

Inclusion of the Six Countries of the Western Balkans (WB6) in the European Union Rule of Law Report

Policy Brief

February 28, 2025



KCSS
Kosovar Centre for Security Studies



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WESTERN BALKANS

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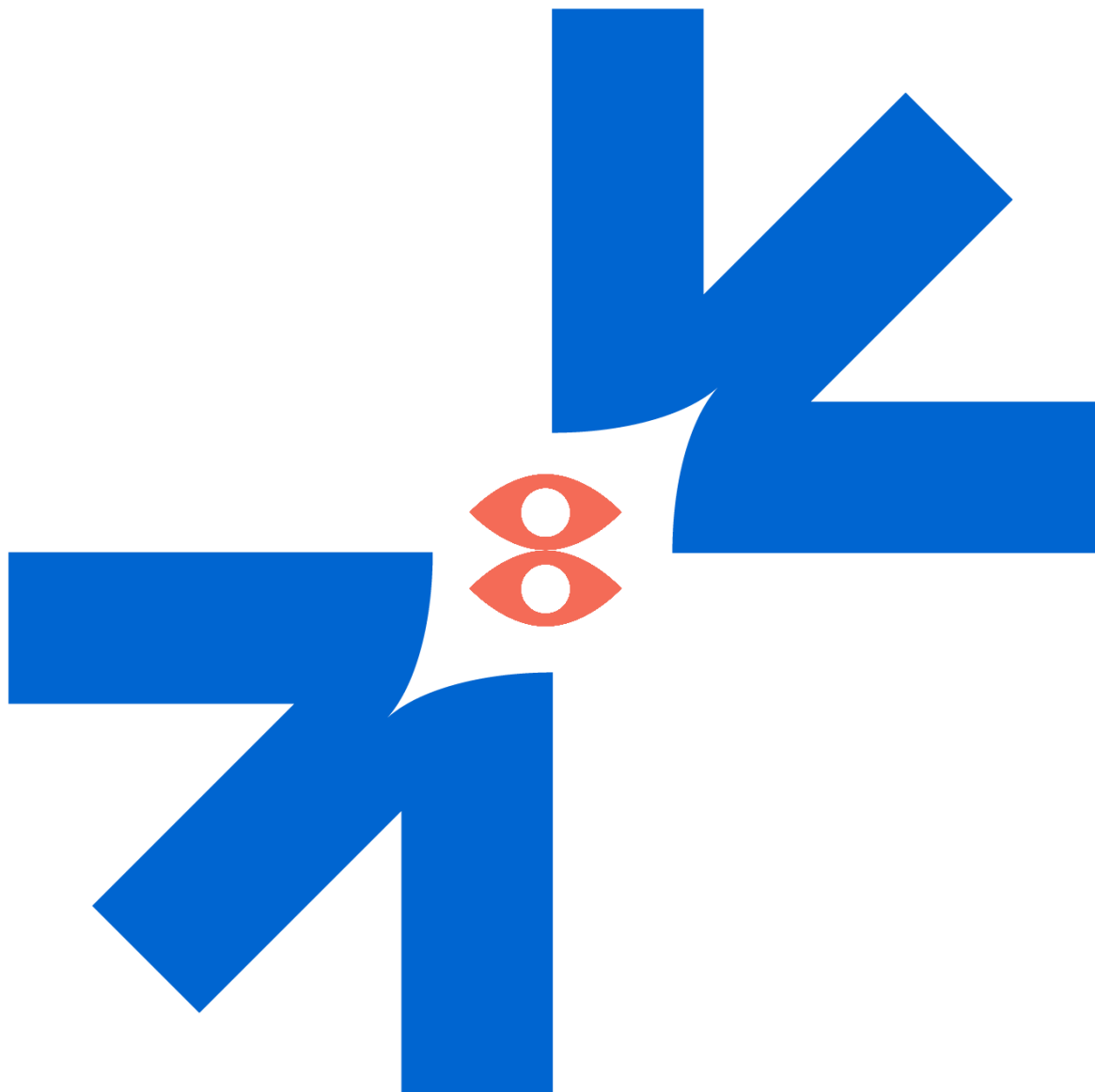


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List of Abbreviations and Acronyms

CJEU	Court of Justice of the European Union
CoE	Council of Europe
CR	European Commission's Country Report (for WB6 countries)
CSO	Civil society organisation
DG	Directorate-General
EC	European Commission
ECHR	European Court of Human Rights
EP	European Parliament
EPPO	European Public Prosecutor's Office
EU	European Union
EUARoLC	European Union Annual Rule of Law Cycle
EUNRoL	European Union Network of Rule of Law
EURoLF	European Union Rule of Law Framework
EURoLR	European Union Rule of Law Report
FRA	European Union Agency for Fundamental Rights
GRC	General regime of conditionality
HEC	Horizontal enabling condition
ICT	Information and communications technology
MS	(EU) Member State
OLAF	EU Anti-Fraud Office
RA	EU Reform and Growth Facility for the Western Balkans Reform Agenda
RGF	EU Reform and Growth Facility for the Western Balkans
RoL	Rule of law
RRF	Recovery and Resilience Facility
RRP	Recovery and Resilience Plan
WB	Western Balkans
WB6	Six countries of the Western Balkans (<i>Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia</i>)

Introduction

The six Western Balkans countries (WB6) – Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia – are implementing their European Union accession reforms in a rather slow pace, with no vision on membership as the endpoint. On EU's side there lacks consensus among member states on membership of WB6, including because their publics' are against further enlargement of the EU and the EU institutional system is inadequate to accommodate more member states into the already hyper-complex decision-making. While this state of affairs is a disincentive for EU accession reforms in WB6 countries, there are efforts to keep this reform process alive.

One such an effort in place that is gaining attention – particularly among civil society organisations in the region that are actively supporting the EU integration process – is that of phased accession. This approach would support WB6 countries in attaining EU standards by granting them access to EU mechanisms in specific policy areas in parallel with reforms they implement. It would mean allowing their institutions and other stakeholders dealing with specific policy areas to engage directly with their peers in EU agencies and similar bodies in an institutional learning process. The latter are EU-level institutions specialized in specific policy area that exercise regulatory functions. In their specialized role – together with the European Commission (which also conducts membership negotiations with WB6 countries) – they drive the EU acquis development in their policy areas. They also guide and support implementation and enforcement of the acquis and are involved in overseeing this.

