

EMPOWER CIVIL SOCIETY TO SEIZE THE EU MOMENTUM!

ENABLING ENVIRONMENT FOR CIVIL SOCIETY DEVELOPMENT & ENLARGEMENT PACKAGE 2023

BACKGROUND ANALYSIS

by the Balkan Civil Society Development Network
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With its annual Enlargement Package, the European Commission (EC) provides a detailed assessment of the state of play and the progress made in the past year by the Western Balkans and Türkiye, and for the first time also for Ukraine, Moldova and Georgia, on their respective paths towards the European Union (EU). The reports focus particularly on implementing fundamental reforms and aim to give guidance on the reform priorities ahead.

This is BCSDN's 14th analysis of the EC's annual reports assessing the progress made in the area of civil society development and dialogue with public institutions in the countries of the Western Balkans and in Türkiye (WBT). Since 2013, this analysis has been set against the Monitoring Matrix on Enabling Environment for Civil Society Development, a monitoring framework developed by BCSDN members and partners, which provides a set of principles and standards that need to be in place to have an enabling environment for civil society. The methodology underpins the annual monitoring led by BCSDN and its members in the WBT and is also reflected in this policy brief by highlighting key issues left out of the EC reports. The Monitoring Matrix has been recognized by the European Commission and has inspired the development of the Guidelines for EU Support to Civil Society in Enlargement Countries, 2014-2020 .

The largest ever Enlargement Package seems to show a reinvigorated energy and greater prospects for accession than in the last decade. The EC recommends opening negotiations with Ukraine and Moldova, granting candidate status to Georgia, and initiating accession talks with Bosnia and Herzegovina, although conditioning them on achieving a degree of compliance with membership criteria.

The reports claim the accession process remains merit-based and conditioned by objective progress achieved, but they also confirm the current discourse around the political incentives related to the needs for a larger and stronger European Union, mainly as a response to Russia's war on Ukraine. A precarious balance between prioritizing political and merit-based imperatives for opening accession talks is especially evident in the assessment of BiH, as despite noting major concerns regarding the declining democratic values in Republika Srpska, the EC gives a green light for starting negotiations. Still, marred by the limited progress since December last year, the EC suggests continuous monitoring with a report to the Council by March 2024 to keep the momentum.

Unlike previous reports – and aiming to fit to the ever-changing geopolitical environment – there are stricter conditions and assessments when it comes to alignment with the EU's common foreign and security policy (CFSP). The link between foreign policy and fundamental values seems to be of ever greater importance, including explicit references to the need to embrace and promote European values. Uniquely for Serbia the EC highlights the continued lack of alignment of the country with the EU's CFSP and makes this a condition for

opening further clusters, along with the normalisation of relations with Kosovo. Despite Kosovo and Serbia reaching an Agreement on the Path to Normalisation in the spring of 2023, the Banjska event of September 24 represented the gravest escalation in recent years.

Kosovo applied for EU membership in December 2022 and the EU finally agreed on Kosovo's visa liberalization in the spring of 2023, to be applicable as of 2024. Following the first intergovernmental conferences in 2022, the screening process was initiated in Albania and North Macedonia, but in the case of the latter, constitutional changes are a prerequisite to open the next cluster. While no significant progress is noted for Montenegro and Serbia, the EC proposes the way ahead with negotiations, assessing the overall balance. Finally, Türkiye, a candidate country since 2005, has not reversed its negative trajectory of distancing itself from the EU, and its efforts toward accession-related reforms have been limited. Türkiye is yet to address the issues of continued deterioration of democratic standards, the rule of law, the independence of the judiciary and respect for fundamental rights.

In its Communication, the EC notes that most countries continued to be affected by marked political polarisation, lack of cross-party cooperation, and shrinking space for civil society – yet, the latter has not been addressed enough in the reports themselves. No country from the WB has received an especially positive or negative assessment. This reaffirms the extended political deadlock and the lack of progress in reforms, indicating a state of impasse in the accession process. There was limited to no progress, or backsliding, in tackling previous concerns and recommendations.

CIVIL SOCIETY OVERVIEW

Civil society continues to be screened within the Political criteria as one of the four pillars of Democracy. Yet, again, the evaluations vary across countries and lack direct reference to the new Guidelines for EU Support to Civil Society in Enlargement Countries or the baseline assessment published this year, which is referenced only once in all seven reports' assessment of civil society.

