



**CIVIL  
LIBERTIES  
UNION FOR  
EUROPE**

# Key Projects

**Report for the period 2017-2019**

Civil Liberties Union for Europe



### **Civil Liberties Union for Europe – the development of the organization**

After 3 years of informal networking under the non-registered umbrella organization “European Liberties Platform”, the participating organizations decided to establish a formal structure and establish an NGO. In early 2017, Liberties was registered as a German charity organization, and established its Berlin office.

This report provides a description of Liberties’ key projects implemented during the initial years of the formal organization during the years 2017-2019, capturing projects and themes Liberties initially worked on, making steps towards an European Union where everyone is able to enjoy and use their basic rights and freedoms.

Using legal and advocacy expertise, Liberties began its work supporting its members to achieve their goals and working on building and strengthening the Network’s EU level presence.

## **2017**

### **Audiovisual Media Services Directive**

Liberties elaborated an analysis on the revised Audiovisual Media Services Directive calling on the Council, the Commission and the Parliament to focus on the free speech aspect of the media legislation.

Liberties highlighted *five issues* for consideration by the Commission, the European Parliament and the Council during trialogue talks: the scope of the Directive; the promotion of European works; hate speech regulation; the protection of minors; and liability questions.

Liberties also created an easy-to-read, easy-to-understand version for non-experts.

### **Whistle-blower Protection**

The EU Commission had opened a consultation on strengthening whistle-blower protection. Liberties submitted its position about the importance of the proper whistle-blower protection across Europe and - in collaboration with the Members - urged the European Union to act in this field. Liberties pointed out the need for a horizontal, generally applicable EU directive on whistle-blower protection, in line with international standards and best practices, considering soft law approaches have failed to produce effective change so far. Liberties continued to participate in the further work of the Commission elaborating proper whistle-blower protection.

### **Public education - video campaign**

**Video campaign about ‘the right to record police officers in action’.**



Designed for *Spanish and Belgian* audiences, the video covers the rights and obligations of citizens while recording police activity in these countries. This animation serves as a public education tool to raise awareness of the legal regulation of recording and releasing videos about the police. Implemented in collaboration with Liberties' Spanish and Belgian members.

## **Supporting strategic litigation**

### **CASE of Mándli and others v. Hungary**

Liberties conducted a piece of exploratory research focusing on the rights of journalists exercising their profession in national Parliaments in different European countries. It collected information on Belgium, Bulgaria, Croatia, the Czech Republic, Finland, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Norway, Poland, Romania, Sweden, Switzerland and the United Kingdom. The regulations concerning journalists working on the premises of the European Parliament were also examined.

Liberties expressed that parliaments were a unique forum for political debate in democratic societies and that it was therefore in the primary interest of the public for the press to have appropriate access to parliamentary premises. Liberties considered that disciplinary measures against journalists should be applied proportionately: warnings and reprimands were less restrictive to the exercise of the right to freedom of expression, whereas the exclusion of journalists from Parliament was a "censorial power of an information monopoly".

Liberties maintained that based on research it had carried out, member States usually require some sort of registration of journalists in order to work in Parliament. The sanctions for breaching the code of conduct of Parliament however varied to a great extent.

Lastly, Liberties agreed that disciplinary measures might pursue the legitimate aim of preventing disruption of the work of Parliament, but argued that a permanent and indefinite ban on entering Parliament was unlikely to be tailored to the particular disruption and therefore could not be regarded as proportionate or necessary. It also interfered with the right of the public to access information of public interest in a significant way.

Liberties requested permission from the Court to submit amicus curiae supporting the argument of the Hungarian Civil Liberties Union, representing the applicants.

Following the court's permission, Liberties was able to support the case lodged by our member against Hungary. Liberties' third party intervention was quoted in the final judgement. The Court delivered a judgement which holds that there has been a violation of Article 10 of the Convention

Implemented in collaboration with Hungarian Civil Liberties Union.



## **Privacy/Surveillance work**

Liberties elaborated a detailed strategy for the coming years, defining short- and long- term goals concentrating on two specific areas: First, the illegal collection of data through mass surveillance. In the name of counter-terrorism, governments and companies routinely intercept, record and store communications and other personal data that passes over the internet. Mass surveillance has not helped to combat terrorism, and is probably endangering public safety by distracting security services from genuine threats and pulling resources away from more traditional forms of intelligence gathering. The second area of focus will concern the excessive collection and misuse of personal data by public and private bodies over the internet and other electronic communications technologies (digital privacy).

## **Privacy Shield Section 702 of the FISA Amendments Act**

In preparation for the first EU-US Privacy Shield annual review (September, 2017) Liberties joined to sign an open letter calling for EU lawmakers to push for the US Surveillance Reform (Privacy Shield) to ensure a right-respecting framework for non-US persons. Liberties also urged fellow NGOs to further campaign against Privacy Shield.

Implemented in collaboration with 17 global civil society organisations: Access Now, Bits of Freedom, Chaos Computer Club, Civil Liberties Union for Europe, Electronic Frontier Foundation, European Digital Rights, FITuG, Föreningen för Digitala Fri- och Rättigheter Initiative für Netzfreiheit, IT-Political Association of Denmark, La Quadrature du Net, OpenMedia, Open Rights Group, Panoptikon Foundation, Son tus datos, Statewatch, and Vrijdschrift.

## **ePrivacy regulation**

Liberties called on EU institutions to elaborate more effective measures to ensure electronic privacy. Liberties supported member organisations on an ad hoc basis in the field of privacy and data protection by providing legal expertise on national and European cases. Liberties Lithuanian member, Human Rights Monitoring Institute called the attention of the executive office that Transparency International Lithuanian Chapter was found in breach of the Law of Electronic Communications by the Lithuanian Data Protection Authority for sending out invitation emails to fellow NGOs. Neither ePrivacy Directive, nor the Data Protection Directive or the GDPR provide for a definition of direct marketing. Liberties' called the attention of EU lawmakers to this case and suggested a new wording for the article concerned.

Liberties published an easy-to-read description of what is privacy and data protection and why it is important with the aim of reaching a wider audience and to educate the public.