Rule of law as a component of governance that includes several policy areas is a priority pillar for EU accession, and thus also part of the Cluster 1 (on Fundamentals) of EU membership negotiations in the recently introduced 'enhanced enlargement methodology'. Moreover, for WB6 countries digitalisation is a crosscutting area that is important for both domestic governance and as a priority area in their EU accession reforms, and as such affects all policy areas.

Established in 2020, the EU Rule of Law Report (EU RoLR) is an instrument in this area that plays a critical role in promoting compliance by member states with this core values and a foundational principle of the Union. This mechanism is operated by the European Commission as a guardian of EU law and enforced through conditionality. While this

instrument has been functioning for five years now, since last year it includes the Western Balkans countries of Albania, Montenegro, North Macedonia and Serbia. They have been seemingly included because they have opened EU membership negotiations, whereas Bosnia and Herzegovina and Kosovo have not been yet included in it. The inclusion of all of them in all components of EURoLR would support WB6 countries in implementing EU accession reforms in this area, for the purpose of gradual compliance with EU legislation and standards in this area.

The present policy brief discusses inclusion of WB6 countries in the EU Rule of Law Report. It consists of two sections. The first section provides a background on EURoLR, focusing on two aspects: its function as an instrument of the EU Rule of Law Framework, and its structure and content. The second section discusses inclusion of WB6 countries in it, focusing on the state of play and functioning for these countries based on findings and analysis related to the WB6 countries that are part of it as of last year.

1. Background on the EU Rule of Law Report

The European Union Rule of Law Report was introduced by the European Commission (EC) in 2020, as a policy assessment instrument of a broader mechanism at the level of the European Union – the EU Rule of Law Framework (EURoLF). The establishment of the EURoLF was proposed by the EC in 2014, through the *Communication to the European Parliament and the Council: A New Framework to Strengthen the Rule of Law*¹. This communication also put forward the rationale behind this mechanism and explained how it would function. Five annual reports have been prepared and published so far. The EURoLF consists of the following components:

- The EU Rule of Law Report (EURoLR), the policy assessment instrument on rule of law;
- The EU Annual Rule of Law Cycle (EUARoLC), the EU level institutionalised process of monitoring MSs' compliance with the rule of law, including through dialogue between EU institutions and MSs; and
- The EU Network of Rule of Law (EUNRoL), the institutional setup for policy assessment at the level of member states on rule of law across the EU.

Thus, as a policy assessment instrument on rule of law under the EURoLF that is centred on a preventive approach through policy dialogue, the EURoLR serves to uphold the rule of law in the European Union (EU) as one of its core values and a foundational principle for its functioning. Given that the EC is legally the guardian of the EU legal order – consisting of treaties as EU's constitutional law and the rest of the body of the EU law (the *acquis*) – the EURoLR as an instrument supports it in the exercise of this legal mandate. As both the guardian of EU law and a neutral institutional player, the EC does so by regularly assessing the state of play on rule of law in member states (MSs) as well as by identifying noncompliance and gaps and proposing recommendations to address them. In addition, the EC has the legal power under the Treaty to apply conditionality against a MS that seriously and persistently breaches the rule of law, up to the suspension of EU membership rights.

This section discusses the EURoLR as an integral part of the EURoLF, the process of preparation of the EURoLR through the EURoLF as a setup in place, as well as its content.

¹ European Commission, *Communication from the Commission to the European Parliament and the Council: A New Framework to Strengthen the Rule of Law*, available at <https://www.legal-tools.org/doc/7f7703/pdf>.

1.1 The EU Rule of Law Report as a Policy Assessment Instrument

The EU Rule of Law Report is a policy assessment instrument through which the EC implements its function as a guardian of EU treaties and legal order. This legal order is fundamental to protecting and upholding the rule of law as one of values of the EU laid down in Article 2 of the Treaty on the European Union (TEU)². The EURoLF functions in such a way that a systemic threat to the rule of law triggers Commission infringement proceedings against a noncompliant MS. This whole setup functions in the form of dialogue with the MS concerned. This dialogue starts with the EC assessment, in the EURoLR, and is followed up by an opinion and a recommendation on the specific issue that is the subject of an infringement proceeding. This dialogue can have one of two outcomes: the issue is either successfully resolved or the EC will trigger Article 7 of the TEU. If the Article 7 procedure is triggered, the final outcome within the EURoLF *per se* could be either a preventive mechanism or a sanctioning mechanism.³ Further on beyond the EURoL, the preventive mechanism works in such a way that there is a deadline for the MS concerned to correct the issue, and if it fails to do so it would be subject to sanctioning.

Through the EURoLR the EC monitors significant developments in relation to the rule of law in MSs. In terms of the scope, it consists of four pillars: justice system; anticorruption framework; media pluralism; and other institutional issues related to checks and balances.⁴ It also provides a qualitative assessment of the state of play in each MSs, follows up on previous report's recommendations and identifies challenges that need to be addressed during the forthcoming annual cycle.⁵ Through this report the EC exercises its legal mandate noted above by monitoring, assessing and promoting compliance by MSs with the rule of law. The EURoLR is published annually since 2020, covering all member states. As of 2024 it also covers four EU accession countries of the Western Balkans: Albania, Montenegro, North Macedonia and Serbia.

² Eur-Lex, *co Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union*, Art. 2, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016ME/TXT>.

³ European Commission, *Annexes to the Communication from the Commission to the European Parliament and the Council: A New Framework to Strengthen the Rule of Law*, pg. 4, https://commission.europa.eu/document/download/f9d75869-e66f-4f44-a016-7857e8ce2593_en?filename=com_2014_158_annexes_en.pdf.

⁴ European Commission, *Rule of Law Report*, https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/annual-rule-law-cycle_en#rule-of-law-report.

⁵ European Commission, *2024 Rule of Law Report*, https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/annual-rule-law-cycle/2024-rule-law-report_en.

