equal participation of young people, women and other under or unrepresented groups, including persons with disability.

Participants exchanged ideas and positive examples on how to involve citizens in decision-making processes outside the standard established patterns and stressed the **importance of using the digital environment as a means to increase political engagement**. The interrelation between poverty and other forms of social exclusion was emphasised, as well as the obstacles to political participation. Efforts at all levels were called for to help overcome this.

The discussion illustrated the importance of **removing barriers to citizens’ participation in the democratic process, including for women**. This could be achieved by active assistance from the authorities in providing education, removing physical and other barriers and facilitating the participation of underrepresented groups in society.

It was highlighted that more needs to be done to **remove obstacles for European citizens moving across Member States**, who continue to face challenges when trying to exercise their electoral rights, including procedural formalities, disenfranchisement in their Member State of origin and lack of information.

**A secure and resilient electoral process**

Participants exchanged views on how to secure electoral processes from the challenges posed by new threats and safeguard the trust of citizens in elections. It was recognised that online communication reduced barriers and costs for political actors to interact with citizens but has increased the exposure of the electoral process to malicious actors including via disinformation campaigns and cyber-attacks. Trust in elections can no longer be taken for granted and being united is essential to restore this trust.

**Having informed citizens** is the best defence to the threats described. Participants highlighted the sensitive balance between building healthy scepticism in citizens and raising awareness of how malicious actors can manipulate their opinions and political decisions, without creating a negative climate of cynicism, which undermines trust in European
democracies. To this end, participants stressed that free and fair elections need an informed, pluralistic public debate and media. There was a strong sense that the response must not limit other fundamental freedoms, particularly freedom of speech.

The discussion showed that **international cooperation with like-minded democracies** can play a significant role in addressing multiple threats in the electoral context.

**A free and strong civil society for a vibrant democracy**

Plenary discussions helped to better understand the challenges civil society actors face in fulfilling their role in the system of checks and balances governing European democracies and as representatives of citizens' interests.

Exchanges built on the key findings of the European Commission’s Eurobarometer on Democracy and Elections and on a survey conducted by the EU Agency for Fundamental Rights. The Eurobarometer Survey showed that more than three quarters (76%) of respondents believe that civil society has an important role to play in promoting and protecting democracy and common values, while only over half of them (57%) actually feel satisfied with the opportunity for civil society to play that role.

Against this background, participants reflected together on how the space for civil society organisations is evolving across the EU and discussed some of the main factors currently affecting the role played by civil society organisations in fostering healthy European democracies.

While civil society in EU Member States is generally still thriving, participants stressed that they are witnessing an erosion of the civil space across the EU, in particular as regards civil society organisations engaged in the promotion and protection of fundamental rights, democracy and the rule of law. Participants denounced worrying trends including de-legitimisation and smear campaigns, restrictive legal and regulatory measures, lack of meaningful access to policymakers, limited access to core funding, and threats and attacks to activists, including online. This was also confirmed by the EU Agency for Fundamental Rights, which presented the results of an online consultation conducted amongst the civil society organisations participating in its Fundamental Rights Platform.¹ Many, including donors, pointed to the existence of a serious funding gap for these organisations, both at national and EU level. Civil society representatives also warned against the unintended negative impact on civil society organisations of EU and national legislation regulating areas such as financial transparency, campaigning, security and counterterrorism, irregular migration and whistleblowing.

Participants also underlined the difficulty to react to a changing political, economic and digital environment and to interference and manipulation by the so called "gongos" (Government organised non-government organisations). They highlighted the challenge for civil society organisations to engage effectively and "speak the language of the people", to foster diversity within the civil society movement and build coalitions with informal civil society movements, in particular at local and grassroots level, and with other actors. They

stressed issues of legitimacy and credibility affecting mutual trust between citizens, civil society and public authorities.

Participants shared experiences of dialogue, engagement, cooperation and self-empowerment. They highlighted the importance of stronger and more diverse coalitions and forms of cooperation within the civil society movement. Participants agreed that a regular and constructive engagement between civil society organisations and public authorities would also strengthen the mutual trust between citizens, civil society organisations and public authorities.

Many discussants called for a stronger role of EU and international bodies in supporting the development and sustainability of the civil society space, including by fostering a conducive environment and by supporting, through funding and spaces for dialogue, capacity building and exchange, and efforts by civil society organisations to strengthen their resilience, build coalitions and empower themselves. This was also underlined in a petition signed by a coalition of civil society organisations on the occasion of the Colloquium.²

All these issues were further explored in dedicated sessions on the second day.

**Public authorities’ engagement with civil society: obligations, challenges and promising practices**

Discussions in this session focused on the role and responsibilities of public authorities in preserving and supporting a free and strong civil society space.