## **Advocacy on the Hungarian anti-NGO law and the general state of the rule of law, democracy and rights in Hungary**

Joint statement urging the European Commission to initiate infringement proceedings on the anti-NGO law, activate its 'rule of law framework' and consider improving the support that it gives to NGOs that promote the EU's fundamental values, and urging the European Parliament to expedite its Article 7 report.

Follow up letter to Commission First Vice President Timmermans, along the lines of the joint statement. As a result of our work, the Commission announced infringement proceedings on the anti-NGO law.

Liberties, HHC and HCLU drafted a second joint statement welcoming the infringement proceedings and reiterating the earlier recommendations. The Commission declined to follow Liberties' recommendation to activate the rule of law framework and said that it was always exploring means of supporting NGOs in the EU.

Liberties arranged meetings for HHC and HCLU in Brussels with MEPs and other interested parties in October to help shape the narrative around the Article 7 report. Liberties has also given advice and support on what kind of documentations and arguments to prepare to advance.

Implemented in collaboration with: Hungarian Helsinki Committee (HHC) and the Hungarian Civil Liberties Union (HCLU)

## **Rule of law Program**

Due to Liberties past policy papers on the Council's annual 'rule of law dialogue' Liberties was informally invited to give feedback on the programme of an Estonian presidency expert seminar on the upcoming rule of law dialogue. Liberties was then asked to organise and chair one of three panel discussions. Liberties was also able to broaden the scope of the seminar, which was initially focusing on fake news, to also discuss problems with media pluralism and media freedom more generally and their relationship to the rule of law. Liberties was also asked to give feedback on the subsequent meeting report which served as background for ministers conducting the next 'rule of law dialogue'.

## **Shrinking Civic Space**

Liberties spoke at the event 'Civil Society Days' at the European Economic and Social Committee and was quoted at length by the news portal Euractiv.

Liberties developed a policy paper outlining restrictions facing civil society organizations in the EU and made recommendations to EU institutions. The paper attracted a lot of interest



among the institutions, made Liberties an authoritative voice on the subject and helped to shape the narrative in Brussels both in terms of diagnosing the problems and also in identifying the most appropriate solutions. Liberties was interviewed by Politico about the paper which was featured in its weekly 'Brussels influence' newsletter and subsequently asked for quotes for later news items concerning civic space. At the time, this was the only report analysing the situation in the EU and making recommendations to the institutions.

Among the recommendations ***Liberties highlighted: the creation of a fund for NGOs working to promote fundamental rights, democracy and the rule of law; the creation of a regulatory regime that protects NGOs; the creation of some kind of system to monitor incidents against NGOs and the appointment of a political figure to make diplomatic interventions on behalf of NGOs.***

Liberties has offered advice to the EU Fundamental Rights Agency during the development of its own report on the civic space and the FRA has continued to use many of Liberties' suggestions over the conceptualisation of the issue and the recommendations directed at the EU.

Liberties also provided advice to MEPs in the European Parliament attempting to create a new fund for NGOs promoting the EU's fundamental values inside the member states.

Liberties offered advice to the Irish Council for Civil Liberties on EU law angles to their advocacy on national legislation restricting donations for NGOs.

Liberties released its report '***Security through human rights***' in October. The report collects arguments and evidence to create a new narrative and messages on the relationship between human rights and security. The report is aimed mainly at activists with a view to giving them information and messages that they can use in their advocacy to win back public opinion in favour of human rights. The report was disseminated to NGOs and academics working on these issues. Liberties was invited to present the report at: the Symposium 'Threat Perceptions as Drivers for Policy Change in Russia and the EU' in Berlin in November as part of the 'EU-Russia Legal Dialogue'; and at OSIFE's workshop on 'Effective human rights advocacy around counterterrorism and national security policies'. Activists in the Netherlands and Belgium have begun deploying some of the arguments and narratives in the report as part of their work.

### **Freedom of Expression - Building networks**

Liberties built strong relationship with its members to strengthen civil liberties in Europe. Liberties' aim was also to build a supporting network of other civil liberties NGOs therefore Liberties contacted potential partner NGOs and shared its policy papers and other analyses with them (such as, EDRI, Netzpolitik, Access Now, N-square Consulting, Copyright for



Creativity). Liberties believes that mutual support can strengthen the voices of human right organisations and further they might be of help to Liberties in successful campaigns.

### **Civicus Monitor project**

Liberties was selected to be responsible for monitoring 8 EU countries in the Civicus Monitor.



## 2018

### Growing in strength and numbers

By the end of 2018, Liberties grew to a network of 17 organizations.

### ADVOCACY

#### Freedom of expression - Call Campaign

In April 2018, Open Media and Liberties launched a new campaign offering a free tool for individuals to give a call to their national representatives in the European Parliament. The call system was offered to other human rights and digital rights organizations to use for free of charge in order to support further lobbying related to copyright.

Implemented in collaboration with: Open Media

#### Copyright Directive

Liberties published an article about the safeguards that would be important to protect freedom of expression in the copyright Directive. The article was shared by Politico and other news outlets as well. Liberties was one of the organizations which presented the **human rights angle of the copyright regulation** to the public and connected tech-savvy EU citizens to EU decision-makers in order to maintain a higher level of human rights protection in regulating copyright. Liberties is not financed by big tech giants and did not fight for the business interest of these companies. Our aim was to raise the attention to the potential threats to human rights and embed human rights safeguards into the text of the legislation.

Liberties was active in the field of awareness raising and policy forming. With regard to awareness raising, Liberties published articles, videos, and quizzes about this problem. We targeted tech-savvy individuals across Europe and the press in order to educate the public and raise awareness. We were successful in reaching out and our most popular video on the topic was watched by 22,000 people.

We also initiated joint activities with other human rights and digital rights NGOs across Europe and beyond its borders. Our aim was to underline the problems of the draft Directive and the possible spill-over effect it might have all over the world. We drafted open letters to call the attention of EU decision-makers to the possible human rights threats. We drafted letters that were signed by other human rights and digital rights organization. We circulated open letters for the public to sign and send to EU decision makers. Our most successful letter sending campaign was signed by 44,729 individuals across Europe.

