Effective support for digital policy legislation

A guide for civil society

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STIFTUNG MERCATOR

Foreword

A strong civil society is essential for the stability of our democratic structures and the protection of European values. It should also play a central role in helping shape the comprehensive digitization of our society. However, thus far, digital policy debates have been strongly dominated by economic voices, and large tech companies have enormous creative power due to their quasi-monopoly of social networks and the development of artificial intelligence.

In its coalition agreement, the new German federal government makes it clear: "We seek to better involve and support civil society in digital policy projects, especially in the areas of diversity and civic technology."[1] This offer to civil society organizations is a chance for NGOs, think tanks, and associations to actively propose their digital policy ideas and to measure policies against their promises. Hardly any other area has seen such an increase in regulation in the recent past as the digital political sector has. At the same time, more and more political and regulatory projects fall under the jurisdiction of the European Union — not least due to the magnitude of the current digital policy challenges and the political and economic weight of the European single market. This presents major challenges for civil society actors, because they must suddenly be active — not only on a political level, to have their views incorporated in the legislative process, but also on the national and European levels. At the same time, the European dimension opens up new opportunities — for example, through new networks, structured consultation processes, and transnational alliances. As part of the Digital Society program at Stiftung Mercator, we want to help civil society master the special challenges of digital politics, seize new opportunities, and actively shape digital transformation. For this purpose, we develop and promote civil society actors both on a project basis and institutionally, support the establishment of alliances and forums for exchanging experiences, offer our partners a stage, and provide information.

This guide exists to present this information. It intends to convey insight into central experiences and elements of influence for civil society actors on digital political processes, especially on the EU level; to clarify the scope of action for civil society to shape policy even after a legislative process is complete; and to support the work of organizations with concrete guidance and recommendations. In addition to an overview of European and national legislative processes, it includes concrete tips and strategies for representing interests and exerting influence, both directly on the political process and on accompanying public relations work.

The first section of this guide provides an overview of the processes, steps, and levers of influence relevant to digital civil society in the European and national legislative process using two examples from the past: the General Data Protection Regulation (GDPR), and the ePrivacy Directive (ePD). The second section deals with three recent EU legislative processes, some of which are still ongoing — the Digital Service Act (DSA), the Digital Markets Act (DMA), and the Artificial Intelligence Act (AIA) — and provides an outlook on the scope of action by civil society actors. The legislative projects mentioned should be understood as exemplary but by no means exhaustive. On the contrary, the conclusions drawn from them are primarily intended to assist in ongoing and future legislative processes. The two main sections are accompanied by a graphic mapping out the European and German legislative processes, to help illustrate the different possibilities of influence and time. We hope this guide can help encourage civil society organizations and their sponsors and offer a starting point for discussions.

Sincerely yours,

Carla Hustedt
Digitalized Society Division Manager

[1] https://www.bundesregierung.de/resource/blob/974430/1990812/04221173eef9a6720059cc353d759a2b/2021-12-10-koav2021-data.pdf

Retrospective: GDPR

Four years passed between the legislative proposal of the EU Commission in 2012 and the vote on the EU General Data Protection Regulation in 2016. However, the debate already began in 2010 with a consultation procedure.[2] European civil society was involved in the process early on, partly as a result of the political debates about the monitoring of corporate data by intelligence services and counterterrorism from 2006 onward.[3] From an operational point of view, the large timeframe in which the GDPR was developed enabled civil society actors to be involved with the development of the draft, even with limited resources. For civil rights organizations from smaller member states in particular, this has created more room for organization in European governing bodies. **For digital civil societies, the longer duration of legislative processes is often advantageous.**