In its preventive function, the EURoLF⁶ serves as a crisis mechanism that can be triggered by the EC to address systemic threats in MSs. One such a threat is the violation of EU's core values. With regard to the rule of law as a core value, a systemic threat would emerge in a situation in which a member state seriously and persistently breaches it. In such a situation, the EC has the legal power to trigger Article 7 of TEU, which provides for the possibility to suspend EU membership rights if a member state reaches this level of violation of the rule of law.⁷ As such, the EURoLF is designed to effectively prevent emerging threats to the rule of law to become systemic threats to the functioning of the Union. The rule of law is, in turn, fundamental and critical for the functioning of the EU because it, among others, guarantees fundamental rights, allows the application of EU law and supports an investment-friendly business environment.⁸

The *EU Annual Rule of Law Cycle (EURoLC)* is the other component of the EURoLF that provides the process behind the EURoLR. It is a framework of policy dialogue on rule of law whose core objective is to stimulate cooperation among institutions and other stakeholders involved, and to enable them to contribute to the EURoLR in all stages in accordance with their respective roles. To this end, this cycle serves to carry out the preparatory work for the EURoLR, facilitates discussions at the EU level on it and prevents MSs' noncompliance by identifying challenges and finding solutions to safeguard and protect the rule of law. This dialogue is chiefly between the EC, the European Parliament (EP) and the Council. The EU Agency for Fundamental Rights (FRA) is also involved. Key national-level institutions involved are governments and parliaments. Civil society organisations (CSOs) and other stakeholders active on rule of law are also involved. The Council of Europe (CoE), through its own mechanisms, such as the Venice Commission, as well as networks of judicial networks, are also involved.⁹

The *EU Network of Rule of Law (EUNRoL)* contact points in MSs. EUNRoL is the setup that supports the preparation of the EURoLR, and was created in 2020, during preparations for the first EURoLR. It consists of professionals appointed by MS governments to deal with the Rule of Law Report on regular basis. These national representatives coordinate the preparation of the EURoLR at the national level. It also serves as a forum for the exchange of good practices. In the preparation of the EURoLR this network is also

⁶ European Commission, *Rule of Law Framework*, https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-framework_en.

⁷ Eur-Lex, *Consolidated Versions of the Treaty on European Union and the Treaty on the Functioning of the European Union*, Art. 7.

⁸ European Commission, *Rule of Law*, https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law_en.

⁹ European Commission, *What is the Annual Rule of Law Cycle?*, https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/annual-rule-law-cycle_en#general; *Annexes to the Communication from the Commission to the European Parliament and the Council: A New Framework to Strengthen the Rule of Law*, pg. 4.

consulted by the EC on the methodology of data collection and assessment.¹⁰ Looking at EUNRoL's current composition, most contact points come from ministries in charge of foreign and/or European affairs, while the rest come from Prime Ministers' Offices / equivalent institutions and ministries in charge of justice.¹¹ Publicly available information shows that EUNRoL meets two to five times a year, and its meetings are chaired by the EC, namely its Directorate-General (DG) covering rule of law.

The *national rule of law dialogues* is a mechanism at the national level, developed by the EC and FRA, that contributes to EURoLR. It does so by facilitating discussions at the national level among public authorities and other stakeholders on rule of law issues and on how to follow them up, based on this report. These fora in MSs are also hosted by the EC representations there and organised by them jointly with FRA, and are implemented in various formats, depending on the national context.¹²

In terms of *objectives*, the EURoLR serves several important functions:

- It *monitors* and *assesses*. Through regular monitoring, the EC and FRA are continuously kept informed and have an overview on the state of play in rule of law in all MSs, including on their adherence to the EU law and standards such as justice system's independence, anticorruption measures and protection of fundamental rights. The EURoLR also provides a comprehensive assessment of the state of play in rule of law in all MSs, including of deficiencies in this regard.
- It *guides reform efforts* at the national level. By identifying specific issues and challenges in MSs in the four pillars it covers, the EURoLR helps them to address them in their efforts to improve the situation through specific reforms. This includes supporting them in addressing challenges identified through reforming their legal and institutional frameworks.
- It *guides and supports policy actions*. Looking at it across the board and from the perspective of the EU as a whole, the EURoLR serves as a basis for informed decision-making by EU institutions. The EU institutions are thus able to shape policies at the national level by providing guidance based on common standards across the Union, overseeing compliance and addressing systemic issues concerning such standards.

¹⁰ European Commission, *Network of national contact points on the rule of law*, https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/annual-rule-law-cycle/network-national-contact-points-rule-law_en.

¹¹ European Commission, *National rule of law dialogues*, https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/annual-rule-law-cycle/national-rule-law-dialogues_en.

¹² European Commission, *2024 Rule of Law Report*.

- It *supports consistent application of EU standards*. By assessing the compliance of all MSs with EU rule of law standards at the same time, as well as through a uniform methodology and the supporting mechanisms in place, the EURoLR promotes consistent application of the EU and national law in the four areas of rule of law. It thus contributes to the maintenance of the same standards across the Union, which is essential for its proper functioning by upholding the rule of law and protecting democratic values.
- It *supports conditionality and enforcement*. As an official mechanism for EU-level institutions to assess and oversee MS's compliance with EU rule of law standards, the EURoLR also serves as a basis for application of EU conditionality post-accession. This is done by supporting decision-making related to funding and conditionality for member states. In other words, if the report finds that a MS faces serious rule of law issues, the EC uses it as a leverage to improve a certain MS's compliance with such standards by conditioning the release of funds or other benefits with progress in addressing such issues. Seen on a positive light, this financial leverage serves MSs as a financial incentive to improve compliance with such standards.
- It *promotes dialogue*: The EURoLR does so by facilitating policy dialogue on rule of law between EU institutions and MSs, on the one hand, and among stakeholders within MSs (at the national level), on the other. It thus fosters constructive cooperation and engagement to tackle rule of law issues identified and solve related problems.
- It *promotes accountability and transparency*. As a public report assessing the level of their adherence to EU rule of law standards, the EURoLR contributes to increasing accountability of MSs' governments and other public institutions on reforms to maintain a high level of adherence. This is achieved through transparency, by enabling civil society, media, other stakeholders and the general public to stay informed on the state of rule of law in the country, and thus also supporting informed public discourse at the national level on this.
- It *promotes best practices*. By showcasing examples of compliance by MSs with EU rule of law standards, the EURoLR promotes best practices and successful reforms by MSs with a high level of compliance. This, in turn, allow EU institutions to promote such practices to guide MSs with poorer track record to implement similar reforms to improve compliance with such standards.