***Liberties elaborated better regulatory solutions, listing safeguards that are needed in order to ensure freedom of speech and privacy while also protecting copyright.***

We followed the legislative process and reacted to the steps taken by the European Parliament, the Commission and the Council so that the public would remain informed. ***Our successful online campaign was one of the reasons that the mandatory upload filter proposal by the LIBE Committee of the European Parliament was voted down in July 2018.*** As a consequence of our activity, Article 13 was modified and more safeguards are included in its current form.

Liberties also called the attention of the Fundamental Rights Agency and the European Ombudsman to the possible limitations on freedom of speech and privacy.

#### Shadow Report: “Informing the Disinformation Debate”

Liberties published a Shadow Report in October 2018 titled ***“Informing the Disinformation Debate,”*** in which we provided constructive feedback for the European Commission’s elaboration of an Action Plan on online disinformation.





We elaborated our concerns regarding the proposed solutions of the European Commission’s High-Level Working Group. We analysed the potential impact of fact-checking, artificial intelligence and other emerging technologies.

We also urged the Commission to create good benchmarking, which requires a clear understanding of the nature, size, and evolution of the problem being addressed. Our analysis confirms the need for targeted research, in order to be able to develop strategy but also, crucially, to adapt a strategy in a continually changing online environment.

In the Shadow Report, we pointed out that the main economic purpose of key social media companies is to collect enough data to be able to manipulate the economic and political choices of individuals. We therefore argued for strong enforcement of the General Data Protection Regulation and the rapid adoption of the ePrivacy Regulation in order to counterbalance this effect. We also urged the Commission to set up safeguards for preventing the misuse of personal data in elections, and to give more attention to media and information literacy.

Implemented in collaboration with: Access Now and European Digital Rights

### **Informing the “Disinformation” Debate**

Evaluation of the study ‘Propaganda and its impact on the functioning of the rule of law in the EU and its Member States’ for the European Parliament

The European Parliament’s Committee on Civil Liberties, Justice and Home Affairs contacted our Freedom of Expression advocacy officer in light of our “work and expertise on this issue” to review the draft study “*Propaganda and its impact on the functioning of the rule of law in the EU and its Member States*.” The study provided an assessment of the impact of strategic political propaganda disseminated through online social media sites on the functioning of the rule of law, democracy, and fundamental rights in the EU and its Member States.

Liberties submitted its evaluation on the study in December 2018, **highlighting the importance of freedom of expression and privacy** in this area. Liberties added that media literacy is one of the most effective tools to fight against online disinformation. We also called attention to the threat posed by giving too much power to social media and other online services. We believe that “privatized law enforcement” would threaten freedom of expression and online anonymity, which are the basic foundation for human rights online.

### **Whistleblowing**

Liberties submitted its position on the EU’s draft Directive on Whistleblowing (the proposal for the Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of Union law).

Liberties pointed out that the scope of the draft Directive should be broadened – not only employees but also people in neutral positions deserve protection, since they can also reveal illegal or grossly unethical activities. Non-governmental organizations, such as anti-corruption NGOs, or organizations for investigative journalists, could help whistleblowers reveal information. In many cases, these are organizations that people view as more trustworthy than any public-sector organization. The possibility to turn to these organizations should be supported by the draft Directive, and protection and safeguards should be offered in these cases as well.

The possibility for anonymous reporting would encourage people to take a risk and report illegal or unethical activities. The draft Directive should require both internal and external channels to offer anonymous reporting. Trustworthy, anonymous online communication is the key factor for encouraging people to stand up against corruption.

### **Supporting Strategic Litigation**



Liberties does not litigate, however it supports member organizations' activity in this field.

The Bulgarian Helsinki Committee filed a petition with the European Court of Human Rights in Strasbourg. The applicants are two political activists who were about to establish a political party based on the Muslim Democratic Philosophy. Their right to freedom of association was denied by the Bulgarian authorities. The European Court of Human Rights granted leave to Liberties to intervene as a third-party.

***Liberties argued that any disproportionate limitation on freedom of association and disproportionate criminal sanctions could have a substantial chilling effect on freedom of expression, freedom of association and on the freedom to express political will and participate in healthy political debate.***

Suspension or termination of a political party deprives the possibility of the individuals to express their political views freely. The roles of political parties are to represent different values and opinions, to ensure contribution to political debate, and to build and sustain pluralistic democracy. Furthermore, the possibility for individuals to challenge an established political system through new political initiatives is central to any multiparty democratic system. National legislation differs from country to country, however, certain trends can be discerned from the data collected. Therefore, Liberties submitted an analysis about the different legislation in the EU member states.

Implemented in collaboration with: Bulgarian Helsinki Committee

### **European Values Instrument**

Liberties produced a prompt and detailed analysis of the Commission's proposal for the Rights and Values Programme at the end of June. This analysis included recommendations that the proposal be amended in terms of the budget, material scope, activities eligible for funding, accessibility of funding and types of funding available. Subsequently several organisations released statements that largely replicated the analysis of Liberties including the Batory Foundation, European Civic Forum and Civil Society Europe. In the autumn, Liberties co-drafted, but did not sign, a statement issued by the Human Rights and Democracy Network, which again reiterated these five concerns. Liberties also drafted a letter with its concerns and suggestions for changes to the proposal and collected signatures from 80 NGOs working at national level across the EU. This was delivered to the Council president and to the Commission President and First Vice-President. Liberties received a vague reply, but was informed in confidence that the initiative was greatly appreciated by those within the Commission pushing for greater support to NGOs. In view of the separate initiatives that were underway among civil society organisations, Liberties approached Civil Society Europe, European Civic Forum, HRDN and Batory to collect their various statements and send them as a single package to the Commission with a single cover letter signed by all organisations. This would have maximised the impact of civil society. However, these other organisations declined to collaborate because of their different position. Liberties was calling for the Commission's Rights and Values programme to be replaced by a European Values Instrument. Other organisations wanted the Rights and Values programme to remain in place even if this meant that the European Values Instrument would not come into being, because many of their members benefited from it. Liberties' argument that those organisations would still be able to receive funding under a European Values Instrument, and would be able to use it for activities that would more directly and effectively support their goals, did not appear convincing.