The Commission highlights that "a free and empowered civil society is a crucial component of any democratic system and should be recognized and treated as such by public institutions". This year, however, Albania, no longer has put this recommendation into practice, while North Macedonia and Kosovo continue to do so - at least partially, as the EC only confirms the "recognition" and not the "treatment" part of the statement. In both countries, the EC assesses that civil society generally operates in an enabling environment, but North Macedonia is urged to increase its efforts in involving civil society in priority areas and consultations. The assessment on Albania, on the other hand, takes a somewhat negative turn since last year, noting shortcomings that hinder CSOs from contributing to policy processes and highlighting the need for strengthening the role of civil society.

The role of civil society is recognized and promoted in Montenegro; however, the EC notes the need for improving the legal and institutional framework creating an enabling environment for civil society. Moreover, the EC notes that politicians, including at the highest level, frequently denigrated the work of Montenegrin CSOs. This is the case also in Serbia, and to an even greater extent in Türkiye, where in addition to verbal attacks and smear campaigns, civil society representatives are a target of state pressure, criminal charges and convictions. In the case of Bosnia and Herzegovina, the EC states that enabling environment for civil society still needs to be addressed. On several occasions throughout the BiH report, the EC raises concerns about two legislative initiatives restricting fundamental freedoms and civic space – the re-criminalization of defamation and the draft law targeting NGOs as foreign agents – as a major "regrettable and undeniable" step backwards.

The following is the reports' assessment of the enabling environment for civil society development set against BCSDN's Monitoring Matrix.

BASIC GUARANTEES TO FREEDOMS OF ASSOCIATION, ASSEMBLY & EXPRESSION

FREEDOM OF ASSOCIATION is legally guaranteed and generally respected in most of the accession countries except in Türkiye, where it continues to be obstructed, lacks clarity and carries the risk of arbitrariness during implementation. While no major legislative changes have taken place in the region in this reporting period, the EC presents it as a key priority that drafting of new legislation on associations and foundations **should be subject to a broad and effective consultation** process with civil society and concerned stakeholders.

This is especially referred to the November 2022 amendments to the current Law on associations and foundations in North Macedonia, which restricted the use of certain historical or political names in the names of organizations, and the latest legislative initiatives introduced in the Republika Srpska entity of Bosnia and Herzegovina. Namely, the RS Parliament reintroduced criminal penalties for defamation in July 2023 and adopted in the first reading in Parliament a draft law targeting CSOs as foreign agents. The EC straightforwardly **requests that the “foreign agents’ law” is abandoned**, although without going in details about the very worrying law provisions. These include a ban of the political activities of foreign-funded CSOs vague enough to encompass all forms of advocacy, related sanctions that include closure and criminal prosecution, and a stigmatizing NPO-mark, among others.

SUB-AREA 1.1.: FREEDOM OF ASSOCIATION

Freedom of association is guaranteed and exercised freely by everybody

All individual and legal entities can freely establish and participate in informal and/or registered organizations offline and online

CSOs operate freely without unwarranted state interference in their internal governance and activities

CSOs can freely seek and secure financial resources from various domestic and foreign sources to support their activities

Despite these legal developments, the EC notes that in practice, too, **the space for civil society is particularly under threat in the Republika Srpska** entity due to the continued attacks and volatile rhetoric by the political leaders, as well as the repetitive and excessive inspections of CSOs in the Herzegovina-Neretva Canton. BiH activists dealing with sensitive issues such as anti-corruption, environment, women’s and LGBT+ rights, etc. have been especially subject to continuous threats, abuse and physical attacks, and authorities have failed to promptly and systematically respond to these situations. In addition to BiH, the EC notes that in Montenegro and Serbia, too, **high-level politicians openly denigrate the work of CSOs**, especially those criticising the government.



However, while in Montenegro these are noted by the EC as isolated cases, the Serbia report seems to acknowledge the **continued, systematic pressures**, verbal attacks, and smear campaigns against CSOs, as well as – noted for the first time – SLAPP cases launched against human rights defenders by members of national and local authorities.

