

# 2024 EC Rule of Law Report: EU Accession Countries and Member States on Equal Footing, Civic Space Threats Overlooked

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**BCSDN Analysis of the EC Rule of Law Report on Accession countries**

– Skopje, July 2024

On 24 July, the European Commission published its [annual Rule of Law \(RoL\) report](#), for the first time extending beyond EU members to include Albania, Montenegro, North Macedonia, and Serbia - the most advanced ones on the EU path. By putting the accession countries on equal footing with member states early on, as part of the measures for gradual integration of the candidate countries, the report reflects countries' progress in EU accession and highlights enhanced EU support for rule of law

**The Balkan Civil Society Development Network (BCSDN) welcomes the 2024 Rule of Law report and the inclusion of the accession countries. Monitoring accession countries on par with member states is in line with BCSDN's long-term advocacy efforts for applying equal and rigorous standards to both current EU member states and countries aspiring to join the EU. This provides means for the EU to promote consistent and sustainable reforms, prevent democratic backsliding across Europe, and support a fair and transparent enlargement reforms in the Western Balkans.**



Balkan Civil Society  
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The report analyzes the four main pillars concerning the rule of law: **justice systems, anti-corruption frameworks, media pluralism and freedom, and other institutional issues linked to checks and balances**, under which it also assesses the civil society landscape. Country chapters include country-specific recommendations for improvements in these areas, but only for the Member States. The reports on the four accession countries fully exclude this part, explaining that specific recommendations would be provided in the annual EC country reports as part of its Enlargement Package.

The [EC Communication](#) highlights the importance of consolidating democratic structures, upholding the rule of law, and protecting fundamental rights in EU enlargement countries. Known as "fundamentals", these are essential for EU accession, meaning they are the **first to be addressed and the last to be closed in negotiations**. Thus, progress on the fundamentals and the functioning of democratic institutions are a core part of countries' assessment.



monitoring  
matrix

*This a brief analysis of the civil society environment assessment in the RoL report vis-a-vis BCSDN's own monitoring. This initial analysis will serve as a baseline for reporting on civic space threats and advances of accession countries in future RoL reports. A more detailed analysis of the report and the involvement of the accession countries in the RoL mechanism will follow.*

## Findings on the Rule of Law in Brief

While the RoL report notes that legal and institutional arrangements were strengthened across the accession countries, similar challenges are noted, most notably corruption and pressures on the judiciary. Each country is undergoing significant reforms to address systemic issues, but persistent problems such as political pressure, lack of resources, inefficiencies in judicial proceedings, and inadequate implementation of anti-corruption strategies remain. Assessing media pluralism and freedom, there are common issues with transparency of media ownership, the independence of regulatory authorities and public broadcasters, attacks on and the safety of journalists. Deep political polarization also had a negative impact on the work of the national parliaments. When it comes to the civil society environment, unlawful restrictions are noted, including the use of force by law enforcement authorities during demonstrations (Albania) and a hostile environment for CSOs (Serbia).

## **Civic Space Concerns in Accession Countries vis-à-vis the EU member states**

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Exploring accession countries' specifics related to civic space, the EC notes burdensome registration requirements in Albania, smear campaigns and attacks on CSOs, activists, and journalists in Serbia, and limited engagement in policy processes and public consultations in North Macedonia and Montenegro. Transparent and effective delivery of public funding remains a persistent issue across all countries. These challenges pose major obstacles to upholding the rule of law in accession countries.

As the reports righteously note, although the **rights to free assembly and association** are legally guaranteed across countries, obstacles persist in practice. In Albania, the use of force by law enforcement during protests is a major concern. In addition, Albanian civil society faces challenges with cumbersome **registration requirements** where the registration processes are hindered by court delays and a partial functioning of the National Electronic Register of NPOs.