Liberties carried out advocacy towards the rapporteur and shadow rapporteurs in the LIBE committee of the European Parliament on the Commission's proposal. The rapporteur made a number of public statements that used Liberties' framing and recommendations almost word for word. And the report adopted by the LIBE committee in December included all of Liberties' recommendations including an additional 'European values strand', with a budget of 850m Euros, partially ring-fenced for NGOs. Other amendments included: greater accessibility for national, regional and local NGOs, including



through the use of regranting; greater accessibility for NGOs including reduced administrative barriers and financial reporting and the possibility to waive requirements for co-funding; an expanded substantive scope to include promotion of fundamental rights, democracy and the rule of law in general and not limited to specific EU laws and policies already in place; a broader scope of eligible activities including capacity building for NGOs, public education and mobilisation, litigation, watchdogging, monitoring and advocacy. The report is due to be voted through by the EP in plenary in January.

### **Rule of law Conditionality**

Liberties has published a detailed policy paper on the Multiannual Financial Framework in March. The paper put forward two proposals through which the EU could better protect human rights in Europe and was praised by academic experts working in this field.

The first proposal outlined how the EU could pressure governments to comply with human rights standards by cutting off their access to EU funds where they fail to uphold the rule of law - so-called rule of law conditionality. The idea had been touted by certain governments and some Commissioners during 2017, but the debate died down because suggestions on how to put such a system of conditionality into effect were largely tied to the creation of a new, comprehensive monitoring system at EU level that would periodically monitor human rights compliance in the Member States. Such a monitoring system is not currently politically feasible. Papers released by two think tanks (the Centre for European Reform and the Friedrich Ebert Stiftung) both suggested a model for conditionality that depended on these radical legal reforms that are politically unrealistic.

Liberties' proposal advanced a model to operationalise conditionality by integrating modest changes into the existing set of legal obligations imposed on Member States to guarantee that EU funds are being spent in line with EU law. The Commission published a legislative proposal in May that essentially followed Liberties' model. Liberties received feedback from senior officials in the Commission that the policy paper had been highly influential and valuable for presenting the Commission with a workable legal solution. Subsequently, the responsible Liberties staff was invited by the European Economic and Social Committee - a body of the EU representing employers, employees and civil society that take a formal but non-binding role in the legislative process - to be the 'expert' assisting the rapporteur to draft the EESC's formal legal opinion on the conditionality Commission proposal.

The Commission's proposal, which is based on the Liberties policy paper, continued to be negotiated in the Council and European Parliament. Liberties was appointed by the European Economic and Social Committee as the expert to assist the rapporteur in writing this body's formal opinion from July to October. The quality of Liberties' work was highly praised by EESC members in the process of adopting the opinion. The opinion was then used by the EESC to lobby the European Parliament to include various amendments. Among the suggested amendments in the EESC opinion were two important elements put forward by Liberties. First, that the conditionality of EU funds should extend to protection of fundamental rights and democratic pluralism and not merely the rule of law. Second, that the proposal be amended to include a working mechanism administered by the Commission to allow funds to keep flowing to end innocent beneficiaries in the event that funding to a government was cut (i.e. a shift from shared to direct management of funds). The first of these was taken up by the European Parliament, but it remains unclear if the second was also taken on board as the final report is not yet available.

### **Fundamental Rights Litigation Fund**

In 2015 Liberties proposed that the Commission make funds available to NGOs to carry out litigation in support of cases to protect fundamental rights. This idea was later taken up by the EP, which inserted a pilot litigation fund project into the 2018/2019 budget. Liberties and its members were



consulted by the EP and DG Justice on this fund. The Commission is still in the process of making the pilot litigation fund operational. The Commission has confidentially made known its intention to continue the litigation fund with an enlarged (though relatively modest) budget under the future Justice Programme.

### **Article 7 vote on Hungary**

Since 2015, Liberties has routinely facilitated advocacy trips to Brussels for our Hungarian partners and we have been the only organisation to do so. Ahead of the vote on Article 7 we decided not to invite our partners to make an advocacy trip. We considered such a trip highly risky. Over the course of the preceding 3 years we had helped our partners solidify support among those MEPs who were predisposed to support Article 7 on Hungary, including moderate EPP MEPs. The only reason to come to Brussels ahead of the vote would be to meet EPP MEPs from the larger Member States who could be convinced to support Article 7. Namely, the heads of delegations of EPP MEPs from Italy, Spain and France. However, it seemed likely that a) it would be difficult to secure meetings with these MEPs because this would be controversial as they would fear public criticism from Fidesz and their peers and b) it offered Fidesz an opportunity to further attack and smear our Hungarian partners by linking them to the vote. Liberties was not consulted by OSEPI, which arranged a visit for our partners. Our member asked Liberties for advice on who to meet. Liberties carried out an analysis of voting in the EP. The purpose of the analysis was to identify relevant MEPs who appeared to be shifting their votes away from supporting Fidesz. This was done by comparing votes in the preceding plenary session on Hungary to votes that later took place at committee level in preparation of the Article 7 report. However, OSEPI was unable to organise meetings with any of these influential targets. Furthermore, one of the risks was realised when state-friendly media were accidentally invited to a Brussels press briefing with our partners. Ultimately, long-term assistance from Liberties to its partners helped to build support among moderate EPP MEPs. Last minute, risky advocacy before the vote is unlikely to have played a positive role in the Article 7 vote passing. Rather, what allowed the vote to pass with the required majority was Manfred Weber's decision to support Article 7, due to his bid to become the next Commission president.

In the run up to the vote and just after the vote Liberties published two explainers aimed at informing the media and interested public about what the vote would mean and what would happen next, both procedurally and politically. These were widely shared on social media.

### **Rule of law in Romania**

Liberties provided advice to our member APADOR-CH and the FDSC (Romanian Civil Society Development Foundation) on how to ensure that MEPs debated the issue of the shrinking space (and not merely judicial reforms) during the European Parliament plenary debate on Romania. Due to a change in leadership at APADOR-CH our member was unable to follow up on this, but FDSC took our advice and produced a briefing together with Civil Society Europe which was successful in ensuring that the problem of shrinking space was taken up by MEPs.