1.2 EU Rule of Law Report – Structure and Content

In terms of its scope, the EU Rule of Law Report covers the justice system, anticorruption policy, media freedom, and institutional issues related to checks and balances. In terms of its content, it essentially has two dimensions: state of play and recommendations. It contains four sections, published as separate documents. It starts with a *Communication* summarizing the state of play on rule of law in the EU as a whole. The second section summarizes recommendations for each MS. The third section, titled *Country Chapter Abstracts and Recommendations*, summarizes the state of play and recommendations on each MS. The final section, the *Country Chapter* (as separate documents on each country covered) provides a detailed assessment of the state of play in the respective country. It also elaborates findings, namely gaps and challenges, and recommendations to address them.¹³

Looking at the 2024 EURoLR, the *Communication* consists of three sections. It starts with an introduction discussing the background, justification, as well as the importance and the focus of the specific report. In the second section it presents in more details the objectives of the report in the context of developments in the EU, as well as the process of its preparation. The final section focuses on the main developments in rule of law at the national level, summarizing the main findings in a ‘horizontal’ fashion, namely discussing thematic issues under each of the four pillars across MSs.¹⁴

For instance, the introduction to the 2024 EURoLR refers to TFEU Article 2 as the legal basis and rationale for the report, the importance of upholding the rule of law as a core EU value, and public support for it. It treats the rule of law as the foundation of EU’s work to foster peace, prosperity, competitiveness and stability inside and beyond it. It also underlines the rationale for the inclusion in it, for the first time, of four WB countries, namely to “support reform efforts to achieve irreversible progress on democracy and the rule of law ahead of accession, and to guarantee that high standards will continue after accession.”¹⁵

The second section discusses the latest EURoLR, published in July 2024, from the perspective of benefits of upholding the rule of law for citizens and businesses. It

¹³ European Commission, *2024 Rule of Law Report – Communication and Country Chapters*, https://commission.europa.eu/publications/2024-rule-law-report-communication-and-country-chapters_en.

¹⁴ European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: 2024 Rule of Law Report – The Rule of Law Situation in the European Union*, https://commission.europa.eu/document/download/27db4143-58b4-4b61-a021-a215940e19d0_en?filename=1_1_58120_communication_rol_en.pdf.

¹⁵ *Ibid*, pg. 1.

focuses on five objectives: four internal to the EU and one external to it. The internal ones are the following: (1) EURoLR as central to the EU rule of law architecture; (2) dialogue and follow-up to the EURoLR at national and EU level; (3) support for rule of law reforms; and EU's increased capacity to respond to rule of law problem. The external element is the rule of law as a core of EU enlargement and engagement with EU's external partners.¹⁶

The EC has made the EURoLR *a central instrument of the EU rule of law architecture* in 2019 when the previous College took office. The goal set is upholding rule of law through a preventive approach. This is sought to be achieved by identifying challenges and risks to rule of law, developing possible solutions, in the form of (recommendations) and providing targeted support at an early stage.

Dialogue and follow-up to the EURoLR is both an objective of the EURoLF and the process of preparation of this report. This is implemented through the policy dialogue framework that includes the EUNRoL. The dialogue – the living joint exercise of institutionalized exchange between the EC and MSs – also serves to help implementation of reforms put forward in the EURoLR as recommendations. EUNRoL serves as the main team of experts that provides data from MSs as required by the policy assessment methodology. This setup is supported by the EP and CSOs and stakeholders from MSs as active contributors through recommendations and fostering public discussions on the report.

Increased support to respond to rule of law problems is discussed in the sense of the importance of rule of law for the functioning of the EU single market and a healthy business environment for it has a direct bearing on investments, jobs and growth. For the EU as a whole it is also critical for sustainable public finances and effective structural reforms. That is why rule of law reforms are also part of the European Semester (the annual exercise of MSs aligning their budgetary and economic policies with objectives and rule agreed at the EU level) and national recovery and resilience plans (RRPs) (MSs' medium-term structural reform policy frameworks, covering 2021-2026, aiming to accelerate growth through support by grants and loans from the EU budget as rewards for implementation of reforms).

EU's increased capacity to respond to rule of law problems is discussed in the sense of enforcement mechanisms it has put in place to safeguard rule of law. There are four of them: infringement procedures, the general regime of conditionality (GRC), the

¹⁶ Ibid, pp. 2-9.

horizontal enabling condition (HEC), and the 'Article 7(1) procedure'. Infringement procedures allow the EC to safeguard the rule of law by raising breaches in MSs to the Court of Justice (CJEU). GRC is the mechanism of protecting sound financial management of the EU budget and EU financial interests from breaching the principle of rule of law. HEC is the conditionality mechanism requiring MSs to comply with the EU Charter of Fundamental Rights in order to benefit from programmes funded by the EU budget. The 'Article 7(1) procedure' is the mechanism that may be triggered by the EC against a MS that seriously and persistently breaches the rule of law and that might even lead to suspension of its EU membership rights. Additionally, the Recovery and Resilience Facility (RRF) allows the EC to suspend funding for reforms in cases of noncompliance with rule of law, and even for reversing reforms that have previously been assessed as implemented and thus blocking all future payments until the violation is reversed.

On the other hand, *rule of law as a core of EU enlargement and engagement* means that the EU seeks to positively pressurize WB6 and other accession countries to implement rule of law reforms, which are part of *Cluster 1* of membership negotiations, on *Fundamentals*. It also utilizes this to incentivise accession countries to implement reforms by conditioning this with progress in their membership negotiations and access to EU funds. An additional incentive, for now only for Albania, Montenegro, North Macedonia and Serbia, is their inclusion into the EURoLR itself.

The third section of the EURoLR¹⁷ summarizes findings in MSs in the four areas and subareas covered, structured as follows:

- *Justice System*: perception of judicial independence; councils and procedures for the appointment and dismissal of judges; autonomy and independence of the prosecution service; disciplinary procedures for judges and prosecutors; quality and efficiency of justice; and access to justice;
- *Anticorruption Framework*: corruption perception; anticorruption strategies and their implementation; strengthening institutional capacities and the legal framework to combat corruption; investigation and prosecution of corruption and track record on high level corruption; fighting corruption as an enabler of organised crime; public sector integrity and prevention of conflict of interest; lobbying; asset and interest disclosure; protection of whistleblowers; and corruption risks;

¹⁷ Ibid, pp. 10-36.