Participants exchanged views on some of the key factors determining the way authorities engage with civil society actors across the EU.

Challenges that policymakers and public authorities face in fulfilling these obligations, in particular at national level, were pointed to, including the need to ensure transparency, representativeness and integrity of civil society actors and their work.

The severe and disproportionate impact of certain measures and practices on civil society organisations’ ability to perform their legitimate roles and functions was highlighted. Particular reference was made to restrictions on freedom of association and assembly, on the right to seek, receive and impart information and on freedom of expression. Difficulties in accessing national and foreign funding sources were also documented in several Member States. Participants stressed the importance for all national and EU actors to ensure that binding standards are respected, as also acknowledged by the Council of Europe’s Committee of Ministers in its recently adopted "Recommendation on the need to strengthen the protection and promotion of civil society space in Europe".³ Participants underlined the role of European and international authorities and bodies in ensuring a conducive environment, including by promoting legislation that is sensitive to the need to respect the civil society space and by monitoring patterns and trends affecting civil society organisations in the Member States, and taking action as appropriate.

Participants discussed the relevance of fora for dialogue with public authorities. They recognised the importance of standards set at international level, such as the guidelines on civic participation in decision-making adopted by the Council of Europe Committee of Ministers in 2017, and underlined the need to ensure their effective implementation at the national level, while avoiding that structural participation models are reduced to box ticking exercises.

Participants reiterated a call for strengthened financial support at national and EU level, in particular for civil society organisations engaged in the promotion and protection of fundamental rights, democracy and the rule of law. This was seen as essential to ensure the sustainability and independence of the civil society sector, necessary to ensure, in turn, the empowerment of citizens including vulnerable groups. Participants agreed on the benefit of using cascade funding models to reach out to smaller and grassroots organisations.

Towards a strengthened civil society space: avenues for self-empowerment, coalition and capacity building

This session concentrated on how civil society organisations can strengthen their resilience, better engage citizens and create a stronger civil society space capable of adapting to change, as a key element of broader discussions on how to preserve and strengthen the health of EU democracies.

Discussions started with an exchange on how to enhance civil society organisations' capacity to address existing challenges. Participants agreed that that there is a need to rethink communication. The language used should be accessible to and resonate with people. They underlined the importance of overcoming fragmentation, speaking with one voice and increasing diversity of the civil society movement, including by empowering organisations representing minority groups. They also highlighted the need to promote and recognise the work of informal movements and of local leaders, also building on transformative leadership models. Participants further recognised the necessity to improve the credibility of civil society organisations and promote balanced narratives on their key role in the public opinion. Against this background, they agreed on the importance for civil society organisations to gather further expertise and build their capacity and skills in areas such as participation and engagement with public authorities, monitoring and litigation activities, communication and advocacy strategies and coalition building.

Positive examples were pointed at, related to wide-scale campaigning activities, such as the call to action "No day without us" organised by the European Civic Forum; monitoring initiatives such as the Civic Space Watch and CIVICUS Monitor; and communication toolkits and training initiatives, as developed for example by Civil Liberties Union for Europe. The added value of building coalitions and enhancing synergies between civil society and other actors was also illustrated, with a particular focus on strengthening the cooperation with national human rights bodies, as envisaged by the Regional Action Plan on "Expanding & Securing Vibrant Space for Human Rights Defenders", recently launched by the European Network of National Human Rights Institutions; as well as the creation of "unconventional"

4 https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016807509dd
5 https://megacampaign.eu/joint-action-day-10-december-2018/
coalitions involving a wide range of actors, such as the French coalition "On ne se taira pas"\(^6\), as well as initiatives involving the private and business sector.

Possible measures at international, EU and national level to support these efforts were mentioned, such as dedicated funding for existing and new coalitions and to support advocacy, awareness raising and capacity building; platforms for sharing best practices and experiences and the development and dissemination of practical toolkits and training modules, in particular on communication and campaigning. Participants stressed the need for public recognition and acknowledgement at international and European level of the contribution of civil society organisations and activists to the protection and promotion of democracy and fundamental rights.

**Free and fair elections and an informed and pluralistic democratic debate**

The discussion showed that the digital environment has brought great benefits and opportunities for interaction between and among political actors and citizens. Simultaneously, it has opened a Pandora’s box of systemic threats and exacerbated many existing challenges. The need for urgent action was acknowledged, in particular to address the advances in using digital communication to polarise debate and undermine public trust. The ability to target messages directly at citizens was highlighted, as was the lack of transparency that micro targeting enables and the power that online mobs can have to stifle debate.

Participants highlighted that *democracy is about not imposing the will of the majority but also representing the rights of minorities*. The internet empowers people, and freedom of expression enables minorities to express themselves side by side. The challenge is to maintain the protection of all rights and improving the public space for discussion. Online space should enable open discussion.