The rapporteurs of the European Parliament play a central role in the EU legislative process. They're the driving force behind legislative proposals, and they represent the Parliament's position in political negotiation meetings with the other two institutions involved in the EU legislative processes: the European Commission (EC), and the Council of the European Union (the Council). Together, the three bodies make up the so-called trilogues. **The strategically central position of the rapporteurs in the European legislative process shouldn't be underestimated by digital civil society, for it's here that the massive shift in lobbying pertaining to the GDPR going in the direction of the organizations that could afford it can be traced**.[4] Jan-Philipp Albrecht, former Green Member of the European Parliament (MEP) and rapporteur for the GDPR, reportedW on certain lobby groups attempting to influence political decision-making through frequent requests for appointments, invitations, and meetings, which sometimes went beyond what was allowed, as well as by deliberately spreading misinformation.[5] Influence was also exerted beyond the usual amount, sometimes with success, on the shadow rapporteurs — who are parliamentarians selected by parliamentary groups to follow the progress of a particular report in the committees responsible for a legislative text, and to negotiate compromise texts with the rapporteurs — and other parliamentarians in the then-responsible Committee on Civil Liberties, Justice and Home Affairs (LIBE), along with other committees that advise the rapporteurs. Various opinions on the commission draft of the committees on Industry, Research and Energy (ITRE) and the Internal Market and Consumer Protection (IMCO) reflected strong representation of business interests. The GDPR came into being in a unique political constellation, in which Albrecht, as lead rapporteur of the European Parliament, together with the responsible EU Commissioner, opposed the softening of European data protection and thus sided with civil society. **In this respect, digital civil society must work harder to make its voice heard and end up on the radar of relevant politicians at the European level, for example, by multiplying its own interests in translational alliances.**

[2] https://edps.europa.eu/data-protection/data-protection/legislation/history-general-data-protection-regulation_de

[3] https://digitalcourage.de/blog/2018/ein-interview-mit-jan-philipp-albrecht

[4] https://www.derstandard.at/story/1360161300194/massives-lobbying-gegen-datenschutzverordnung

[5] https://www.janalbrecht.eu/2013/02/2013-05-23-lobbyismus-zur-eu-datenschutzreform/

Contrary to the expectations of many, the German government at that time primarily represented the interests of businesses in the GDPR legislative process. In doing so, it neglected consumer interest and fundamental rights issues to the benefit of publishers' lobbies, the digital advertising industry, and major digital platforms, and it barely defended Germany's level of data protection, which is generally regarded as high. At the end of negotiations, the result was a GDPR that adheres to the basic principles of data protection, and at the same time, introduces new and sensible data protection instruments. **German digital civil society should nevertheless work to expand its influence not only in the legislative process at the national level in the Bundestag, but also in the lead ministries and specialist departments.** This is the only way to ensure that Germany's own perspectives are adequately represented in its negotiation positions at the European level. After the entry into force of the European regulations/guidelines, this applies equally to the national level.

Since the GDPR came into effect on May 25, 2018, civil society actors have been able to file for penalties with supervisory authorities across Europe and take legal action against violations. This leverage is a key means of exerting pressure to disclose breaches of the GDPR and digital consumer protection. Additionally, journalism remains a core element for publicizing breaches and stories that reveal the unpleasant consequences for citizens.

EU member states have broadly interpreted available loopholes and exceptions in the context of the implementation of the GDPR, resulting in different levels of protection for affected people in the EU.[6] This is linked to an enforcement deficit identified in many aspects — in particular, a look at the inaction of the Irish regulating authority in dealing with technology companies based there reinforces this. However, the resources, prioritization, and coordination of the German supervisory authorities has also provoked criticism. **Therefore, digital civil society should stress the need for further development and improvement of the GDPR to European and national legislators.** This may include, for example, the enactment of the ePrivacy Regulation, which is designed to substantiate the GDPR in the areas of digital communication and online advertising.[7]

Conclusions:

- At both the European and the national level, digital civil society must ensure it has adequate means of exerting influence at central points — be it, for example, the rapporteurs of the European Parliament, or the ministries and departments in charge — in order to position its own views directly in political processes.
- Where it makes sense from a thematic point of view, digital civil society should increasingly build on the multiplication of its own interests in transnational alliances. In this manner, it can more effectively counter the penetrating power of large international corporations.
- Digital civil society should think about enforcement at an early stage of legislative processes and draw attention to potential emerging shortcomings.

[6] https://netzpolitik.org/2019/ein-jahr-datenschutzgrundverordnung-zwoelf-monate-zwoelf-meinungen/#Benjamin%20Bergemann
[7] https://digitalegesellschaft.de/2020/08/10-jahre-fuer-besseren-datenschutz-dsgvo-und-nun/

Retrospective: ePrivacy Legislative Framework

In contrast to the GDPR, the ePrivacy Regulation **has, thus far, been unable to assert itself** in the way stakeholders had hoped for, as it hasn't yet been adopted: Already in January 2017, the EU Commission presented a draft for a revision of the ePrivacy legislative framework in the form of a regulation.[8] The previous hearings showed a clear dominance of industry, **while only a small number of civil society organizations presented their positions.** The results also showed clear disparities: The participating private individuals and NGOs were overwhelmingly in favor of stricter data protection regulations, while companies were in favor of a less strict interpretation.[9]

Currently, a decision on the ePrivacy Regulation is still pending, as the trilogue negotiations are continuing. After the EU Parliament adopted its position in October 2017,[10] negotiations in the Council of the EU stood still for a long time. It wasn't until February 2021 that the member states agreed on their common position in the Council,[11] which meant the trilogue negotiations between the Council, Commission, and Parliament could begin.