- *Media Pluralism and Media Freedom*: independence of media regulators; media ownership; safeguarding media from political interference and undue pressure; access to information; and safety and protection of journalists; and
- *Other institutional issues related to checks and balances*: inclusiveness, quality and transparency of the law-making processes; constitutional reforms and debates impacting on institutional checks and balances; supreme and constitutional courts' checks and balances; ombudspersons, human rights institutions, equality bodies and other independent authorities; enforcement of judgments by the European Court of Human Rights (ECHR) and national courts; civil society organisations as rule of law actors; national checks and balances in the use of intrusive surveillance software ("spyware"); safeguards in addressing foreign influence; and fostering a rule of law culture.

Looking at *country chapters* of the 2024 EURoLR, in the area of *justice system* it focuses on independence of this system, quality and efficiency of justice. In the area of *anticorruption framework*, it focuses on various aspects related to the two pillars: prevention and repression. Aspects of corruption perception, strengthening of the legal framework and institutional capacities and implementation of national anti-corruption strategies fall under both pillars. Aspects of integrity in the public sector, "revolving doors", transparent lobbying, political party financing, protection of whistleblowers and areas at high risk of corruption fall under the pillar of prevention. Aspects of investigation, prosecution and conviction, strengthening track record in fighting high-level corruption, and fighting corruption as an enabler of organized crime belong to the pillar of repression of corruption.¹⁸

In the area of *media pluralism and media freedom*, it focuses on independence of media regulators, media ownership transparency, transparency of state advertising in media, functioning of public broadcasters, access to public documents, protection of journalists, and strategic lawsuits against public participation (SLAPPs) targeting journalists. In the area of *other institutional issues related to checks and balances*, it focuses on public consultations, enforcement of ECHR judgments, implementation of recommendations of ombudspersons, and an enabling environment for civil society.¹⁹

Looking at recommendations in the 2024 EURoLR, it presents the progress in addressing those of the previous year's report and then outlines those for the forthcoming year. The progress made is assessed using the following scales: no progress, some progress,

¹⁸ European Commission, 2024 *Rule of Law Report – Communication and Country Chapters*.

¹⁹ Ibid.

significant progress and full implementation. Intermediate scales such as ‘no further progress’ and ‘some further progress’ are also used.²⁰

The process of preparation of the EUoLR seeks to make sure that the report reflects the factual situation on the ground in the target countries and that it provides a qualitative assessment of their performance vis-à-vis EU law and standards. According to the methodology²¹ (updated in 2022):

- In *principle*, the monitoring approach is based on comparable information, relevant sources and on an open dialogue with MSs’.
- Key *sources* include written contributions received from MSs and during the targeted stakeholder consultation, as well as information produced by international organisations or received from national authorities and stakeholders during country visits;
- In terms of *scope*, the assessment is based on the following standardized structure:
 - *Justice system*: independence, quality and efficiency;
 - *Anticorruption framework*: institutional framework, prevention and repressive measures;
 - *Media pluralism and media freedom*: media regulators, transparency of media ownership and governmental interference, and framework for the protection of journalists; and
 - *Other institutional issues related to checks and balances*: the process for preparation and enactment of laws, independent authorities, administrative decisions’ accessibility and judicial review, and enabling framework for civil society;
- Key EU *standards* against which MSs’ performance is assessed included the following:
 - Relevant obligations under EU law, including secondary legislation, and CJEU case law;
 - Case law of the European Court of Human Rights; and
 - Council of Europe standards issued through various committees (including a list provided in the Venice Commission’s Rule of Law Checklist²²).
- Countries are *assessed* by taking into account significant developments, focusing on positive and negative developments and good practices, providing a qualitative

²⁰ European Commission, *Annex to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: 2024 Rule of Law Report – The Rule of Law Situation in the European Union*, https://commission.europa.eu/document/download/40dof293-3047-4242-8c08-5101b8c0ff7_en?filename=4_1_58125_comm_recomm_en.pdf.

²¹ European Commission, *European Rule of Law Mechanism: Methodology for the Preparation of the Annual Rule of Law Report*, https://commission.europa.eu/document/download/e80a08e9-a5cd-4100-833d-f87548004226_en?filename=2024%20Rule%20of%20Law%20Report%20-%20methodology.pdf.

²² Council of Europe, *Venice Commission Rule of Law Checklist*, https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule_of_Law_Check_List.pdf.

assessment of MSs based on full equality between them and proportionality of the situation in them, as well as by being based on close dialogue and on information from all key sources.

- *Recommendations* are guided by the following criteria, i.e. they are: country specific and based on equality of MSs and proportionality; based on in-depth assessment and on objective criteria grounded on EU law or EU and international standards; proportionate to challenges identified and encourage positive reform efforts; specific as to allow concrete and actionable follow-up in specific legal and institutional contexts in MSs; attentive to ensuring consistency and synergies with other processes; and subsequent editions integrate the follow-up to recommendations.
- *MSs are involved* in various forms, namely through the EUNRoL, written contributions, dialogue and country visits.
- *Other stakeholders are involved* through written contributions and country visits, while the CoE also assigns a contact person to facilitate cooperation with its bodies;
- The EC ensures close *coordination* with the Council and the EP;
- The EC shares the *timeline* of the process with EUNRoL (in autumn) and updates them regularly.

2. Inclusion of WB6 Countries into the European Union Rule of Law Report: State of Play

In the latest round the EURoLR has been expanded to also cover four countries of the Western Balkans: Albania²³, Montenegro²⁴, North Macedonia²⁵ and Serbia²⁶. As candidate countries formally in the phase of EU membership negotiations, they are not fully fledged members of the EU Rule of Law Framework, differing from MSs in three main

²³ European Commission, 2024 *Rule of Law Report: Country Chapter on the Rule of Law Situation in Albania*, https://commission.europa.eu/document/download/0154dce1-5026-45de-8b37-e3d56eff7925_en?filename=59_1_58088_coun_chap_albania_al.pdf.