### **Populist Authoritarianism in the EU**

The increased electoral success of politicians and parties with populist authoritarian agendas is producing an environment that is toxic to the continued protection of human rights, the rule of law and pluralist democracy. This political climate has an impact on the work of Liberties together with much of the human rights sector. The mainstream debate run by political scientists has failed to come up with a coherent analysis of the causes. Disagreements and inconsistencies persist in public and political debate on the roles played by economic shock, security threats, cultural changes and inequality, as well as on the impact of factors like education, age, gender, religiosity and the urban-



rural divide. Failure to adequately understand the problem means that we are unable to provide effective solutions and mount a counter-attack to protect our fundamental values.

Liberties has therefore studied the phenomenon and produced its own analysis, released as a book in December. The book uses research from the field of social psychology to complement the analysis of political scientists and provides an overarching and consistent narrative on the rise of populist authoritarianism, its causes, and possible counter-measures. The book fills a gap in existing research in two ways. Firstly, by drawing on research about the origins of authoritarian political attitudes that has been ignored or misunderstood by political scientists, including those researching authoritarian political attitudes. Second, by using research from social psychology to establish the background causes and triggers for populist authoritarian political attitudes, and thereby set out solutions. These solutions are rooted in the proper implementation of existing human rights standards, which were designed after the second world war with the aim of keeping authoritarians out of power. Liberties is using the book's findings to guide its strategic thinking on its focus topics.

The book has so far received positive feedback from academics and think tankers who were invited to review the draft manuscript, as well as experts working in the field since it was released in early December. Liberties will create a number of follow up products to make the findings more accessible to policy-makers, activists as well as the general public. Liberties is also planning a tour to promote the book among think tanks and universities in 2019 and already has received expressions of interest for events in Italy, Poland and Spain.

## **STRATEGIC COMMUNICATIONS**

### **Outreach**

Liberties is constantly researching and experimenting with contents, formats and channels to reach out to more and more European citizens. Driven by this conviction we put a lot of emphasis on our in-house video production. In the January-June 2018 period we backed almost all our key advocacy contents with 1-3 minutes long videos. These are generally produced with subtitles in several of our working languages. Liberties made 14 videos in the first half year covering timely issues like: the copyright reform, the European Values Instrument, the Dutch Surveillance referendum and several were dedicated to the shrinking space of NGOs. Our most popular video titled "Say No To Online Censorship in Europe" had 10.800 views. More in the video section below. We upload our videos to both Facebook and YouTube to reach our audience with native embeds.

**2019**

## **ORGANIZATION AND NETWORK DEVELOPMENT**

Liberties renewed its communication and marketing strategy, and started a new capacity building program with its Members.

## **ADVOCACY**

### **Rule of Law Protection**

Liberties continued to advocate for the EU to improve the tools at its disposal to protect democracy, the rule of law and fundamental rights. We made a number of contributions to the policy-making debate. Several opportunities to give input came about because of Liberties' established reputation on this topic.

Liberties was invited to give evidence to the Dutch parliamentary committee on EU affairs during a roundtable on Hungary and Poland, concerning the EU's response to the situation in Hungary. Beforehand, Liberties submitted a paper reviewing the EU's available tools and how these had been used, making suggestions for improvements, including making funding available to NGOs to promote rights and democracy and the creation of a new EU monitoring and dialogue process to review each EU country regularly.

The Commission's proposal for a new regulation that would allow the EU to cut off funds to governments compromising their judiciaries met with support from the European Parliament but is currently stuck in the Council. The proposal was based on a detailed outline published by Liberties last year. Liberties also acted as expert last year for the EESC in its opinion on this proposal.

Liberties was invited to give the opening talk at a roundtable organised by OSEPI and Amnesty International in Brussels gathering experts, representatives of the EU institutions and NGOs. The European Commission published a Communication in April which briefly reviewed the EU's tools to protect the rule of law and offered reflections on how these might be strengthened. Liberties submitted a substantial policy paper to the Commission with in-depth analysis and recommendations. It won't be possible to tell what impact the recommendations have had until the Commission publishes its follow up paper at the end of June.

Liberties' Head of Advocacy was invited by the EESC to be the expert providing assistance on its response to the Commission's Communication. This was due to the EESC's positive previous experience when we were experts responsible for drafting their opinion on the Commission's proposal for a regulation linking respect for the rule of law to access to EU funding. While Liberties did not have capacity to meet the request we did provide feedback on their draft opinion.

Liberties has developed a concept note on the creation of an intergroup on the rule of law in the European Parliament. Intergroups are cross-party bodies that allow MEPs to collaborate more easily on topics across political lines. Because the main political groups all have problematic members, and these member parties have increased their influence after the elections, it will become harder for the European Parliament to take steps to protect rights, democracy and the rule of law. The creation of an intergroup would help counter this problem by allowing for greater coordination among MEPs that want to protect basic values. Liberties will begin approaching MEPs for their support over the summer.



Liberties' head of advocacy has been invited by Carnegie Europe to contribute to an upcoming paper with suggestions for the EU on how it can strengthen protection of rights, rule of law and democracy.

In June, the European Commission launched a consultation requesting input on how to better protect and promote the rule of law in EU countries. Liberties published a policy paper with recommendations, a number of which were then taken up by the Commission in its subsequent Communication with a 'blueprint' for action on the rule of law. The recommendations made by Liberties that were taken on board included the following: introducing a new annual report on the rule of law in the member states, evolving out of the current European Semester reporting system; including the topics of media independent and pluralism and civic space in this report; using this report as the basis for an improved 'rule of law dialogue' in the Council and as the basis of an inter-parliamentary dialogue between the European Parliament and national parliaments; using the upcoming Rights and Values funding programme to support civil society organisations to promote understanding of and support for the rule of law, fundamental rights and democracy among the general public; making full use of all areas of EU law, including those that may appear unrelated, to protect the rule of law, democracy and fundamental rights through infringement proceedings; using the new Rights and Values funding programme to support civil society organisations to stimulate public support for the rule of law, fundamental rights and democracy.

Liberties has advocated for the past five years for the Council to improve the effectiveness of its rule of law dialogue. Liberties provided a model for how this could be improved, which was then used by the Council secretariat during the first evaluation of the dialogue. Liberties' suggestions were then taken up by the Belgian and German governments, which were pushing for a peer review system in the Council similar to the UN's UPR procedure. Towards the end of 2019 it appears that the Belgian and German initiative has been partially abandoned due to a lack of unanimity, and instead more modest improvements will be made to the rule of law dialogue.