The current ePrivacy Directive, also known as the "cookie law," dates back to 2002 and was last revised in 2009. Among other things, it regulates the use of website cookies and was originally intended to give consumers a means of controlling the collection of their personal data. **However, in its current form, the directive has significant deficiencies in its implementation,** which, for a long time, led to legal uncertainty that could only be mitigated by rulings of the highest courts.[12] The Telecommunications Telemedia Data Protection Act (TTDSG) is a law that came into force in December 2021, and it's supposed to finally implement the provisions of the ePrivacy Directive, albeit 10 years later. **Thus far, the impact of the regulations has remained limited — not least due to a lack of enforcement** — and has failed to achieve its goal of providing citizens with an effective tool for safeguarding their digital sovereignty.

Both the inconsistent implementation of the revised ePrivacy Directive in Germany and the long-lasting negotiations of the Member States on the ePrivacy Regulation clearly underline how important an **informed and engaged digital civil society** is for all levels of the political process. With technical expertise, it can **bring critical aspects of draft legislation to the public's attention and point out to political stakeholders the importance of swift and uniform implementation of EU legal acts** — for example, as the European Digital Rights alliance and other civil society actors such as the Digitalcourage and Digitale Gesellschaft associations have repeatedly done.[13]

The case of the ePrivacy Directive underscores how important it is to insist on a concrete definition of implementation during the legislative procedure, in order to enable legal certainty for all parties involved, and to avoid downstream standard setting, which potentially isn't in the interest of legislators.

[8] https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2017/0003(COD)
[9] https://netzpolitik.org/2016/reform-der-eprivacy-richtlinie-die-naechste-lobbyschlacht-um-unsere-privatsphaere-hat-begonnen/
[10] https://www.europarl.europa.eu/doceo/document/A-8-2017-0324_EN.html
[11] https://data.consilium.europa.eu/doc/document/ST-6087-2021-INIT/en/pdf
[12] https://eur-lex.europa.eu/legal-content/de/TXT/?uri=CELEX:62017CJ0673
[13] https://digitalegesellschaft.de/wp-content/uploads/2018/03/ePrivacy-openletter-FINAL.pdf

Conclusions:

- Effective enforcement is a major challenge in numerous digital policy projects, which the ePrivacy Directive firmly underlines.
- To ensure effective legislation, during the drafting process, great attention must be paid to ensuring a particularly concrete design and precise definition of standards, so as to avoid leaving space for subsequent legal and practical interpretation issues.
- Digital civil society must become active at an early stage to point out a lack of concretization in the draft law, so that it can later have the desired effect.

Current Cases: DSA & DMA

In contrast to the GDPR, the timeline for the DSA and DMA — from the EU Commission's legislative proposals to their implementations — is much shorter. In December 2020, the Commission's proposals were published, and a good year-and-a-half later, in mid-2022, the two legislative packages could be adopted by the European institutions in line with the current timetables.[14] The tremendous acceleration of timelines, which constituted a record time for major pieces of legislation, challenges digital civil society. Specifically, there's less leeway to accompany the drafts in their entirety; to follow the massive amounts of input from various stakeholders in business, media, etc. (as part of the public consultations and in the positioning phase in Parliament and the Council); and to exert influence with one's own measures — i.e. position papers, discussion events, stakeholder meetings, etc. Against this background, it's recommended to **focus on a few particularly relevant measures per draft.**

At the same time, shorter legislative processes are changing the playbook of influence. In order to compensate for the resource disadvantages not only in qualitative terms (see the previous point), but also in quantitative terms, the timing of public measures must be weighed more carefully, and the level of discussion events, stakeholder talks, and position papers must be chosen more consciously (working level and/or management level). Meanwhile, **national and transnational interest groups and alliances are gaining importance,** as they can significantly increase the diversification of high-profile formats and strengthen political leverage in stakeholder discussions.