²⁴ European Commission, 2024 *Rule of Law Report: Country Chapter on the Rule of Law Situation in Montenegro*, https://commission.europa.eu/document/download/6e3ff77c-4a53-4e92-a030-9ea4cca3045c_en?filename=60_1_58089_coun_chap_montenegro_mn.pdf.

²⁵ European Commission, 2024 *Rule of Law Report: Country Chapter on the Rule of Law Situation in North Macedonia*, https://commission.europa.eu/document/download/e7197a43-7f00-4eac-b02d-818ac71345fo_en?filename=61_1_58090_coun_chap_northmacedonia_nm.pdf.

²⁶ European Commission, 2024 *Rule of Law Report: Country Chapter on the Rule of Law Situation in Serbia*, https://commission.europa.eu/document/download/862952fa-6e79-44c4-b629-174a441e3d2e_en?filename=62_1_58091_coun_chap_serbia_sb.pdf.

respects. First, they are not subject to the same conditionality that MSs are bound to be subject to pursuant to the TEU, such as the Article 7 procedure. Second, they are not yet part of the EUARoLC, because the list of rule of law contact points does not include them²⁷. Third, EURoLR chapters on these countries do not contain recommendations.

On the occasion of the publication of the latest EURoLR, in July 2024, the EC stated that they are included for the purpose of supporting their reform efforts to achieve irreversible progress on democracy and the rule of law prior to their accession to the EU, as well as to guarantee that high rule of law standards therein are maintained after accession.²⁸ It further states that through this the EC seeks to complement its work under the enlargement process, and that this approach will enable the extension of this mechanism to other enlargement in the future.²⁹

This shows that the EC decided to include only these four in this mechanism instead of all of them (WB6) not based on specific qualifications concerning their progress or pace of reforms, but simply on them having formally opened EU membership negotiations. In other words, the decision to include only these four countries shows EU's political commitment to promote and support membership negotiations with them based on the new accelerated accession methodology formally introduced by the EC in 2020.³⁰ This also shows that there are no specific formal requirements for accession countries to become part of this mechanism designed to safeguard the rule of law as an EU value and foundational principle.

The inclusion accession countries in this important instrument is a step in the right direction towards accelerating their reform processes by broadening access to EU's expertise and best practice. This also promotes their alignment with EU rule of law standards through close and direct institutional learning with MSs. In the long run, this also helps the EU incentivise them to implement rule of law reforms in the *Fundamentals* cluster. Given the importance of this cluster (the first to be opened and the last to be closed in the membership negotiations), their access to this EU mechanism is useful to keep them engaged with EU MSs in an institutional learning process. This also makes it

²⁷ European Commission, *Network of national contact points on the rule of law – membership*, https://commission.europa.eu/document/download/de58afe3-3c3d-45ad-aeed-941e08d719d9_en?filename=Network%20of%20rule%20of%20law%20contact%20points%20-%20membership.pdf.

²⁸ European Commission, *2024 Rule of Law Report*.

²⁹ European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: 2024 Rule of Law Report – The Rule of Law Situation in the European Union*, pg. 8.

³⁰ European Commission, *Communication – Enhancing the accession process - A credible EU perspective for the Western Balkans*, https://enlargement.ec.europa.eu/document/download/ef0547a9-c063-4225-b1b4-93ff9027doco_en?filename=enlargement-methodology_en.pdf.

easier for them to implement EU standards based on models from MSs, and to pick the model that works best for their specific context.

Moreover, underlining the rule of law as a core of EU enlargement means that the EU seeks to support WB6 to implement rule of law reforms to meet EU standards by conditioning this with progress in their membership negotiations and access to its funds. The latter is reinforced through the newly-created EU Reform and Growth Facility for the Western Balkans (RGF), modelled on the EU Recovery and Resilience Facility (RRF), under implementation by MSs until the end of 2026 through Recovery and Resilience Plans (RRPs). RGF is being implemented by WB countries through their Reform Agendas (RAs), covering 2024-2027/2028. Through RGF the EU has conditioned their access to significant amounts of its funds with implementation of specific RoL reforms. Earning more EU funds by implementing reforms is a stronger incentive for WB6 to pursue them, while an additional incentive, for now only granted to four of them, is their inclusion into the EURoLR itself.

Albania has committed to implementing 16 reforms in EURoLR areas: 8 on judiciary, 3 on anticorruption policy and 5 on freedom of expression³¹. Bosnia and Herzegovina has not yet managed to adopt its RA due to internal disagreements over reforms required by the EU under RGF. Kosovo has committed to implementing 10 reforms in EURoLR areas: 5 on judiciary and 5 on anticorruption policy³². Montenegro has committed to implementing 7 reforms in EURoLR areas: 3 on judiciary and 4 on anticorruption policy³³. North Macedonia has committed to implementing 18 reforms in EURoLR areas: 13 on judiciary and 5 on anticorruption policy³⁴. Serbia has committed to implementing 8 reforms in EURoLR areas: 2 on judiciary, 4 on anticorruption policy and 2 on freedom of expression³⁵.

However, the exclusion of Bosnia and Herzegovina and Kosovo from EURoLR solely on grounds of them not yet having formally opened EU accession negotiations somewhat

³¹ Fletorja Zyrtare e Republikës së Shqipërisë, *Dokumenti i Politikës "Agjenda Kombëtare e Reformës 2024-2027"*, pp. 21636-21638, <https://www.drejtësia.gov.al/wp-content/uploads/2024/11/Dokument-Politik-Agjenda-Kombetare-e-Reformave-2024-2027.pdf>.

³² Government of the Republic of Kosovo – Office of the Prime Minister, *EU Reform and Growth Facility for the Western Balkans – Reform Agenda of Kosovo*, pp.132-133, <https://kryeministri.rks-gov.net/wp-content/uploads/2024/10/RGF-Kosovo-Reform-Agenda.pdf>.

³³ Vlada Crne Gore – Ministarstvo evropskih poslova, *Reformska agenda Crne Gore 2024-2027 za Instrument EU za reforme i rast*, pg. 275, <https://wapi.gov.me/download-preview/2cc3baao-65d6-4d97-a25c-fa171aa559b3?version=1.0>.

³⁴ Government of the Republic of North Macedonia – Ministry of European Affairs, *Reform Agenda of North Macedonia 2024-2027 – Annex 1*, pp. 53-61, https://mep.gov.mk/data/MK%20RA%20-%20Annex%201_EN.pdf.