Much like previous years, **the most worrying assessment is made for Türkiye**, where the space for CSOs and human rights defenders continued to be very limited due to continuous pressure through judicial and administrative pressures and investigations, threats, surveillance, arbitrary detentions and smear campaigns, all of which has created a chilling effect on civil society. Women’s organisations especially faced pressures. The implementation of the Law on preventing financing of proliferation of weapons of mass destruction added further restrictions and pressure on civil society, while disproportionately targeting independent rights-based organisations. Türkiye (mis)used the Financial Action Task Force (FATF) recommendations to categorise CSOs as medium to high risk for terrorism financing abuse in an arbitrary way, and then subjected many rights-based associations and foundations, especially recipients of foreign funds, to frequent and burdensome audits.

Although Türkiye is not the only country where legislation on **anti-money laundering and combating the financing of terrorism (AML/CFT)** – and its implementation – has important impact on civil society operations, the only other country report this has been brought up in is the Kosovo report. The EC notes that the Kosovo government initiated the sectoral risk

assessment process on nonprofit organisations, based on which the restrictive law should be reviewed. This review should “remove unnecessary reporting burdens on CSOs, alleviate excessive control measures on low-risk CSOs, lift limitations on cash donations, and remove barriers to access banking or financial services”.

While only in Kosovo CSOs are considered obliged reporting entities, and thus face bigger burdens and restrictions, AML/CFT regulations and practices are considered problematic in almost all WBT countries (reflected in restrictive bank regulations and practices, or in the inappropriate definition and registration of CSO beneficial owners), due to the lack of proper understanding from policy-makers on the main principles of civil society, and **lack of targeted and risk-based approach towards the sector**. To address some of these issues, a sectoral risk assessment was also successfully undertaken in Albania during 2023. This, however, has not been mentioned in the EC country report, although the Commission noted the progress on the implementation of FATF/ Moneyval recommendations in Albania leading to the country’s removal from the grey-list. The EC also stresses the need for BiuH to adopt AML/CFT legislation in line with the EU acquis, to avoid the possibility of being grey-listed again.



FREEDOM OF ASSEMBLY is, too, legally guaranteed in the region, generally respected and mostly in line with international standards. The EC notes that Serbia has yet to align further with the joint Venice Commission and OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly, regulation of spontaneous assemblies is still outstanding in Montenegro, and in BiH laws on freedom of assembly are still not harmonised across the country and are not in line with European standards, in particular as regards grounds for restriction and responsibility of organisers. As a novelty, the EC mentions the entering into force of a new Law on public gathering in Kosovo, aiming to guarantee the right to organise and participate in public events.

In practice, same as last year, the freedom of assembly remains restricted in Republika Srpska (BiH), while the most severe cases are identified in Türkiye, due to the recurrent **bans, disproportionate use of force and interventions** around peaceful demonstrations, especially those for human rights, environmental, and political and socio-economic rights. Demonstrators in Türkiye were subject to investigations, court cases and administrative fines on terrorism-charges or for violating the Law on demonstrations and marches. In Serbia, there were also instances of **criminal sanctions** issued against participants. While protests took

place mostly unhindered, they were sometimes accompanied by verbal attacks on participants by politicians and media. While Serbia’s report offers more detail on the aftermath of several protests in relation to the violations of official duty of police, it does not note the cases of **police intimidation before protests**, or the police and private security violence against environmental protesters in particular.

| SUB-AREA 1.2.: RELATED FREEDOMS | |
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| Freedoms of assembly and expression are guaranteed to everybody | CSO representatives, individually or through their organization, enjoy freedom of peaceful assembly |
| | CSO representatives, individually or through their organizations enjoy freedom of expression |
| | Civil society representatives, individually and through their organizations, have the rights to safely receive and impart information through any media |



No progress, even backsliding, is noted for **FREEDOM OF EXPRESSION** throughout the region. The EC recalls threats, intimidation, and violence against journalists and activists to some extent in all enlargement countries, noting that these can have a chilling effect, especially in view of **ineffective institutional responses** and investigations in bringing perpetrators to justice. The EC remarks that authorities in Serbia and Montenegro reacted swiftly to cases of attacks and threats, however in Montenegro there was no effective judicial follow-up of old cases, same as in North Macedonia. The EC also notes that **online harassment and verbal attacks** continued, especially on social media, with an increase in cases – online and offline - against female journalists in Bosnia and Herzegovina, North Macedonia and Serbia. As for Türkiye, the serious backsliding observed in recent years continued, with critical voices being restricted through arrests, detentions, prosecutions and convictions, increasingly leading to **self-censorship**.