Our [monitoring](#) shows that regulations on anti-money laundering (AML) and counter-terrorism financing (CTF) also hinder the operations of CSOs in Albania – much like in the rest of the countries – but the report, despite providing an

assessment of the AML/CFT regulations, overlooks how these and related practices challenge CSOs.

The report indicates that **EU member states face similar challenges to accession countries, suggesting that civic space is under threat across Europe**. This further confirms that accession countries should not be monitored separately from member states, but rather a comprehensive approach is needed to address civil society threats across Europe.

The report highlights specific obstacles faced by CSOs in member states, which further hinder their work and create a less favorable environment for their operations. For example, Bulgaria is grappling with proposed legislation that could stigmatize foreign-funded entities, a challenge not yet faced by the accession countries covered in the report. However, this was a major issue in the Republika Srpska entity in Bosnia and Herzegovina, raising concerns about a potential 'spill-over effect' in the region.

Meanwhile, Germany is the only EU country to have been downgraded in the assessment on civic space due to restrictions on protests, pre-emptive detentions, and the targeting of organizations engaged in civil disobedience under suspicion of forming or supporting criminal organizations, a situation not seen in the accession countries.

Other examples of how EU civic space differs from that of accession countries include Greece, where civic space remains obstructed, especially for those working with refugees. In Hungary, independent CSOs continue to face coordinated smear campaigns and vilification, along with restrictive laws like the 'child-protection law,' which limits their ability to engage in education, and legal frameworks that criminalize activities related to immigration support. Romania is also experiencing a shrinking civic space, with recent fiscal legislation severely limiting CSOs' ability to receive sponsorships from individuals and professionals, further straining their operations.

Throughout the RoL report, the EC **utilizes the CIVICUS Monitor ratings**<sup>1</sup>, and thus marks the civic space in Albania, North Macedonia, and Montenegro as 'narrowed,' and only in Serbia as 'obstructed.' Out of the 27 Member States, 12 countries fall under the 'narrowed' and three under the 'obstructed' category (Poland, Greece, and Hungary), while the rest of the countries are categorized as 'open'. Germany is the only country that was downgraded from 'open' to 'narrow'.

<sup>1</sup> CIVICUS Monitor is a civil society led online platform that tracks and evaluates the state of civic freedoms globally, focusing on freedoms of expression, assembly, and association. It provides reports and ratings ranging from "Open" to "Closed," to highlight the conditions and challenges faced by civil society in different countries. BCSDN is one of the global coalition research partners providing updates on the six Western Balkan countries, Turkey and Croatia.

## **Attacks against CSOs, Activists and Journalists and Obstacles to Access to Information**

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In the assessments of media freedom, EC notes that **attacks against journalists** are widespread in the region, despite legislative efforts to mitigate these issues.

In Albania, intimidation and threats against journalists, especially online, are underreported due to fear of retaliation and lack of trust in law enforcement. North Macedonia has strengthened legal protections for journalists, but threats and violence persist, especially targeting female journalists. In Montenegro there is effective law enforcement and institutional responses to new cases of violence against journalists and media workers, but there was no effective judicial follow-up of emblematic past cases. Serbia saw 183 attacks on journalists in 2023, up from 137 in 2022, with journalists, and particularly feminists facing severe verbal and physical abuse from politicians. A working group helps police and prosecutors respond quickly to threats against journalists, but few cases result in convictions. Several high-profile journalist murders remain unresolved, with ongoing investigations and cases still under review by higher authorities.

While the attacks against journalists are covered in detail, the report inadequately reports on the **attacks on CSOs and**

**activists**, except in Serbia. In Serbia, it notes a polarized environment with smear campaigns against civil society representatives, verbal attacks in Parliament, and significant pressure on those criticizing authorities or participating in protests. The report, however, overlooks attacks by nationalist and far-right movements on activists and peace-promoting organizations in Serbia, or the Serbian government's use of state-sponsored spyware against critics in 2023. As per the other countries, it fails to highlight the disparagement of critical CSOs by high-level politicians in Montenegro and misses the surge in anti-gender movements in North Macedonia targeting advocates for gender equality and LGBTQI+ rights.