The latter is all the more important in view of the lobbying power of big tech companies. According to a report by Lobby Control from 2021, 12 of the 15 most active lobbyists from DMA/DSA represent corporate interests, and the resulting sovereignty of discourse can have an influence on the drafting of legislation that shouldn't be underestimated.[15] **Therefore, civil society organizations should continuously draw attention to themselves and their positions — also to ensure their proposals aren't watered down or completely discarded during the course of amendments.** How this could look in concrete terms — as an individual organization or in a network — is demonstrated by the following examples:

Joint letter on protecting end users' rights in the Digital Markets Act

AlgorithmWatch reacts to the release of the EU's DSA

Mozilla position paper on the EU's DSA

Statement of the "Restricting Corporate Power" initiative

[14] https://www.euractiv.com/section/digital/news/key-eu-lawmaker-aims-for-april-deal-on-digital-markets-act/
[15] https://www.lobbycontrol.de/wp-content/uploads/Studie_de_Lobbymacht-Big-Tech_31.8.21.pdf

At the same time, some of the digital policy plans provide for new rules that give civil society actors concrete opportunities to actively participate in the implementation of these plans. In the case of the DSA, one example is of the so-called trusted flaggers, who should play a prominent role in reporting illegal content, especially hate speech, on online platforms. However, the role of trusted flaggers isn't entirely undisputed, as their reports are treated with more privilege and urgency than those of ordinary users.[16]

The selection of trusted flaggers will be carried out by the so-called Digital Services Coordinator, a national authority that will be responsible for monitoring the services of online platforms.[17] As the central national point of contact for the EU Commission and for platforms, the Digital Services Coordinator can enforce the rules and sanction platforms for violations. The DSA could thus run the risk of blurring the lines between European and national responsibilities when enforcing its requirements, as the respective national regulators in particular have to take care of a broad regulatory portfolio in which platform regulation is only one aspect of many.[18] **With regard to the aspect of DSA enforcement that's so central to the tension between national and European powers, digital civil society should learn from the enforcement problems of the GDPR. This includes participating in the design of the Digital Services Coordinator and creating awareness for potential enforcement deficits.**

Conclusions:

- Against the backdrop of accelerated legislative cycles, digital civil society must focus on a few particularly relevant measures per draft in view of its own mostly limited resources.
- At the same time, civil society organizations should continuously draw attention to themselves and their positions — also to ensure that their proposals aren't watered down or completely deleted in the course of the amendments. In this context, measures and topics should be accompanied in all formal and informal steps of the legislative processes with position papers, discussion events, stakeholder talks, etc.
- After the adoption of a regulation/directive that's satisfactory in terms of content, the work isn't done, as the enforcement problem with the GDPR clearly demonstrates. In order for both DMA and DSA to achieve their full impact, it's also up to digital civil society to identify enforcement deficits and to participate operationally, such as in the design of the Digital Services Coordinator function. This will prevent a situation in which regulatory standards are negotiated solely between legislators and companies.

[16] https://www.theparliamentmagazine.eu/news/article/dsa-paying-the-consequences

[17] https://www.eff.org/deeplinks/2022/02/enforcement-overreach-could-turn-out-be-real-problem-eus-digital-services-act

[18] https://www.stiftung-nv.de/de/publikation/der-dsa-entwurf-ehrgeizige-regeln-schwache-durchsetzungsmechanismen

Recent Case: Artificial Intelligence Act

With its draft Artificial Intelligence Act (AI Act), in April 2021, the EU Commission presented a proposal for an EU-wide framework to regulate the use of risky AI applications and prohibit certain uses of AI, such as in the cases of social scoring or subliminal manipulation of people.[19] The Commission proposes a risk-based approach that would make ex-ante conformity assessment and permanent monitoring procedures mandatory for AI use in so-called "high-risk" applications. Under these plans, less risky applications would only have to comply with certain transparency requirements.[20]

Although a relatively large number of EU citizens participated directly in the consultation on the AI Act, almost three times as many companies and business or trade associations participated than non-governmental organizations.[21] The influence of companies is even more evident in the comments on the Commission's draft: More than half of the feedback submitted came from companies and business or trade associations, while non-governmental organizations accounted for only about 18% of the feedback.[22]