**Education** was highlighted as a route to achieving progress, and the systematic integration of media literacy into formal and informal education projects was underlined. The importance of a free and pluralistic media was also highlighted.

Participants agreed that a coordinated action is especially relevant and urgent in view of the upcoming European elections in May 2019. In this context, attention was drawn to the package of measures put forward by the Commission in September 2018, which foresee concrete measures to increase transparency in online electoral campaign activities, to provide protection against disinformation and cyber-security incidents, and to allow for a better cooperation between Member States on issues capable of affecting elections. These actions aim to ensure fair and secure elections, whilst preserving an open public sphere, free from fear and undue influence.

**Ensuring fair elections and a pluralistic political debate as well as freedom of expression online and offline – a thematic overview**

Participants recognised that there are manifold challenges facing regulators and other stakeholders in the new context of digitalisation and the increasing move of elections to

\(^6\) [https://onnesetairapas.org/]
online fora. There is a great need for interdisciplinary and certain forms of international collaboration. The enforcement of existing rules was emphasised as being challenging in the new environment and needing careful thought. Some issues, such as criminal communications involving hate speech or pornography appear rather clear-cut, but others are more difficult to address. There can be compelling reasons to attempt to break the “wild west” of unregulated communications in a broad sense online, but this intersects with fundamental rights and furthermore regulation should not be “outsourced”. There were calls for greater support for media literacy, both preventing the dissemination of disinformation as well as inoculating citizens against it and ensuring transparency to increase the trust of citizens in the political system. Hardening electoral infrastructure and ensuring that all participants in the democratic process are aware and prepared for the challenge of online interference in elections were stressed as important priorities.

Along with acknowledging the challenges, there was equal recognition of the need to ensure a favourable environment for free and fair elections, which requires respect of the primary obligation of the state to refrain from interference and censorship in relation to the public debate. There is an important role for the private sector to play, including in the framework of the Code of practice on disinformation. This should also include safeguarding media pluralism. As regards the challenges, it was recognised that bots and trolls interfering in the democratic process should not have the same rights, and vigilance should be observed in this regard.

Practical steps to ensure that the online world supports an informed and pluralistic democratic debate

While it was acknowledged, as a matter of fact, that modern online marketing technology is being used for political campaigns and that advertising can be adapted to any interest or fear, the consciousness of a need for moderation in the approach to these issues emerged from the discussions, as hastily proposed solutions can backfire. This also applies to approaches to media literacy, which is not always the panacea.

It was stressed that following the entry into application of the General Data Protection Regulation (GDPR) in 2018, the Data Protection Authorities are now able to make use of their increased powers to address violations of data protection rules in the electoral context. Regulation in other areas might need to catch up with technological developments. This feeling was, however, not shared by all and it was underlined that other methods, such as support for quality journalism also play an important role.

Hate speech was highlighted as a phenomenon with a particularly adverse effect on the pluralistic political debate. Reference was made to the “Code of conduct on countering illegal hate speech online”, agreed in May 2016 between the Commission and several major social media platforms.

The participants warned of the need to ensure that fighting disinformation does not limit press freedom and freedom of expression. They also underlined that both public and private actors must work together to ensure it transparently. Grass-roots responses to disinformation and election interference were mentioned as effective and worth supporting. The continuing need for a strong, well-resourced and pluralistic media on the basis of a business model fit for the digital environment was also underlined.
**Key actions**

**Strengthening the legitimacy and inclusivity of the democratic process**


- In 2019 the Commission should launch specific consultations on challenges and potential priorities for inclusion in view of the next EU Citizenship Report, including priorities for improving the democratic participation of citizens and the enjoyment of democratic rights in the European Union.

- The Commission should explore in the framework of these consultations additional ways to further include citizens in the decision making process, including through examining how to better collect and report on local and regional authorities’ views in its public consultations and the use of digital tools and eGovernment processes to facilitate such participation.

- The Commission will continue to monitor the situation in the Member States regarding disenfranchisement following citizens’ exercise of their right to move freely in the Union.

- Further cooperation should be established between EU institutions in view of further developing common specific projects to facilitate the exercise of electoral rights for European citizens, including citizens exercising their rights to move freely across Member States and promoting a fair democratic debate in the European Union.

- The Commission will continue to promote the Gender-sensitive Parliaments Tool designed by European Institute for Gender Equality as a self-assessment exercise measuring gender sensitivity of the national parliaments of the EU Member States, and launched at the Women Political Leaders Global Forum event in Vilnius in June 2018.

- The Commission will continue to raise awareness of European policies including rights linked to citizenship of the Union and their impact on European citizens’ lives, including in the context of citizen’s dialogues and through interventions in the field of education.