While in North Macedonia the newly amended Criminal Code and Law on civil liability for defamation raised the overall legal protection for journalists, the amendments to the criminal code in **Republika Srpska re-criminalizing defamation** are assessed as severely impacting the environment for civil society and restricting freedom of expression and of the media.

Defamation in Albania remains a crime punishable by particularly high criminal fines. In Serbia, on the other hand, the EC recognizes that the possibility of journalists to report on ongoing criminal proceedings is excessively limited in the legal framework.

The issue of **strategic lawsuits against public participation (SLAPPs)** has become a worrying trend across the region in the past few years; yet, this is the first time the Commission has paid more attention to it in the reports. The reports of Albania, Kosovo and Serbia point to an increased presence of SLAPP cases in the countries, both against journalists and activists, but the EC fails to mention the cases in BiH against environmental activists in 2022, despite those getting strong regional and international attention. SLAPP suits do not fall under the scarce existing protections offered by media laws in the countries and are still under recognized in the judicial systems across the region.

FRAMEWORK FOR CSO FINANCIAL VIABILITY AND SUSTAINABILITY

The EC reports again vary in how enlargement countries deal with the issue of CSO financial viability and sustainability. Picking up relevant developments, the reports still track several critical challenges for CSOs concerning the fiscal framework.

SUB-AREA 2.1: TAX/FISCAL TREATMENT FOR CSOS AND THEIR DONORS

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| CSOs and donors enjoy favorable tax treatment | Tax benefits are available on various income sources of CSOs. |
| | Incentives are provided for individual and corporate giving. |

Assessment of the **TAX TREATMENT OF CSOS** this year has been briefly tackled in all reports except for Serbia. Repeating findings from last year show that in Albania limited progress continued in the field of VAT refund, with the process still being lengthy and cumbersome, while in Türkiye heavy taxation continued to hamper the functioning and development of foundations and associations.

A new development in Albania are the 2022 amendments to the VAT Law that allow for tax exemptions for CSOs instead of tax refunds, but the implementation has not started yet. In addition, in Albania, tax incentives for corporate donations are only marginal while there are still

none in place for individual donations. The same is the case for Serbia, but this is not reported, as no assessment on this issue is included in the Serbia report.

In Montenegro, the EC notes that the tax law provides some **incentives to philanthropy**, but its notion of 'public interest' is more limited than in the Law on NGOs, therefore restricting tax incentives. The status of 'public benefit' for associations and 'tax exemption' for foundations in Türkiye, on the other hand, are vaguely defined and are arbitrarily granted by the President. The tax regime for CSOs in Kosovo is considered to partially meet relevant standards, while in North Macedonia the financial framework under which CSOs operate still needs to be improved. Finally, in BiH, the EC notes that authorities have abused the tax framework to intimidate civil society groups.

In line with the EC's remarks, our assessment confirms that due to **lack of harmonization of tax and NGO legislation**, as well as lack of adequate implementation mechanisms, very few cases of tax benefits are reported in practice in most of the countries. Similarly, individual and corporate giving is poorly practiced in the region.



Across the reports' assessment on **PUBLIC FUNDING** for civil society, a common finding is the need to increase the transparency and accountability of public funding systems. Some of the key challenges acknowledged in Serbia and Montenegro, where this issue is discussed in more detail, include the lack of consultations with CSOs when planning funding priorities, discretionary decisions in funding procedures, the lack of clear and fair criteria, and insufficient transparency in reporting of spent funds.

Assessing the situation in Montenegro, the EC recommends strengthening the capacities for strategic planning, monitoring and evaluation. For Serbia, room for further regulatory improvement is noted, but the inadequate and uneven application is highlighted. Our monitoring shows that **significant cases of misused funds and non-transparent open calls** continue to be recorded in Serbia, in addition to allocating public money to religious organizations through open calls for CSOs.