The **access to information** in the region, is in detail covered in the report. In Albania, while recent amendments to the Law on the Right to Information introduce positive changes, implementation issues remain. Similarly, in North Macedonia public administration is often unresponsive, and there are concerns regarding refusals and delays. In Montenegro and Serbia, journalists frequently face refusals from public bodies to release information. The 2024 Media Pluralism Monitor indicator on the protection of the right to information for Montenegro increased from medium to high risk.

## **Rising SLAPPs: Journalists in the Spotlight, Attacks on CSOs and Activists Unreported**

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The report highlights the prevalence of SLAPPs (Strategic Lawsuits Against Public Participation) in Albania, North Macedonia, and Serbia, and discusses this issue in detail also in the member states' chapters. SLAPPs are one of the major threats and worrying trends that civil society in the region has been alarming about in recent years.

Notably, the **legal framework** across the region lacks protection against SLAPPs. In Albania, defamation remains a criminal offense, while civil law provisions on fraudulent or inaccurate publications are not aligned with European standards and are often used to launch SLAPPs against journalists. In North Macedonia's, the 2022 amendments to the civil defamation law's reduced fines and potential non-pecuniary damages, this reducing the threat to investigative journalism. Montenegro's legal framework imposes strict penalties for violence against journalists, granting them the status of public interest workers.

The lack of national legal framework that would recognize and protect against SLAPPs results in an **increasing number of SLAPP cases**. The reports present that in 2023, Albania and Serbia experienced an increase in SLAPP cases. Journalists in Albania faced 65 lawsuits,

while in Serbia there were 183 attacks on journalists, mostly initiated by political authorities. North Macedonia registered six SLAPP cases in 2023, as per EC's findings. Our research shows that, positively, Montenegro has seen a decrease in SLAPP lawsuits over the years due to educating judges on European Court practices and significantly lowering the damages awarded in such cases.

The report provides detailed numbers and cases but overlooks that **SLAPPs target not only journalists but also activists and CSOs**, with lawsuits often being filed by private and powerful companies.

BCSDN's [recent study](#) on SLAPPs in the Western Balkans expands the scope to various defendants and plaintiffs, offering more insights missing in the reports. This broader perspective underscores the need for a thorough **review of SLAPPs' impact on civil society**, helping governments implement effective anti-SLAPP laws using the EU Anti-SLAPP Directive and the Council of Europe Anti-SLAPP Recommendations as benchmarks.

As for the member states, the report highlights that SLAPPs remain a significant threat to journalists in Croatia, Italy, and Poland. Lithuania, however, has adopted an action plan to protect journalists from SLAPPs. Greece and Ireland have progressed with legislative

efforts to revise defamation laws, but similar reforms have stalled in Italy and Slovakia.

Overall, the reports focus too heavily on attacks against journalists, **without fully covering human rights violations**. A broader analysis is essential for understanding regional civic space threats and developing future mechanisms for EU and national governments to protect human rights.

## **The Lack of Public Funding- A Threat for CSO Financial Viability and Sustainability**

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The report highlights **limited public funding for CSOs and their exclusion from funding consultations** as a common issue across countries. In Albania, funding meets minimum legal requirements but is insufficient for CSOs' financial viability. Montenegro's legal framework established a combined model of financing, but the implementation is inconsistent. CSOs in North Macedonia criticize the government's lack of transparency and deviation from the strategy's goals for clear, objective funding. Similarly, in Serbia, there are **transparency challenges** in awarding procedures, including insufficient consultations,

unclear criteria for support, and poor reporting on the use of funds.

The tax framework also presents some challenges. As the EC highlighted, in Albania the lack of individual donations and tax incentives for corporate donations further hampers CSO access to funding, leading to dependency on foreign donors and risk to their sustainability. Our monitoring also assesses a non-favorable framework for individual and corporate giving in Serbia.