³⁵ Government of the Republic of Serbia – Ministry of European Integration, *EU Reform and Growth Facility for the Western Balkans – Reform Agenda of Serbia, Annex 1*, https://www.mei.gov.rs/upload/documents/nacionalna_dokumenta/adopted_reform_agenda_narrative_-_republic_of_serbia.pdf.

contradicts the very premise of the accelerated EU accession methodology. This is because the methodology to treat all accession countries equally and on basis of merits rather than solely based on their formal status. In addition, this formalistic distinction precludes the application of both positive and negative conditionality by the EU at the same time, on the basis of merits. By excluding accession countries because of having not yet received a formal status that requires a political decision not entirely dependent on them, the EU ends up applying negative conditionality only, on political grounds rather than on merits. Given that a decision to open membership negotiations with an accession country is a political one requiring unanimity of MSs, this turnaround of the logic of incentives is detrimental to achieving EU rule of law standards, because they are fundamental to sustainable reforms in other areas.

Thirdly, accelerated accession means supporting accession countries to implement EU-bound reforms in a faster pace by, among others, granting them all more opportunities to engage with the EU institutions and member, with a view to promoting institutional learning. However, discriminating two countries from the rest in effect means that the EU is actively contributing to accelerating reform processes for some accession countries and to decelerating them for others. Fourthly, by excluding some countries from the EURoLF as a mechanism to promote reforms, the EU is not utilising a leverage over them, thus contributing to the perception in the societies in discriminated countries that it prefers to impose reforms upon them rather than to persuade them, through merit-based incentives, that they are for their benefit.

To help illustrate the content of the 2024 EURoLR on the WB6 countries included for the first time, the remainder of this chapter discusses key findings in a comparative fashion. In the area of the *justice system* (Table 1), the EURoLR has found little progress compared to other areas. It notes more progress in Serbia (though it mentions activities rather results of reforms) and Albania, and less in North Macedonia and Montenegro. It focuses on legal reforms to strengthen independence and accountability of justice systems, as well as on institutional reforms and capacity-building, including digitalisation. Key challenges include political interference, functioning of management bodies and appointments in such bodies, as well as lengthy proceedings and a slow pace of digitalisation.

TABLE 1. FINDINGS OF THE 2024 EUROLR FOR ENLARGEMENT COUNTRIES IN THE AREA OF THE JUSTICE SYSTEM

Albania	Montenegro	North Macedonia	Serbia
Progress			
Strengthened accountability thanks to vetting of all judges and prosecutors	The legal framework guaranteeing judiciary's independence and impartiality revised	/	Constitutional reform to strengthen judicial independence being followed up, including through the new appeal procedure to the Constitutional Court concerning judicial appointments. Laws on the Public Prosecution Office and the High Prosecutorial Council allow prosecutors to file complaints against mandatory instructions.
A comprehensive legal framework in place for legal aid and increased number of beneficiaries	/	Codes of ethics are in place for both prosecutors and judges	The High Judicial Council and the High Prosecutorial Council in their new composition established. A Strategy on Human Resources in the Judiciary being implemented.
Steps in the digitalisation of case management	/	Steps in the digitalisation of case management	Steps in the digitalisation of case management

/	/	/	A positive trend in reducing the length of cases
Challenges			
Serious concerns about attempted interference and pressure on the judicial system by public officials or politicians	/	Serious concerns about attempted interference and pressure on the judicial system by public officials or politicians	Serious concerns about attempted interference and pressure on the judicial system by public officials or politicians
Shortcomings in appointment of High Judicial Council's and High Prosecutorial Council's non-magistrate members. Overall shortages of resources justice system risk negatively affecting the quality of justice.	Significant delays in judicial appointments have had serious impacts on the judicial system.	Concerns regarding the functioning and independence of the Judicial Council. Appointment decisions for public prosecutors and judges criticised by civil society as lacking explanation and clear criteria. Low attractiveness of judicial careers not addressed by amendments to the laws on salaries of judges and prosecutors.	Considerable number of vacancies for judges and prosecutors remains to be filled. Low attractiveness of judicial careers poses a challenge.
Shortcomings in the digitalisation of case management	/	Shortcomings in the digitalisation of case management	Shortcomings in the digitalisation of case management
Length of proceedings for different kinds of cases	/	Length of proceedings for different kinds of cases	/

On the *anticorruption framework* (Table 2), the countries are more comparable than on justice systems both in terms of progress and challenges. While there are more challenges than progress in all of them, there is both progress and challenges on three aspects: legal and policy frameworks, prevention mechanisms and track record of investigation and prosecution of corruption.

TABLE 2. FINDINGS OF THE 2024 EURoLR FOR ENLARGEMENT COUNTRIES IN THE AREA OF THE ANTICORRUPTION FRAMEWORK

Albania	Montenegro	North Macedonia	Serbia
<i>Progress</i>			
The anticorruption strategy being implemented. Working arrangements with EPPO concluded.	The anticorruption strategy adopted. Working arrangements with EPPO concluded.	Slow implementation of the anticorruption strategy. Working arrangements with EPPO concluded.	The anticorruption strategy being finalized
A relatively broad range of officials covered by asset declaration rules	Numerous institutions have specific codes of conduct. New legislation on lobbying adopted. Legal provisions on protection of whistleblowers have amended to align with the EU acquis	Legal framework and lobbying registers in place	A relatively broad range of officials covered by asset declaration rules
Increasing number of persons investigated, prosecuted and convicted for corruption	Stable track record of investigations and prosecutions in cases of high-level corruption	/	Increased number of final convictions in high-level corruption cases
<i>Challenges</i>			
Limited attention to high-risk sectors in the	/	Slow implementation of the measures in the	Working arrangements with

anticorruption strategy	anti-corruption strategy points to lack of political commitment	EPPO not yet concluded	
Rules on conflict of interest for public officials are incomplete and not aligned with European standards. Asset declaration: shortcomings in effective verification and enforcement. Corruption risk sectors – an overly complex legal framework is an obstacle to progress	Lack of trials and final decisions in cases of high-level corruption contributes to a perception of impunity. Ineffective Government’s Code of Conduct, and pending adoption of a law with disciplinary penalties	A weak system for violations of the rules on conflicts of interest. Updating the law on protection of whistleblowers.	Asset declaration: shortcomings in effective verification and enforcement. Corruption risk sectors – several exemptions from the public procurement law, not in line with EU acquis, are widely used to circumvent the application of the existing procurement rules.
A recent amnesty law raises concerns over investigation, prosecution and conviction of corruption	Shortfalls for specialised anti-corruption prosecution services to combat corruption; Lack of trials and final decisions contributes to a perception of impunity	Recent criminal code amendments weakened the legal framework, negatively affecting the prosecution of corruption, especially in high-level corruption-cases. There are no registered lobbyists yet. Resource constraints and a lack of cooperation between national authorities hamper the effective	Further improvements are needed to establish a solid track record on investigations, indictments and final convictions. Shortfalls for specialised anti-corruption prosecution services to combat corruption.

