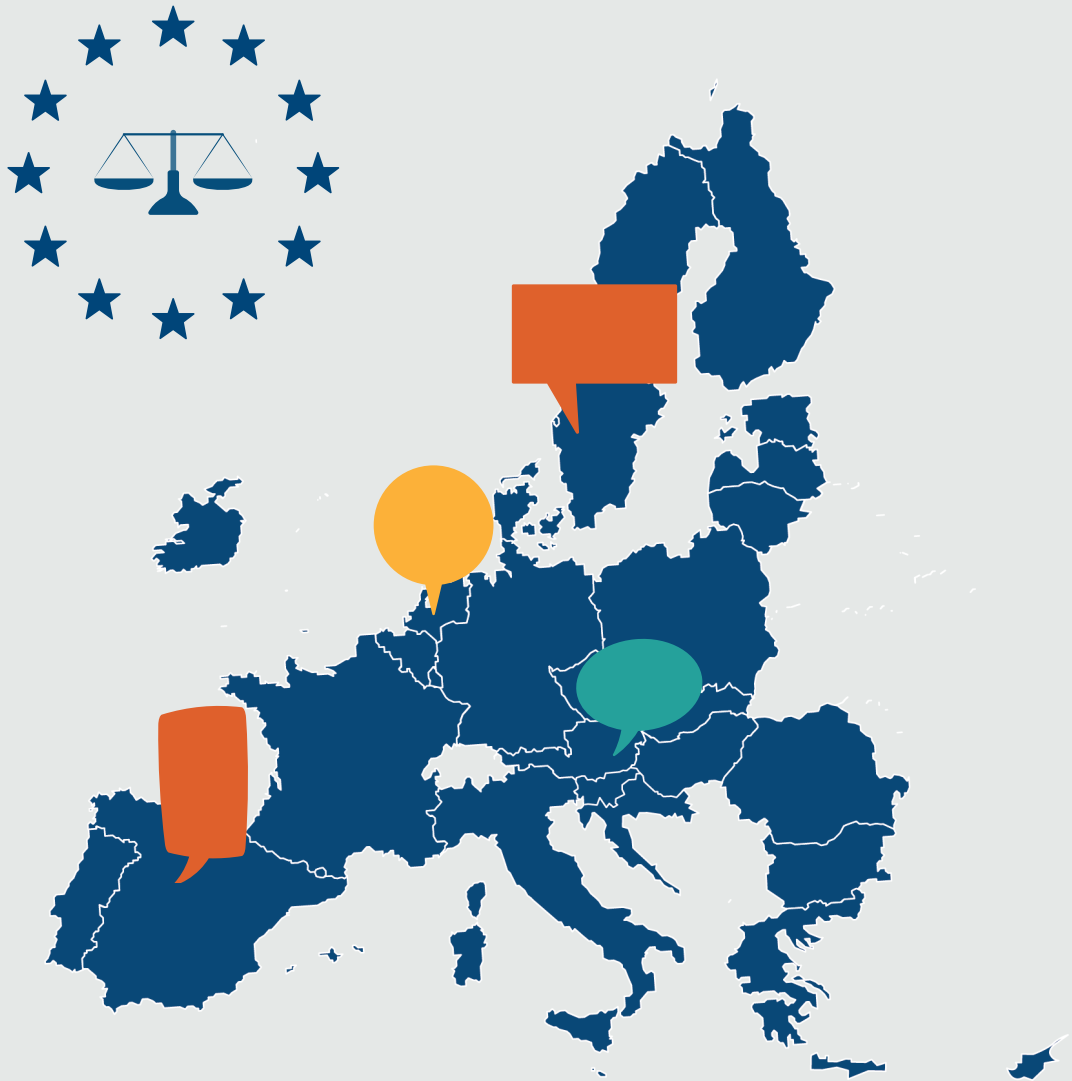


The Rule of Law in the EU: How Does It Strengthen Civic Space?



European Center for
Not-for-Profit Law

WHAT IS THE RULE OF LAW?

The rule of law is a system of **legal checks and balances**, which ensures that all persons and authorities are equally subject to the law in their country. A strong rule of law includes, for example:

- Legal certainty (i.e., rules are clear and predictable and cannot be retrospectively changed);
- Independence of judges (i.e., Institutional separation of the judiciary from other branches of government);
- Effective access to information and pluralistic media;
- Effective access to judicial review and other remedies;
- Clear rules of governance (e.g., rules promoting accountability, fundamental rights and equal treatment by the law)
- Transparent, democratic and inclusive participation in policy-making and their implementation.