EC notes that CSOs in Albania are subject to specific VAT treatment since 2023, however transitional rules are poorly implemented. The report on Montenegro, however, does not address the current **VAT challenges**. As noted in BCSDN's report, the VAT exemption process in Montenegro is hindered by bureaucratic uncertainty, with CSOs struggling to identify the responsible authority to implement the EU obligations. Moreover, the systemic issues within Montenegro's regulatory framework are compounded by anticipated legal reforms to restrict CSOs abilities to engage in economic activities and the potential elimination of the long fought-for minimum percentage of public funding for CSOs.

Finally, except the brief mention of Albania's Law on Volunteerism and the criticism for not facilitating voluntary activities, none of the reports discuss the issue of volunteering or employment in the CSO sector as a vital part of ensuring viability and sustainability of the work of CSOs.

## Struggles in CSOs- Government Cooperation

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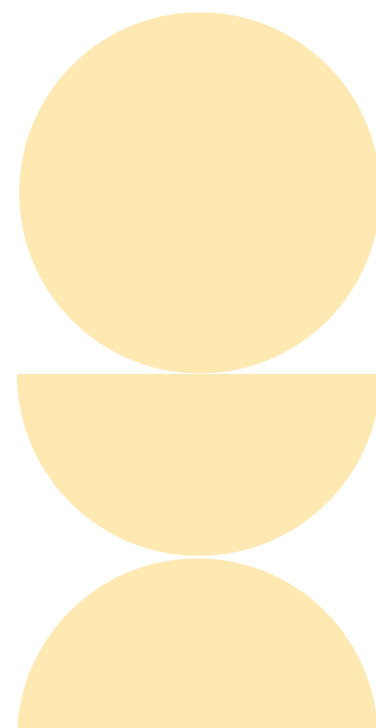
The report recognizes that cooperation between governments and CSOs faces significant challenges due to **ineffective councils, unimplemented civil society strategies, and lack of inclusion of CSOs** in consultations and public processes.

Intersectoral cooperation and trust have deteriorated, especially in Montenegro and North Macedonia. Over two years, Montenegro has repeatedly failed to appoint CSO representatives to the **Council for Cooperation** among government and CSOs, while North Macedonia's Council faces a CSO boycott over two years on controversial funding allocation decisions. Albania's National Council for Civil Society is weak and needs legal changes. Serbia recently established a new Council, but its effectiveness remains to be seen.

**Civil society strategies** in the region are hindered by poor implementation and coordination. Albania faces limited evidence-based policymaking and low trust. North Macedonia's and Serbia's struggle with implementation and measurable progress, while Montenegro's strategy also shows no improvements. On the other hand, inclusion of CSOs in public processes is inconsistent across the region.

Political polarization in Albania and North Macedonia has disrupted legislation, causing delays in procedures. North

Macedonia's electronic consultation system is incomplete. Serbia faces issues with parliamentary effectiveness and transparency, leading to insufficient consultation time and disregarded CSO feedback. The EC notes Montenegro's inclusion of civil society representatives into all ministries' working groups to draft laws and national strategies as a major improvement since 2022, however it assesses that Montenegro struggles with inadequate public consultation despite an inclusive framework.





# CONCLUSIONS & RECOMMENDATIONS

— Overall, the EC's assessment shows that the accession countries are lagging behind EU member states when it comes to the rule of law generally, however some member states face even worse civic space threats and human rights violations than those noted in the accession countries. This disparity highlights a complex reality: while accession countries are working towards meeting EU standards, some current member states are experiencing backsliding in areas fundamental to democratic governance. This situation underscores the need for the EU to apply consistent and rigorous standards across all countries, whether they are current members or aspiring to join, to ensure that fundamental values are upheld uniformly throughout the Union.