Following the European Parliament elections, Liberties advocated for the creation of a European Parliament Intergroup on the Rule of Law. An intergroup is a cross-party informal collection of MEPs who collaborate on particular issues. The elections returned a European Parliament with authoritarian parties in each of the major, centrist political groups: the EPP, S&D and Renew Europe. This scenario is likely to make it harder for political groups to support each other in targeting their own member parties in problematic countries. As such, Liberties advocated for the creation of an intergroup so that those MEPs who wanted to protect the rule of law could cooperate more easily across party lines. All the political groups contacted by Liberties expressed the support for the creation of a body that would allow MEPs to cooperate on rule of law protection. While some political groups favoured an intergroup, other favoured creating a working group inside the LIBE committee, because they felt there was a better chance of this being created than an intergroup. Because of this, Liberties ceased to advocate for an intergroup and instead supported the creation of a working group with a broad mandate. The working group was subsequently established.

In recognition of Liberties' expertise in this area we were invited to contribute to a paper published by Carnegie Europe elaborating on six ideas to rejuvenate European democracy.



The paper has been well received and presented at events in the European Parliament and European Economic and Social Committee.

### **Countering populist authoritarians**

***Promotion of Liberties' research towards stakeholders*** Following launch of the book 'Countering populist authoritarians: Where their support comes from and how to counter their success', in December 2018, Liberties has been carrying out promotional activities to spread the analysis and recommendations in the research. Liberties will continue these promotional activities in the second half of the year. To date the analysis and recommendations have been presented to: NGOs and academics in Barcelona working on anti-racism at a conference and a workshop; the Financial Mechanism Office of EEA/Norway Grants; the Netherlands Ministry of Foreign Affairs; a meeting of the fund operators of EEA/Norway Grants; NGOs and academics at the European Civic Academy.

Liberties has published a policy paper based on the book that gives analysis and recommendations tailored to donors and civil society organisations. The paper has been used for a process of coordination initiated by the Romanian Civil Society Development Fund (FDSC), the Romanian fund operator for EEA/Norway Grants. The FDSC drew up an open letter with a list of recommendations taken from the paper which is now being finalised with fund operators from other countries and NGO grantees. The letter and its recommendations are directed at the EU institutions. The FDSC is also trying to create consensus around these recommendations with other fund operators and some donors in order to create shared priorities for funding.

Liberties has been informed that EEA/Norway grants is exploring how to implement some of the paper's recommendations, following the presentation of our findings.

Liberties' Head of Advocacy was one of four experts filmed by Migration Matters for a series of videos about populism, where he explained many of the book's findings over a number of short films. The videos will be posted online for free viewing and use in massive open online courses, in collaboration with the EU's Erasmus + and will be incorporated into university courses for credit.

### **Public education series on authoritarianism**

Shortly before the launch of the book 'Countering populist authoritarians: Where their support comes from and how to counter their success', Liberties began a public education series on authoritarianism using videos and articles. The series was entitled "Survival Guide to Authoritarianism", and was delivered in cooperation with Martin Mycielski. Mycielski, formerly the Brussels Correspondent for leading Polish daily Gazeta Wyborcza and currently the Director of Public Affairs at the Warsaw, Kiev and Brussels-based Open Dialogue Foundation, is the author of the "Authoritarian Regime Survival Guide".

The "Authoritarian Regime Survival Guide" was published through social media in January 2017 as a series of tweets that went viral in the US and many other countries. The tweets were intended to increase public understanding of the significance of certain facets of democracy and to give advice on what to do when authoritarian regimes attempt to undermine democratic institutions. The first 15 videos and articles of Liberties' "Survival





Guide to Authoritarianism” series were based on Mycielski’s tweets. They were followed by two additional videos encouraging pro-values audience to vote in the European elections. The series was well-received by the Facebook audience of Liberties. Several NGOs have shown interest in the series and started republishing it regularly. Apart from the friendly and supportive reactions, Liberties received some hostile reactions too. One article, in which Liberties argues that critical thinking should be included in the public education curricula was widely criticized by the Hungarian pro-government media as liberal propaganda.

### **Civic Space**

During 2018 Liberties advocated for the creation of a funding instrument to support NGOs working on human rights, democracy and the rule of law. The idea received the support of the European Parliament but the European Commission proposed a funding programme that was largely a continuation of existing programmes - which are largely geared to effectively subcontracting NGOs to promote EU law and policy. Rather, Liberties and the EP proposed a fund more akin to the EU's Instrument for Democracy and Human Rights which operates in third countries or EEA/Norway Grant's NGO fund. During the first half of 2019 the European Parliament and Council agreed on a compromise text for the Rights and Values programme. The final size of the funding pot is yet to be determined. But the compromise agreement is much closer to what Liberties was originally asking for. A new 'values' strand has been inserted into the programme. This values strand will fund NGOs working on rights, democracy and the rule of law. This is entirely new because previously the scope of funding was confined to promoting specific EU laws or policies. Activities eligible for funding include capacity building for NGOs and advocacy. The latter is defined in the preamble to include litigation, watchdogging, and campaigning. This is also new. The programme is aimed at grassroots, local and national NGOs as well as EU level NGOs. And the preamble encourages the use of re-granting, flexible interpretations of the EU's financial rules. These changes are aimed at making it easier for smaller NGOs to get funding, which is also new. Much will depend on how the Commission interprets the legislation and the amount of money that is agreed. But the compromise text is based on Liberties' recommendations and it could potentially make a big positive change to the amount of funding available to NGOs working on rights, democracy and the rule of law.

Liberties was approached by **Greenpeace Europe** which is planning to work on civic space. Liberties briefed Greenpeace on existing trends and recommendations being advocated by us. Liberties also invited Greenpeace to consider a joint meeting with Liberties members on civic space with a view to coordinating future advocacy.

Liberties was invited to an extraordinary session of the European Economic and Social Committee in Bucharest to present its research on the challenges to the civic space in the EU and make recommendations for EU action.