WHY DOES IT MATTER FOR CIVIC SPACE IN THE EU?

The rule of law is part of the founding values of the European Union (EU), alongside the respect for human dignity, freedom, democracy and equality (Article 2, Treaty of the EU).

A strong rule of law is often an indicator of a healthy civic space and vice versa. Civil society organisations (CSOs) are “*an indispensable element in the system of checks and balances in a healthy democracy; unjustified restrictions to their operating space can present a threat to the rule of law.*” ([European Council, 2023](#))

CSOs are often among the first actors to inform public opinion and the media, hold governments accountable and advocate for policy developments in national and international fora. Therefore, the rule of law is severely compromised not only when a government, e.g., adopts a law to restrict the independence of judges or the media, but also whenever it makes it difficult – or in some cases, even impossible – for civil society to scrutinise its actions. This can be done, for example, but not only, by:

- promoting smearing propaganda against CSOs;
- adopting legislation that stigmatises international and foreign funding to CSOs;
- criminalising manifestation of political dissent.

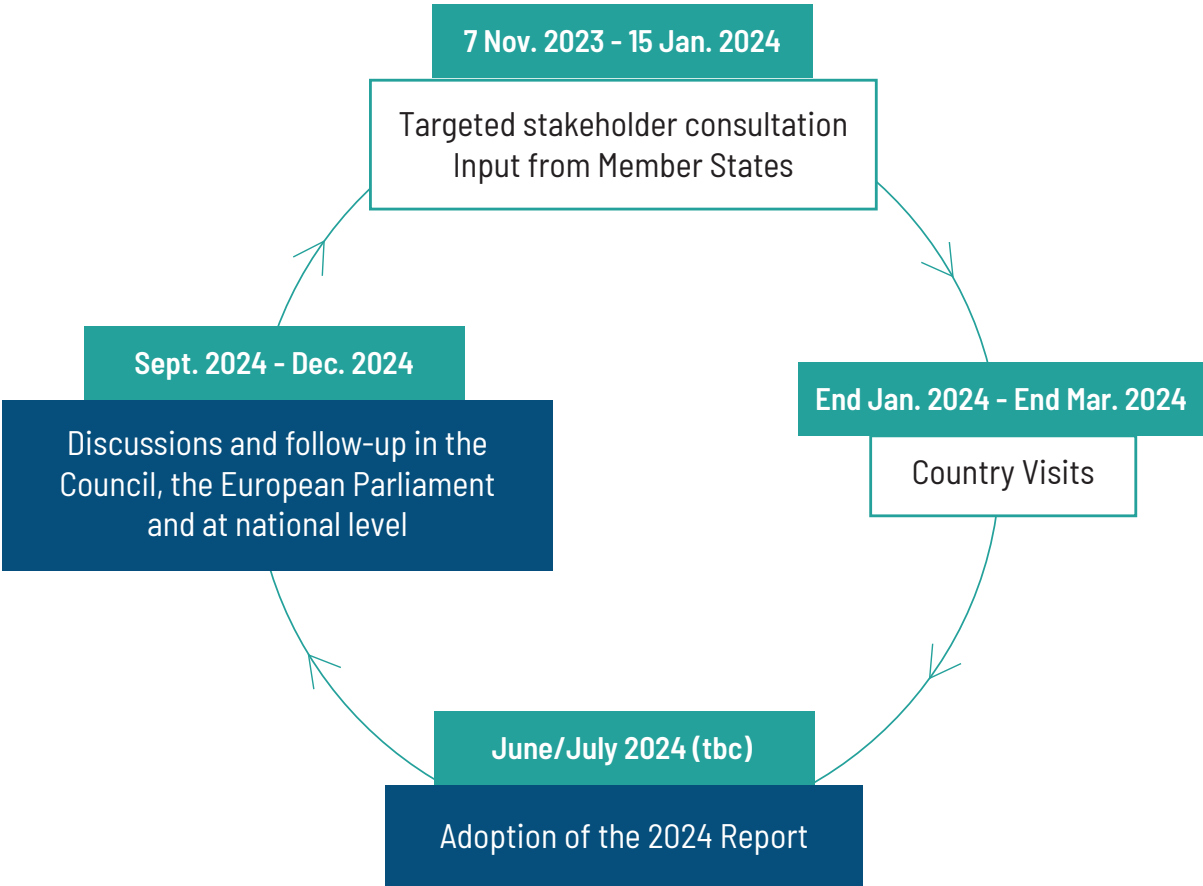
HOW CAN THE EU HELP YOU PROTECT YOUR CIVIC SPACE? JOIN THE EU RULE OF LAW REPORT CONSULTATION!