Some progress is noted in Kosovo, such as gradual improvement in the implementation of the Regulation on public funding for NGOs, with some amendments still pending, and the upgraded online platform. For BiH and North Macedonia the EC has made only brief remarks pointing to the need for **stronger legal frameworks for transparent funding of CSOs**. For Albania, the only remark is that public funding remains insufficient to sustain CSOs' activities. The Albania report does not mention that the revision of the existing legislation for financing NPOs from local and central government was not carried out although it has been stipulated in the Roadmap on enabling environment. Similarly, a comprehensive public funding reform was foreseen in the Government Strategy for

SUB-AREA 2.2.: STATE SUPPORT

State support to CSOs is provided in a transparent way and spent in an accountable manner

Public funding is available for institutional development of CSOs, project support and co-financing of

Public funding is distributed in a

There is a clear system of accountability, monitoring and

Non-financial support is available

Cooperation with Civil Society in North Macedonia and expected already in 2022, but it has not yet been implemented.

An important omission by the EC is the initiation of a **new Law on Financing Civil Society in the Federation BiH** to establish an efficient system of financing, which was preceded by an Assessment of the Impact of the Financing of CSOs in the FBiH published in 2021. One of the key issues of the law, however, is the monitoring of the efficiency of the organizations' activities in the public sphere, which might be abused and directed against CSOs. All this underscores the **need for comprehensive reforms across the region** to promote transparency, fairness, and effective utilization of public funds to support the vital work of civil society across the region.



The **HUMAN RESOURCES** aspect for CSO sustainability has been addressed this year in Albania, BiH and Serbia, in addition to the repeated assessments for Kosovo and Montenegro. Focusing on the **regulations of volunteering**, the EC mentions the pending revision of the Law on voluntarism in Albania, the lack of state-level legal framework on volunteering in Bosnia and Herzegovina and the expected but delayed adoption of a Law on volunteering in Serbia. As in previous reports, the EC refers to the need for a more enabling environment for volunteering in Kosovo aligned with international standards, and a broader legal framework in Montenegro to promote the free use of time, knowledge and skills for the benefit of volunteering activities, which has been under discussion since 2019. The reports however fail to recognize that volunteering continues to be practiced by CSOs in most of the countries in the region and is an important factor for the sustainable work of CSOs.

The reports also **lack any assessment of employment issues** within the CSO sector, particularly the absence of organized data

collection and publication to facilitate the formulation of policies tailored to the sector's requirements and acknowledge its economic significance. Our research reveals that existing legislation neither impedes nor encourages employment in the civil society sector. However, in certain countries, unequal treatment of CSOs, compared to other legal entities, is observed in state incentive programs for employment.

| SUB-AREA 2.3: HUMAN RESOURCES | |
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| State policies and the legal environment stimulate and facilitate employment, volunteering and other engagements with CSOs | CSOs are treated in an equal manner to other employers |
| | There are enabling volunteering policies and laws |
| | The educational system promotes civic engagement |

PUBLIC INSTITUTIONS - CSOs RELATIONS

The EC recognizes the importance of close cooperation with civil society and its systematic contribution to public policy development, which is vital for strengthening of democracy. Yet, the Enlargement package recognizes many drawbacks in the **FRAMEWORKS AND PRACTICES FOR COOPERATION** between civil society and the government across the WBT countries, and stresses that systematic, genuine and meaningful cooperation should be ensured. While strategic documents are in place in all countries, except Türkiye, their implementation is generally unsatisfactory, and the EC highlights that **effective monitoring frameworks are needed** to check on their implementation. In Türkiye, a draft civil society strategy document and action plan is currently under public consultations, but the process of its development is assessed as unclear and non-transparent.

The **worsening in intersectoral cooperation and trust** is noted in several countries, especially in Montenegro and North Macedonia, where the **Councils for cooperation** have not been functional for around two years. In Montenegro, despite the six attempts to appoint members of the Council, not enough applications from NGO representatives were received, which reflects a perceived lack of relevance of the body among CSOs and undermines the dialogue between the government and civil society. The EC recommends this to “be addressed as a matter of priority by holding an inclusive dialogue”. As per North Macedonia, the EC notes that CSOs have boycotted the work of the Council since March 2022 as a result of the government decision to transfer funds for financing of CSOs from the General Secretariat to the Ministry of Political System and Relations among the Communities. Yet, our reports show that the boycott is a result of the government’s persistent ignoring of its