The European Commission's pilot fundamental rights litigation fund has finally launched calls for grant applications. This was an idea proposed by Liberties at the end of 2015 and later incorporated into the EU budget. Liberties and its members were consulted by the Commission on the shape of the new fund. Unfortunately, the fund will not currently be used to finance litigation directly, but only activities to build the capacity of NGOs to litigate. Some of Liberties' members have applied for grants, but decisions on these applications are yet to



be made. In May, the Fundamental Rights Agency hosted a small-scale meeting on strategic litigation for NGOs, following a recommendation from Liberties. Liberties secured the participation of six of its members, which used the opportunity to exchange experiences and coordinate. The FRA considered the meeting a success and is considering hosting further meetings periodically.

### **Monitoring violations of civic space**

Since 2017, Liberties is a research partner to the CIVICUS Monitor. The CIVICUS Monitor is a cutting-edge research tool that aims to share reliable, up-to-date data on the state of civil society freedoms in all countries. CIVICUS Monitor's webpage shows an interactive world map that allows users to access live updates from civil society around the world and learn about the ways in which our freedom of association, freedom of assembly and freedom of expression are being realised or challenged.

Liberties is one of three EU-based organisations providing updates for the Civicus Monitor. Liberties covers the challenges and developments taking place in eight European countries - Belgium, Czech Republic, Greece, Hungary, Lithuania, Poland, Romania and Spain. Research is done on each of these countries in every eight weeks, in close cooperation with Liberties' national member organizations. The updates are then edited and published both on the CIVICUS Monitor webpage and on Liberties' webpage.

### **European Parliament Elections - Elections tracker**

Liberties teamed up with John Morijn, a former human rights advisor at the Dutch Permanent Representation to the EU to produce an alternative tracker following the European elections. John is also an academic attached to Groningen University and a member of the college of the Netherlands Institute for Human Rights. The tracker, which was active from February until May highlighted the presence of political parties inside the European Parliament's mainstream political groups and explained how they were expected to perform and what implications this could have for the EU's continued ability to protect human rights, the rule of law and democracy. The tracker was based on publicly available polling data and updated regularly. It combined commentary and analysis with infographics visualising how the predicted size of political groups as well as parties and political groups that had been criticised by the European Parliament for threatening basic values. The tracker had several aims: to help the public make an informed choice about the parties they were voting for by explaining which parties in their country were collaborating with problematic parties from other countries in the same political group; highlight to the media and analysts that it was not enough to measure the performance of 'populists' or 'eurosceptics' by looking at fringe political groups alone and underline that the biggest threat to the protection of values was the growth of power among problematic parties within the mainstream political groups; highlight to the media analysts and politicians that there were a number of majority coalitions possible among mainstream political groups should they choose to expel their problematic member parties. Liberties also published a post-elections analysis based on the election results.

The tracker offered a unique analysis that did not feature in any other trackers or commentaries on the elections; namely, the fact that even if authoritarian populists did not



gather a majority in the elections, they would increase their influence at the heart of power because of their increased strength in the largest centrist groups.

The tracker was promoted through info videos, blogs, social media channels and through opinion pieces. Liberties was also invited to present the tracker at the 'Democracy Alive' festival organised by the European Movement on the Dutch island of Texel. Liberties published about the tracker in *Verfassungsblog* aimed at legal experts, in *Euractiv* and in *EUObserver*. These materials were re-shared and commented on widely on social media. The tracker's analysis featured in a *Wall Street Journal* article following the elections where Liberties was quoted extensively. The promotion of the tracker had a tangible impact on political debate. After the tracker was first published political groups began to call each other out over their bad apples during debates, which had not occurred previously. The EPP, S&D and ALDE all took steps against some of their problematic members. The Green group directly adopted Liberties' framing of the issue in an opinion piece published by the group's leaders. Because of John's connections to the Netherlands we were able to generate some debate in that country and the Christian Union party has just announced that it is leaving the ECR group because the extreme right Forum for Democracy party is joining the group.

### **European Parliament Elections - Public education series**

To increase the public understanding of the significance of the elections, between the 9th of April and the 21st of May Liberties published a public education series on the nature of democracy. Liberties believes that if the general public forgets why democracy is important, and what a democracy is all about, the EU will be dominated by anti-values powers. The #WeDecide series was meant to provide arguments by which pro-values EU citizens can convince their fellow citizens about the importance of countering populist authoritarianism. The series enjoyed particularly lively attention on Liberties' social media channels, sparking substantive debate on Facebook and proving to be the most popular material Liberties has posted on the platform to date.

### **Migration and Asylum**

Migration and asylum is a relatively new topic for Liberties. Initially, Liberties' work on the topic focused mostly on supporting the work of our members.

Liberties has advocated for more convergence and solidarity between member states and harmonized application of the common asylum rules. We published a paper recommending the wider use of humanitarian visas to address the rising death toll in the Mediterranean. We also advocated for a reform of the Carrier Sanctions Directive, which sometimes forces airline staff to decide who is eligible for asylum. Liberties has also published pieces urging member states to adopt alternatives to detention and to end arbitrary confinement, and concerning the reintroduction of internal border controls in Austria, Denmark, France, Germany, Norway and Sweden.

Liberties has invested in activities designed to change public opinion, with a long-term view to creating the political space for advocacy to become effective. To help increase its reach and find where to add value to existing activities, Liberties has also invested in developing relations with NGOs established in the field.



## **Freedom of Expression**

Liberties focused on copyright and online disinformation during the last six months. Liberties expects to carry out advocacy around the reform of the eCommerce Directive during the next two years. In anticipation of this, it has begun discussing a long term strategy with potential partners, including the Centre for Democracy and Technology, EDRI, Access Now, Mozilla, Ranking Digital Rights and the European Consumer Organisation, BEUC. In addition, Liberties was invited to contribute its expertise on other issues related to digital rights. This included: an invitation from OSEPI-BEUC to contribute to a document offering guidance and recommendations to the next European Commission, 'A Human-Centric Digital Agenda for Europe'; regular invitations from the Deutsche Gesellschaft für Auswärtige Politik's informal Task Force on Hungary to give briefings on developments in Hungarian legislation such as labour law, the court system reform and the Hungarian media system.