- In 2019 the Commission should fund projects to improve the inclusion of mobile EU citizens and their participation in the political life of the European Union, and to support and enhance the democratic participation of mobile EU citizens, particularly of

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underrepresented groups such as persons with disability, in the electoral processes. Accessibility for persons with disabilities should be enhanced and their access to information and participation in the electoral processes should be supported.

**A free and strong civil society for a vibrant democracy**

- The Commission will continue to monitor legislative developments at national level having an impact on the role and functioning of civil society organisations and will not hesitate to take action against measures that are contrary to European Union law, including the EU Charter of Fundamental Rights. The Commission will also ensure that the transposition of EU legislation in relevant policy areas takes into account impacts on the civil society space through the work of expert groups and the compilation of sectorial guidance where needed.

- The Council and the European Parliament should adopt the Commission’s proposal for a new Justice, Rights and Values Fund (post 2020 financial framework) providing for funding opportunities to strengthen support to civil society organizations active in the protection and promotion of fundamental rights and values at national and local level. Once adopted, the Commission will ensure their visibility through a dedicated user-friendly portal.

- The EU Agency for Fundamental Rights should explore ways to maximise the impact and added-value of its Fundamental Rights Platform as a means to support civil society organisations' capacity building, foster best practice exchanges and promote synergies and cooperation both among civil society organisations and with other actors.

- The EU Agency for Fundamental Rights will repeat periodically its consultations on the civil society space with its Fundamental Rights Platform in order to analyse and report on trends. It will produce an updated mapping of the gaps and challenges affecting other key human rights actors at national level, in particular National Human Rights Institutions.

- In the implementation of all these actions, the European Commission will continue to engage in a regular dialogue with civil society organisations and will explore how to best foster targeted and focused discussions between civil society organisations, national authorities and other relevant actors on key fundamental rights issues and on how to support, in that respect, civil society initiatives. It will also explore opportunities to give public recognition to outstanding achievements of civil society organisations and activists in the promotion and protection of fundamental rights and values in the EU.

- The Commission will finally seek opportunities for further cooperation and synergies with other European and international bodies, with a view to monitor more effectively the challenges and trends affecting the civil society space in the EU.
Free and fair elections and an informed and pluralistic democratic debate

- The Commission will monitor the implementation of its Recommendations on elections including the Recommendation on election cooperation networks, online transparency, protection against cybersecurity incidents and fighting disinformation campaigns issued on 12 September 2018.
- The Commission will support the establishment by Member States of elections cooperation network to facilitate the exchange of expertise and best practices including on threats, gaps and enforcement. In accordance with the Commission’s Recommendation of 12.9.2018 on election cooperation networks, online transparency, protection against cybersecurity incidents and fighting disinformation campaigns in the context of elections to the European Parliament, national authorities with competence for electoral matters should reinforce their cooperation with authorities in charge of monitoring and enforcing rules relating to online activities including data protection authorities, authorities in charge of cybersecurity and other authorities. In the framework of the Rights, Equality and Citizenship Programme, the Commission intends to provide funding in 2019 to support the formation of these networks. This funding will support the work of these networks in quickly detecting potential threats to elections in the European Union and swiftly enforcing existing rules, including by imposing sanctions.
- Member States should review if their conventional (“off-line”) electoral safeguards, such as rules applicable to political communications during election periods, transparency of and limits to electoral spending, respect for silence periods and equal treatment of candidates, are able to cope with online challenges. The Commission will support these efforts.
- The Commission will support Member States’ actions and gather contact points of national election network in European elections cooperation network, which will be convened regularly as from January 2019. It will provide a forum for exchanging best practices, discuss common solutions to identified challenges and common projects and exercises among national networks.
- The Commission will continue to support the implementation and monitor the effectiveness of the individual roadmaps signed up to by the online platforms in October 2018, following the publication of the self-regulatory Code of Practice on Disinformation issued in September 2018.
- The Commission will continue to promote joining the Code of conduct on countering illegal hate speech online, first opened to participation of private media actors in May 2016.
- Following the 2019 Election to the European Parliament, the Commission will explore potential future action to support transparency and address issues linked to paid political advertising and communication and related funding, including by legislation.
• The Commission and the High Representative will develop and implement the measures set out in the Action Plan against Disinformation⁸, in close cooperation with Member States and the European Parliament.

• The Commission will take action to support further the exchange of best practices on media literacy and foster networking among stakeholders. The EU institutions and Member States will promote media literacy through dedicated programmes. Support will be provided to national multidisciplinary teams of independent fact-checkers and researchers to detect and expose disinformation campaigns across social networks.

• With a view to the European elections, a Rapid Alert System will be set up by March 2019 to facilitate the sharing of data and assessments of disinformation campaigns and to provide alerts on disinformation threats in real time. This will be complemented by further strengthening relevant resources.

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