Sub-area 3.1.: Framework and practices for cooperation

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| There is a strategic approach to furthering state-CSO cooperation and CSO development | The State recognizes, through policies and strategies, the importance of the development of and cooperation with CSOs |
| | The State recognizes, through the operation of its institutions, the importance of the development of and cooperation with CSOs |

Sub-area 3.2: Involvement in policy- and decision-making

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| CSOs are effectively included in the policy and decision-making process | There are standards enabling CSO involvement in decision-making, which allow for CSO input in a timely manner. |
| | All draft policies and laws are easily accessible to the public in a timely manner |
| | CSO representatives are equal partners in discussions in cross-sector bodies and are selected through clearly defined criteria and processes |

Sub-area 3.3: Collaboration in service provision

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| There is a supportive environment for CSO involvement in service provision | CSOs are engaged in different services and compete for state contracts on an equal basis to others |
| | The state has committed to funding services and the funding is predictable and available over a longer-term period |
| | The state has clearly defined procedures for contracting services which allow for transparent selection of service providers. There is a clear system of accountability, monitoring & evaluation of service provision |

conclusions and recommendations, which directly undermines the role and mandate of the Council as an advisory body to the Government.

Finally, a **stalemate is noted in both Kosovo and Bosnia and Herzegovina**, as the Kosovar Council for Government-Civil Society Cooperation has not met since 2022, while in BiH the Council of Ministers still needs to enact its charter on cooperation with CSOs, six years after its adoption in 2017.



Governments are recommended to ensure the conditions for systematic, meaningful, and inclusive **PARTICIPATION OF CSOS IN POLICYMAKING PROCESSES**. Yet, limited progress has been noted in relation to CSOs' involvement in these processes. Although institutionally aligned with European standards, public participation in decision-making is often a formal rather than a meaningful exercise in all the countries. The EC assesses that only in Kosovo, civil society continues to actively participate and contribute to policy-making and monitoring processes. Kosovar CSOs, interested parties and the public engaged almost four times more often in public consultations at the central level than in 2021, but not as much on local level.

The country report on Serbia notes increased consultation of civil society, yet it acknowledges CSOs concerns that the time given for public consultations is not sufficient, and that their comments on draft laws are not taken into account. This confirms the **trend of "tick-the-box" consultations**, without proper opportunity for wide engagement of those affected, at the same time allowing for GONGO activities and influence, as reported in our research. Similarly, our monitoring in Türkiye shows that there is a tendency to include mainly CSOs with public interest/tax exemption status, while independent and rights-based CSOs are often excluded from these processes. Increased use of **fast-track procedures** for the adoption of legislation is noted in Kosovo, North Macedonia and Serbia, while in Montenegro a significant number of laws were adopted without prior consultation with civil society. In the case of Albania, the EC recommends quality control of consultations to be strengthened and proper follow-up ensured. E-platforms are used with different levels of success, with Kosovo, and to

some extent Albania, being on the more positive, and BiH on the less positive end of the assessment. In BiH, the legislation on public consultations is still unevenly applied across the country.

When it comes to **involvement of civil society in the EU accession process**, the EC notes both in Albania and North Macedonia that the role of civil society needs to be strengthened to ensure the meaningful participation and consultation of CSOs. In Montenegro, CSOs role is recognized in theory, but insufficiently in practice, and in Serbia, the National Convention on the EU continued to monitor and assess the progress of accession negotiations. As per the EC's assessment, civil society in Kosovo remains an important partner in the reform processes and policy dialogue.

Finally, with regard to **SERVICE PROVISION**, EC acknowledges that "civil society continues to supplement or even replace government action in providing services to persons in vulnerable situations", giving the examples of running shelters for victims of sexual and gender-based violence or human trafficking in Albania and Serbia. The country reports do not offer an assessment on the related legislation or practices, except for Montenegro where the EC notes that service-providing CSOs continue to face administrative constraints, including the lack of proper licenses. The short reflections in the reports on Albania, BiH and Montenegro present the EC's recognition of the CSOs' role in providing important services, as well as the recognition that they should receive appropriate public funding for their activities. Finally, the EC recommends strengthening cooperation with civil society to monitor violations of procurement rules, noted as a cause of significant concern.