While the EU member states are working toward a quick decision on a common position, the deliberations in the EU Parliament aren't as advanced, as the responsible committees were only appointed in December 2021.[23] It can therefore be assumed that the **negotiations on the AI Act are likely to be concluded less quickly** than in the case of the DSA and DMA. This offers civil society, which is active in digital policy, **more room to introduce its own positions.**

Above all, the questions of **which AI applications should be classified as high-risk AI and how effective transparency can be ensured** are crucial points on which civil society should be involved **in the interests of strengthened civil rights** at both the European and national level. A broad alliance of 120 European civil rights organizations demonstrated with a joint statement that **a coordinated approach not only makes good use of resources, but can also generate critical reach.**[24] Since the EU Commission is also to be authorized to make changes to the list of high-risk applications with the help of so-called "delegated acts" even after the AI Act has been passed, civil society actors should insist on a regular review and, if necessary, refinement of risk assessment in the long term.

Furthermore, in the case of the regulation, it seems that mistakes from the conception of the ePrivacy Directive could be repeated, and that the AI Act remains too vague in its definitions. For example, there's a clear risk that the use of human-in-the-loop (HITL) AI systems remains too vaguely defined, meaning its implementation would be shifted to external standard-setting processes. In these processes, **civil society voices are often only weakly represented** — here, it's important to work toward strengthening organizations committed to citizens' and consumers' rights. At the European level, appropriate structures already exist in the form of the European Consumers Organisation (BEUC) and the European Association for the Coordination of Consumer Representation in Standardisation (ANEC), but they must be **better integrated into standard-setting processes.**

[19] https://eur-lex.europa.eu/legal-content/DE/TXT/?uri=CELEX:52021PC0206

[20] https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/698792/EPRS_BRI(2021)698792_EN.pdf

[21] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12527-Kunstliche-Intelligenz-ethische-und-rechtliche-Anforderungen/public-consultation_de

[22] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12527-Kunstliche-Intelligenz-ethische-und-rechtliche-Anforderungen/feedback_de?p_id=24212003

[23] https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2021/0106(COD)&l=en

[24] https://edri.org/wp-content/uploads/2021/12/Political-statement-on-AI-Act.pdf

At the national level, the main question to be clarified is which authority should be responsible for the designation of those bodies that verify the compliance of high-risk AI applications with the requirements of the regulation. The same goes for the designation of the national authority responsible for the enforcement of the entire regulation. Here, civil society **can contribute recommendations to the responsible national ministries** — recommendations it derives from its extensive practical experience with AI technologies.

Conclusions:

- Digital civil society has diverse and valuable knowledge and expertise that it must bring to bear early and emphatically when shaping digital legislation — especially where citizen and consumer interests are directly affected.
- Standards and implementation measures should be clearly defined in the legislative process. Where standards are set downstream, digital civil society must be actively involved.
- The influence phase for civil society actors isn't limited to the immediate legislative process: They should closely monitor new legislation even after it has been passed and insist on improvements in the context of review procedures or through delegating and implementing acts.