To this end, the inclusion of accession countries under the Rule of Law mechanism represents a significant step in the right direction, whereby both member states and accession countries are monitored and scrutinized under the same standards. Furthermore, we recommend the EC to **reevaluate the decision to publish recommendations for the accession countries only in the EC progress reports**. This approach excludes the possibility for assessment of their implementation next year and reduces comparability with member states. Including recommendations, on

the other hand, would allow for a comparison under the same criteria, clear benchmarks on the progress against established EU standards and to ensure that candidate countries are meeting the same high standards required of member states.

In addition, this approach may provide an **opportunity to include specific, clear and actionable recommendations on civic space and the environment for civil society**, which are missing in the EC progress reports. While the EC country reports provide detailed recommendations in each chapter, civil society is assessed as part of the broader democratic framework and not always explicitly within the structured chapters of the EU acquis, resulting in the absence of specific recommendations. Incorporating detailed and actionable recommendations under each pillar in the RoL reports would not only enhance their comprehensiveness and address CSO concerns, but it will also ensure that recommendations explicitly refer to civil society. Such an approach would present a great added value of the RoL reports compared to the Enlargement country reports.

When assessing the civil society landscape, the report offers an **objective analysis for accession countries, generally in line with BCSDN's monitoring findings**. On the other hand, more **detailed and systematic coverage** could have served as a better baseline for future assessment, considering that this is the first report on the accession

countries. BCSDN's [Monitoring Matrix](#) provides a comprehensive framework of standards on enabling environment and detailed insights on the civil society state of play in the Western Balkan countries, which can be an additional relevant source of information for this process.

The inclusion of the accession countries and member states in one comprehensive report provides a **holistic view of the rule of law across Europe**, identifying broader regional trends that might not be as evident when looking at member states and accession countries separately. Nonetheless, **covering human rights violations more thoroughly is crucial**, as they often indicate deeper systemic issues, that contribute to a more complete picture of civic space challenges across Europe. We support the [recommendation](#) of our civil society colleagues in the EU for the Commission to establish a permanent early warning system for civic space threats, and we believe the accession countries should not be left out of an initiative allowing for rapid assessment of concerning developments. This would enable **increased attention and responsiveness of the EC to current civic space attacks** and will demonstrate the EU's commitment to protecting civic space both within its member states and in accession countries.

EU CSOs take a [critical view](#) toward the RoL report, arguing that the Commission's report is too narrowly focused, overlooking numerous violations that weaken the rule of law,

democracy, and fundamental rights. EU CSOs also highlight a significant contrast between their reports and the Commission's findings, noting that the Commission's assessment of some countries is more favorable than the more critical evaluations presented by the CSOs.

Notwithstanding this criticism, we are glad to see that the EC recognizes and systematically utilizes in the RoL report civil society-led monitoring tools, such as the CIVICUS Monitor. Equally commendable is the reference to various civil society reports and contributions, and the balance between state and civil society actors included in the consultations organized as part of the country visits.

However, we share our concerns regarding the lack of information available on the consultation process, which has undoubtedly limited the participation and contribution of other civil society representatives. We hope that for the next RoL cycle the EC will **enhance transparency in the consultation process** and provide detailed information on how and when these consultations will be conducted, to ensure broader and more inclusive participation. Moreover, considering the rigorous evaluation process behind the EC country reports on enlargement, the EC must ensure **streamlining of the processes of monitoring, consultations and reporting both for the RoL and EC country reports**, avoiding duplication of efforts and ensuring greater efficacy.

Considering all the above, we believe that the inclusion of the accession countries in the EC Rule of Law report represents a significant step towards advancing their accession process. Extending this approach to other enlargement countries will strengthen EU support for reforms, aid their accession process, and ensure high standards in post-accession. We hope that in the next RoL cycle, the EC will take concrete steps to address these issues, further demonstrating its dedication to the Western Balkan region's integration and development.

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