CONCLUSIONS AND RECOMMENDATIONS

The Commission clearly acknowledges the importance of civil society in the overall accession and reform processes in the Western Balkans and Türkiye. Yet, it also recognizes that **very little has been done to ensure an enabling environment** for civil society in the region, while **some countries have even regressed in doing so**. The EC's concerns and recommendations in the previous years' reports remain largely valid, stressing the need for them to be "addressed as a matter of urgency".

In most of the countries, worrying developments and trends have been noted, including the **introduction of legal solutions that are (intentionally) harmful to civil society**, an increased use of derogatory language and threats against activists and CSOs, inadequate institutional response to cases of attacks and intimidation, rise of SLAPP cases in several countries, etc. Apart from challenges like corruption or weak functioning of democratic and judicial institutions, there is a **particular concern about freedom of expression** in most of the countries, as derogatory language, threats, intimidation and violence against activists, CSOs and journalists persist, while SLAPP cases increase across the region. Even though the reports screen several challenges for the civil society fiscal and legal frameworks, valuable information is missing regarding the CSOs' tax treatment, state support and human resources which contribute greatly to the overall sustainability of the sector.

Throughout the region, further improvements in the legal frameworks are necessary, and yet

there is a **downward trend in effective consultations**, which have brought down the involvement of civil society to a merely formal participation, with no real contribution to the policy processes.

On the other hand, the country reports again **do not present a consistent and comprehensive assessment** of how civil society is treated in the enlargement countries. Although this has been our repetitive finding for years, it is important to mention that the EC again missed the chance to operationalize the EU Guidelines for support to Civil Society in the Enlargement Countries and measure the progress systematically. In the **eventual opening of the Rule of Law reports to the accession countries**, as announced by President von der Leyen in the 2023 State of the Union Address, it is important that the monitoring and scrutiny in relation to civil society and civic space issues is further solidified.

Integrating the comprehensive framework of the EU Guidelines in the Rule of Law reports would strengthen the legitimacy of the reports and would respond to a call by the EU civil society for increased attention and responsiveness of the EC to current civic space attacks within the EU. In this way, existing mechanisms of the EU enlargement policy would legitimize and contribute for a tightened grip of the EC when it comes to safeguarding the EU democratic values.



With the new enlargement methodology of 2022, progress in democracy, human rights and the rule of law now comes before progress in any other reforms is considered. Yet, the task of meeting and sustaining democratic standards in the Western Balkans continues to be arduous. And while WBT countries seem to underperform especially in these areas, the EC seems to be focusing more on the pressing geopolitical issues and issues related to unneighborly relations in the region, with a **continuous use of diplomatic language and less emphasis on the negatives which plague the democracies and the rule of law systems**. Being unwilling to recognize these instances of regression poses a question on how Enlargement governments would indeed be stimulated to make real progress.

The Enlargement Package has also announced **a new Growth Plan for the Western Balkans** of 6 million EUR - an ambitious economic strategy and an instrument for accelerating enlargement of a region that has suffered from reform and enlargement fatigue. Important to note is that the EC has specified that “payment conditions will be linked to specific reforms related to fundamentals of the enlargement process, including the rule of law, democracy, the respect of human rights and fundamental freedoms.”, in a manner similar to the IPA conditionality principle. This indicates a potentially stronger link between financial support and implementing “difficult” reforms

under the fundamentals. Interestingly enough, if they don’t succeed in making the necessary reforms, the money will be forwarded to their neighbors.

After a decade of stagnation and backsliding on fundamentals, this might be the means needed to unlock the transformative power of the EU again, but the EC needs to **make sure that civil society in the Enlargement countries is equally participating** - in the planning, programming, implementation and monitoring - and equally benefiting from it. Civil society has a key role in the democratic transformation required to become an EU member state, but its work, role and right to be involved must be appropriately supported.

The Enlargement Package 2023 is the Commission's most substantial endeavor so far to **transcend the EU's rhetorical commitments in its enlargement promise**. And while enlargement seems to be the highest on the EU agenda it has been in over ten years, it is now up to the EC to make sure that democracy and rule of law do not suffer from the increased importance of (geo)political considerations, and up to the enlargement countries to do their part to deliver on democratic reforms - matching the geopolitical with merits.