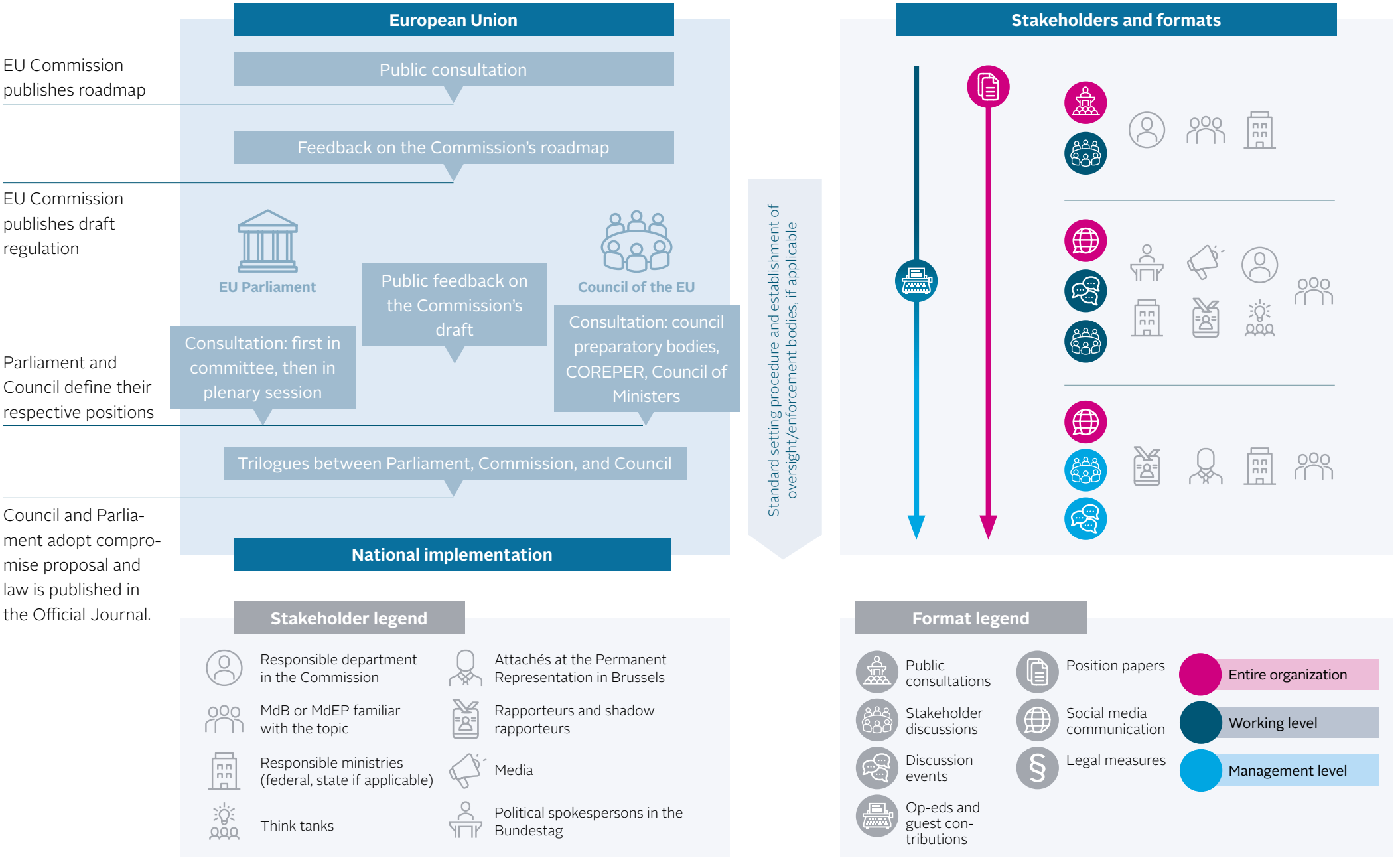
Chart: EU and national legislative processes

The following chart outlines in a simplified way the usual path of European legislation — the Ordinary Legislative Procedure — and deliberately focuses on the elements that are particularly relevant for advocacy work.

For the cooperation between European and national levels, the distinction between the two most common EU legal acts is key:

- **Regulations** are directly applicable in all member states once they've been adopted by the EU institutions and come into force, without the need for additional national laws. Existing national laws can be adapted, if necessary, to be in line with new regulations.
- **Directives** are also passed by the EU institutions in the regular legislative procedure, but they only provide a framework and objectives to be achieved, without generally having a direct legal effect on individuals.

The national level of the implementation process therefore primarily deals with the implementation of EU directives, but the chart can be consulted when national legislative changes are initiated due to a new EU regulation.


European Union
EU Commission publishes roadmap
Public consultation
Feedback on the Commission's roadmap
EU Commission publishes draft regulation
EU Parliament
Council of the EU
Public feedback on the Commission's draft
Consultation: first in committee, then in plenary session
Consultation: council preparatory bodies, COREPER, Council of Ministers
Parliament and Council define their respective positions
Trilogues between Parliament, Commission, and Council
Council and Parliament adopt compromise proposal and law is published in the Official Journal.
National implementation
Standard setting procedure and establishment of oversight/enforcement bodies, if applicable
Stakeholders and formats
Stakeholder legend
Responsible department in the Commission
Attachés at the Permanent Representation in Brussels
MdB or MdEP familiar with the topic
Rapporteurs and shadow rapporteurs
Responsible ministries (federal, state if applicable)
Media
Think tanks
Political spokespersons in the Bundestag
Format legend
Public consultations
Position papers
Stakeholder discussions
Social media communication
Discussion events
Legal measures
Op-eds and guest contributions
Entire organization
Working level
Management level