## **The EU's Copyright Directive**

Liberties continued to advocate on the draft Directive on Copyright in the Single Digital Market. Liberties' argued that Article 13 of the proposed Directive would violate freedom of expression and the right to data protection. From January 2019, our work targeted Members of the European Parliament and fed them with arguments against the introduction of mandatory upload filters. We also targeted the general public to raise awareness about the likely negative consequences of adopting the Directive without introducing adequate safeguards. Liberties published several articles on the topic to allow our followers to remain updated on developments.

Liberties' position was to recognise that certain modernisations of EU Copyright legislation were genuinely needed to better protect rightsholders, such as artists, publishers, and record companies, as well as users, such as researchers, and people who watch videos or read news online. However, the proposed rules disproportionately favoured rights holders and internet giants, and the means through which the rules were to protect rights holders, such as upload filtering, would interfere with freedom of expression and the right to the protection of personal data. We therefore proposed that certain safeguards be incorporated in the text of the Directive in order to balance rightsholders' and users' rights. For example, we argued that rightsholders and platforms should be liable for deleting lawful user-generated content, and that internet giants be obliged to create transparent legal mechanisms to settle disputes between users, copyright holders and internet platforms.

Although some proposed safeguards were eventually adopted, the final version of the Directive it still lacks proper fundamental rights protection. As a result of our advocacy and campaigning, Liberties has come to be regarded as the principal human rights NGO working on copyright. Liberties has now begun to focus on how best to protect human rights in the implementation process of the Directive.

In May 2019 Liberties initiated an open letter, signed by more than 40 human rights and digital rights organisations and the knowledge community calling upon the European Commission to ensure the participation of human rights and digital rights organisations, as well as the knowledge community (in particular libraries), free and open source software developers, and communities, in all of its efforts around the transposition and implementation of Article 17 (numbered Article 13 in the original proposal). Liberties initiated the open letter to unite the



efforts of digital rights organisations and to strengthen the voice of human rights organisation across Europe.

As a response to the letter, the relevant Commission Directorate-General invited the executive director of Liberties for a meeting to discuss the letter, and we agreed on further collaboration. The informal meeting served as an opportunity to describe how human rights and digital rights organisations, the knowledge community and software developers are cooperating and prepare for the stakeholder dialogue.

The Commission, in its official response, confirmed that it would ensure fair and balanced participation of all the relevant stakeholders, in particular users' associations that are explicitly referred to in Article 17(10). The Commission will make sure that the consultation process is as inclusive as possible and that all stakeholders concerned are represented as appropriate. The Director of the Commission's responsible Directorate-General wrote that he looks forward to Liberties' contributions in the implementation process.

During the second half of 2019, Liberties continued its work on the reform of the EU Copyright Directive to ensure that the legislation, which has now been adopted, will be implemented in such a way that safeguards freedom of expression and the right to privacy. Liberties' main focus concerns the Article 17 (former Article 13) of the Copyright Directive.

After the Copyright Directive was adopted, the Commission organised stakeholder dialogues with a view to drafting guidelines for the member states on how to implement Article 17. Liberties helped to secure the participation of human rights and digital rights organisations as well as other relevant stakeholders such as public libraries, by initiating an open letter requesting their inclusion in May 2019, which was signed by over 40 organisations.

The Commission subsequently allocated these organisations, including Liberties, BEUC, EDRI and Communia, ten seats at the stakeholder dialogues. Liberties collaborated with other organisations to inform the Commission through the stakeholder dialogues about the safeguards that the guidelines should contain in order to ensure adequate protection of freedom of expression and data protection. It became clear that although the Commission was happy to receive this input, it did not plan to share its draft guidelines with stakeholders before they were finalised. In response, Liberties again initiated an open letter that was signed by over 40 organizations urging the Commission to publish the draft guidelines for further consultation before being finalised. This would allow the public and interested organisations to scrutinise whether the guidelines contained adequate protection of fundamental rights. The Commission has not yet officially responded to our request.

Parallel to this advocacy work, Liberties developed educational videos and articles to explain the implications of Article 17 to interested members of the public. This included a collaboration with Save the Internet, the biggest German movement focusing on copyright, with 6 million subscribers, on a video to inform the public about the stakeholder dialogue and the Commission's lack of transparency.

### **Disinformation**

Following publication of the online disinformation report published in 2018 by Liberties, Access Now and EDRI, the advocacy officer of Liberties was invited to participate in a number of meetings and provide feedback on papers being developed on the topic. These included: the Brussels Privacy Camp 2019, where the advocacy officer presented the report; a



Commission-hosted event on Countering online disinformation; a coalition-building event organised by the Mozilla foundation; a draft European Parliament Study on the impact of propaganda on the rule of law, which the advocacy officer was asked to review.

## **CAPACITY BUILDING ON VALUES-BASED FRAMING & STRATEGIC COMMUNICATIONS**

### **Values-based framing**

In December 2018, Liberties was invited to deliver a presentation on human rights communications and values-based framing at the Polish Human Rights Congress. Representatives of ODIHR subsequently requested Liberties to deliver a full day workshop to ODIHR staff on the topics of values-based framing and communications tools and strategies. The training was delivered to around 20 staff members including researchers and communications experts. Liberties has subsequently been invited to return and provide practical assistance to ODIHR staff on some of their work and communications. Liberties has also been asked to deliver a longer workshop as part of ODIHR's capacity building programme for human rights defenders. ODIHR has also asked Liberties to cooperate to create a longer communications training course to train IGO and NGO staff. Liberties has also been requested by EEA/Norway Grants to deliver a workshop on values-based framing to its fund operators later in the year.

### ***Workshops/trainings delivered on Values based communication and Strategic communication:***

- Office of Democratic Institutions and Human Rights (ODIHR)
  - 1 day in person
  - Participants: 20 Civil servants
- Global Youth Activist Forum, organised by ODIHR
  - 1 day in person
  - Participants: 20 Youth activists
- EEA/Norway Grants
  - 1 day in person
  - Participants: 40 Donor & re-grant staff, activists
- Office of Democratic Institutions and Human Rights (ODIHR) - second event
  - 2 days in person
  - Participants: 20 Civil servants
- HFHR (Polish member) plus other Polish NGOs
  - 1 day in person
  - Participants: 15 Activists
- BHC, CPS, LDG, HCLU (Bulgarian, Croatian, Belgian, Hungarian members) + 2 Liberties staff
  - 2 days in person
  - 10 Activists

In total 125 attendees