In 2019, the European Commission launched the **Rule of Law Mechanism**: this is an **annual consultation/dialogue** between the Commission, the Council, the European Parliament and EU Member States with national parliaments, **civil society** and other stakeholders to **review the situation of the rule of the law in each country** in order to identify early challenges and prevent them from getting worse.

During its annual review, the European Commission also engages in **country visits** and organises **roundtables with a variety of stakeholders, including CSOs**.

The dialogue culminates every year in the publication of a **Rule of Law Report with country-specific recommendations to each Member State**.

Timeline of the 2024 Rule of Law Report Consultation:



What will the 2024 Rule of Law Report be about?

The EU Rule of Law Report includes information and recommendations on the following pillars:

1. Justice Systems;
2. Anti-Corruption;
3. Media Pluralism and Media Freedom;
4. Other Institutional Checks and Balances – including the **Enabling Framework for Civil Society**.

The 2024 Rule of Law Report will also follow-up on the implementation of the recommendations to Member States – including those on **Enabling Framework for Civil Society** – issued as part of the 2023 Rule of Law Report.

Coming soon:

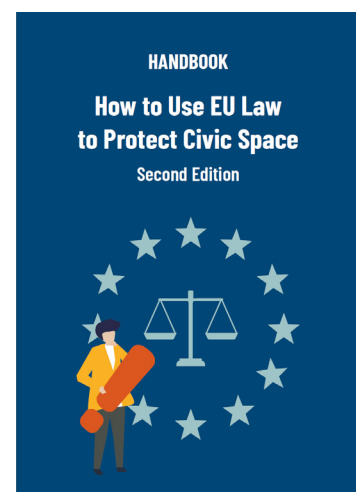
Rule of Law reporting mechanism for EU candidate countries too!

The European Commission is launching an *ad hoc* mechanism for a rule of law dialogue and reporting cycle for countries that have applied to join the EU and are currently granted the status of candidates. In the context of the ongoing EU accession negotiations, only those candidate countries that are deemed to have made good progress on issues related to the four Rule of Law pillars – will be offered the opportunity to engage in a similar annual cycle, with **final reports and specific recommendations for reforms**.

CHECK OUR NEW HANDBOOK ON HOW TO USE EU LAW TO PROTECT CIVIC SPACE!

In the [Second Edition of our new ECNL-Philea Handbook](#), you will find user-friendly guidance on:

- what is EU law and how it affects our fundamental rights;
- what is the EU Rule of Law and why it matters to civic space;
- when and how either can be used in advocacy or litigation to challenge national/EU laws and policies on the basis of the EU Charter of Fundamental Rights.



Last but not least, check **civil society's recommendations to the European Commission** on how to continue strengthening the Rule of Law Report and participation from civil society:

- **Devote a standalone pillar to the enabling environment** for civic space in its EU Rule of Law Report, with more detailed and targeted recommendations for improvement in each country chapter. The questions for this pillar should be designed in meaningful consultation with CSOs.
- **Revise the structure of the country chapters**, allowing more flexibility in their length and using a language more accessible to non-legal experts, or at least accompany them with infographics, practical examples and explanations.
- **Devise a clear and transparent methodology** to follow up with each country and assess the effective implementation of its recommendations on an enabling environment for civic space. Both the methodology design and the assessment of implementation should be conducted in cooperation with CSOs.
- **Extend the official time** allowed for the Rule of Law Consultation and postpone or advance the publication of the final Report and country chapters so that it does not coincide with parliaments' recess.
- **Consider offering [additional participatory methods](#)** to engage broader civil society voices in the Consultation, e.g., by allowing feedback via online/ hybrid platforms and other facilitation tools. ECNL's new research on participation methods can serve as an inspiration.
- **Strengthen the capacity of the EU Fundamental Rights Agency (FRA)** to facilitate multi-stakeholder exchanges within the Annual Rule of Law Cycle. FRA should continue promoting and supporting dialogues between national institutions, civil society and the European Commission. Such national RoL dialogues should be organised jointly by the European Commission and FRA annually in each Member State, in order to ensure consistent inclusion of CSOs in follow-up technical and political dialogues with national governments in all (not just selected) Member States. The structure and periodical occurrence of such dialogues should be planned ahead of each official Rule of Law Cycle Consultation.
- **Proactively reach out to grassroots organisations and marginalised groups** in each country to elicit their feedback on the enabling environment for civic space in their country.
- **Include CSOs and grassroots organisations from EU Candidate Countries** in the design and implementation of the *ad hoc* Rule of Law Mechanism for such countries.



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