Federal government adopts draft law

Bundestag passes law

Federal Council approves law

National implementation

Publication of the draft bill

First reading in the Bundestag

Consultations in the specialist committees of the Bundestag

Second and third readings in the Bundestag

Consultation in the Federal Council

Countersignature of the Federal Government and execution by the Federal President

Law enters into force

Standard setting procedure and establishment of oversight/enforcement bodies, if applicable

Stakeholders and formats

Stakeholder legend

- Responsible ministries (federal, state if applicable)
- Political spokespersons in the Bundestag
- Think tanks
- Other civil society networks
- Media

Format legend

- Public consultations
- Stakeholder discussions
- Discussion events
- Op-eds and guest contributions
- Position papers
- Social media communication
- Legal measures
- Entire organization
- Working level
- Management level

Network effects

The examples discussed above — from the GDPR to the DSA and the AI Act — often make it impossible for civil society organizations to accompany legislative projects in their entirety due to their complexity and scope. As such, it's important to leverage networks and, where possible, pool resources.

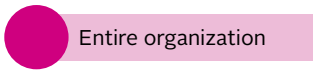
Individual organizations usually have limited resources for advocacy work at their disposal; however, they can draw on an even larger network of partner organizations. Here, it's advisable to identify commonalities at an early stage and — if it makes sense in terms of content — coordinate political work.

On one hand, existing networks and hubs — such as Stiftung Mercator, which functions as a central point of contact for funded partner organizations — can be used, and thematic alliances can be solidified. On the other hand, it can also be useful to consciously identify organizations outside one's own network. Even if the topics of work differ, the political goals of the involved actors may coincide and give rise to a joint effort.

Such a joint approach is also recommended with regard to the enforcement of new legislation: Civil society networks should expand their role in the creation of new regulatory standards in the established standard-setting bodies and actively work together toward ensuring that monitoring and enforcement bodies at the European and national level are reasonably and effectively appointed.

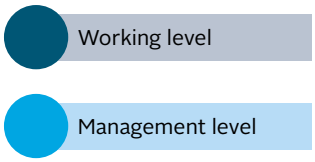
Formate

Participation in public consultations



To improve the participation of the public and experts, consultation processes are becoming increasingly popular as part of the legislation process. The EU Commission regularly undertakes public or specific consultations before presenting its own draft regulations or directives. Comparable formats are also available at the national level — e.g. statements and hearings by associations or public consultations, such as on the German government's digital strategy. Such practices are well suited for introducing position papers and statements to the political process and providing detailed feedback on legislative projects.

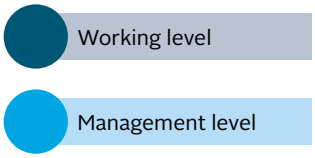
Stakeholder discussions



Personal conversations with political decision makers are an established and indispensable means of advocacy work. In this way, particularly relevant aspects of a proposed law can be addressed in a targeted manner, and one's own experience and arguments can be directly conveyed. At the same time, the appropriate level of discussion can't be ignored: If detailed, technical aspects of a project are to be discussed, doing so at the working level — i.e. between employees of a civil society organization and department heads in federal ministries or employees of members of the Bundestag — is best.

The case of more fundamental political demands of high relevance lends itself to an exchange between the management level of an organization (chairperson, director, CEO) and the department heads in ministries or the responsible state secretary, as well as directly with members of the German Bundestag. It should be noted that stakeholder discussions are generally resource intensive, as they require extensive preparation.

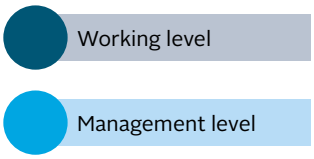
Participation in and hosting of discussion events



Political events are as much a part of everyday advocacy work as the GDPR is for European digital policy. They offer space for professional exchanges and personal discussions, enable direct contact with political stakeholders, and bring digital policy networks together. Therefore, regular participation in such events is highly recommended, not least for the informal exchange with other active digital political organizations. The COVID-19 pandemic has also led to the emergence of more and more low-threshold access and exchange opportunities. For example, the possibilities of connecting with high-ranking speakers have increased due to virtual events.

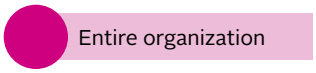
Additionally, it can be useful to participate in a panel discussion as a guest and thus be acknowledged as an active part of the debate. This already requires a certain level of networking and visibility among other participating organizations, but it helps to boost the profile of one's own institution. If sufficient resources are available, it's also worth considering organizing your own digital policy events — possibly together with partner organizations. Self-organized events are even more effective when it comes to generating visibility for a specific topic or targeting selected stakeholders.

Op-eds and guest contributions



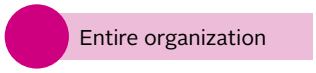
Even if the first instinct is to look in the direction of social media, the role of traditional print and online media for political discussion shouldn't be underestimated. Guest articles by renowned authors can give a topic the necessary visibility and, at the same time, easily reach a large target audience. A distinction should also be made between articles in specialist and industry media publications (e.g. netzpolitik.org, heise online, c't, t3n) and those in major leading media publications (e.g. Süddeutsche Zeitung, FAZ, ZEIT, Spiegel). For the former, contributions by experts and team members are particularly appropriate, and at the same time, help them position themselves as experts in the discussion. Opinion pieces by well-known political figures or from people on the management level of an organization can also reach actors outside of specialist political circles in wide-reaching leading media and, in turn, effectively add new topics to the agenda.

Position papers



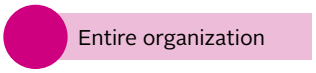
Statements, fact sheets, and position papers are the methodological basis of any political communication work. They enable responding in detail to draft legislation, strategies, or other government plans, and they make concrete (counter)proposals possible. At the same time, position papers serve as a foundation for content and can be included in other measures, e.g. stakeholder discussions, events, or guest contributions. Depending on the scope of one's own organization and if there's common ground with other organizations in terms of content, a joint position paper by several associations, NGOs, networks, or think tanks can be useful to give a message more weight.

Social media communication



An active presence on social networks is crucial for successful political communication — especially for digital policy issues. This applies both to the organization and its official channels, as well as to employees who use social networks professionally. Twitter and LinkedIn are particularly useful for this purpose, as they're both widespread and regularly used by political actors. Communication should be genuine and goal-oriented. Discourse-friendly, approachable, and authentic accounts are particularly appreciated. Content should be varied, and the messages should be tailored to the respective medium. Social networks should also always be considered in political campaigns — thanks to personalized sponsored content, they make it possible to reach audiences that don't yet follow the accounts of political actors.

Legal measures



In the best case scenario, those who engage in advocacy work follow legislative projects from the first draft to their enactment years later. However, it's not only the legislative process that's important for effective regulation, but also the subsequent implementation and enforcement. Once a law or EU regulation has been implemented, civil society organizations can play their part in ensuring either the new law is applied, or, if there are doubts about its admissibility, that it's overturned. On one hand, this can be done by suing states or third parties for new claims that have arisen, for example by punishing data protection violations on the basis of the GDPR. On the other hand, civil society organizations can have this admissibility reviewed by filing complaints and lawsuits against new or existing laws — Austrian lawyer and data protection activist Maximilian Schrems has been active in this regard for well over a decade. With his lawsuits against the Safe Harbor and Privacy Shield agreements between the EU and the United States, he succeeded in having both agreements on data transfer declared unlawful according to European law. However, it should be acknowledged that this form of advocacy work can be very time-consuming and cost-intensive, so it's not an option for all organizations.

Imprint

Stiftung Mercator GmbH is a private, independent foundation. With the projects it supports and its internal activities, it advocates for a society characterized by openness to the world, solidarity, and equal opportunity. It's active in Germany, Europe, and worldwide.

With its Digital Society program, Stiftung Mercator has set a goal of ensuring that digital technologies in Germany and Europe are developed and used in accordance with democratic rights and values. To this end, it develops and funds projects on topics such as the shift of public discourse to digital spaces and the accompanying need to regulate digital platforms; the increasing use of so-called "artificial intelligence" in areas relevant to the public; the opportunities of digital transformation for the modernization of state institutions; and the question of how digital technology can be designed and used more sustainably.

In addition to actors from academic and think tanks, Stiftung Mercator's partners primarily come from civil society. An important tool in its strategy is that of institutionally strengthening civil society organizations in Germany and Europe and supporting them in participating more knowledgeably and effectively in discussions about the application and regulation of digital technology and infrastructures.

Stiftung Mercator's other topics and initiatives can be found in its Strategy 2025.

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