prosecution of corruption and hinder the establishment of a robust track-record of high-level corruption cases

In the area of *media freedom* (Table 3) differences between these four countries are more pronounced. There was progress in legal frameworks on media freedom in all but Serbia. On the other hand, key challenges concern functioning of media regulators, transparency of the media environment (particularly regarding public service media and advertisements) and limitation by public institutions of journalists' access to public information.

TABLE 3. FINDINGS OF THE 2024 EUROLR FOR ENLARGEMENT COUNTRIES IN THE AREA OF MEDIA PLURALISM AND MEDIA FREEDOM

Albania	Montenegro	North Macedonia	Serbia
Progress			
The legal framework regulating the governance of public service media is in place	The legal framework gives the media regulator comprehensive sanctioning instruments, including the power to impose fines in case of violations. The new Law on Audiovisual Media Services obliges providers of audiovisual services to provide ownership information to the media regulator. Recent legal reform	The legal framework regulating the governance of public service media is in place. Print and broadcast media must disclose ownership information to the audiovisual media regulatory body, and self-regulation governs the ownership registry for digital national media. Legislative amendments provide for harsher	/

	of public service media is expected to bring positive developments both in terms of governance and funding. Legislative amendments provide for harsher penalties in case of violent acts or intimidation against journalists.	penalties in case of violent acts or intimidation against journalists. Legislative amendments that restricting the margin to initiate SLAPP cases against media organisations and journalists and decrease the fines applied in cases of defamation introduced.	
Challenges			
Questions due to the political affiliation and perceived conflicts of interest of the media regulator	/	/	The media regulator fails to fully exercise its mandate to safeguard media pluralism and professional standards. Serious concerns about the independence of the media regulator.
Lack of a transparent distribution system for state advertising. Limited transparency of media ownership.	Information on all public sector payments made to media outlets, including institutional advertising, is limited	Certain elements of a new law covering state-funded advertising have raised concerns among stakeholders. Unstable funding of public service media.	Measures to increase media ownership transparency not yet fully implemented.
<i>I</i>	Journalists face frequent refusals by	/	Journalists face frequent refusals by

	public bodies to release information		public bodies to release information
The public service media is not protected from politicisation	/	The public service media is not protected from politicisation	Concerns of political and economic influence on the media. Issues of editorial autonomy and pluralism of public service media

Finally, on *institutional issues linked to checks and balances* (Table 4), there are also more pronounced differences between countries along the same lines as in the area of media freedom. Key progress noted concerns functioning of independent institutions such as constitutional courts and ombudsperson institution and inclusiveness of legislative and policy-making processes. Similarly, main challenges concern law-making processes, functioning of independent institutions in line with the principle of balance, as well as the environment for the function of civil society and its inclusion in policy-making.

TABLE 4. FINDINGS OF THE 2024 EURoLR FOR ENLARGEMENT COUNTRIES IN THE AREA OF OTHER INSTITUTIONAL ISSUES LINKED TO CHECKS AND BALANCES

Albania	Montenegro	North Macedonia	Serbia
Progress			
The Constitutional Court is effective in upholding institutional checks and balances	The Ombudsperson's Office has improved its capacity to handle complaints and improve decision quality	/	/
/	An established framework for an inclusive legislative process	A national electronic consultation system for public consultations in place. CSOs operate in an overall enabling environment.	/
Challenges			

Deep political polarisation has a negative impact on the legislative process	Absence of systematic follow-up to Ombudsperson's recommendations undermines the efficiency of its work	Deep political polarisation has a negative impact on the legislative process, has caused delays in its work and led to the excessive and sometimes inappropriate use of accelerated legislative procedures	/
The Parliament has failed to comply with some Constitutional Court rulings	/	/	Parliament's ability to provide checks and balances is constrained by issues of effectiveness, autonomy and transparency needs further strengthening. Several vacancies at the Constitutional Court. No systematic follow-up on recommendations of independent bodies.
/	Challenges concerning inadequate public consultation	Not all draft laws are published on the national electronic consultation platform. Challenges to ensure sustainable	The public consultation process needs further strengthening. Lack of an enabling environment for establishment,

engagement of CSOs in policymaking	operations and financing of CSOs. Smear campaigns against several CSOs.
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One way to analyse the relevance of the EURoLR for WB6 countries as a monitoring instrument in the context of their accession-aimed reforms and its usefulness for them to implement respective reforms is to compare it with the EC annual Country Report (CR) as a key monitoring mechanism that assesses implementation of such reforms by them. As Table 5 below illustrates, the two can be compared in three main aspects: purpose and legal basis, scope and structure, and content. In terms of *purpose and basis*, the EURoLR is a post-accession mechanism and CR is a pre-accession one. The former seeks to ensure compliance by MSs with the rule of law as one of EU's constitutional principles and foundational political values. The latter seeks to incentivise accession countries' reforms for membership as a joint political commitment. In other words, EURoLR has both political and constitutional and legal basis in the EU treaties and law and is driven by legal conditionality of an internal actor. CR has only political basis and is driven by political conditionality of an external actor.

In terms of the *content and structure*, the area of rule of law is much narrower in the EURoLR than in CR. The former encompasses three policy areas and a crosscutting policy issue, while the latter nine policy areas that fall in two negotiation/acquis chapters (chapter 23, on judiciary and fundamental rights, and chapter 24, on justice, freedom and security). Moreover, EURoLR has a much simpler structure than CR: while it assesses a member state on a certain issue only either or not in compliance with the EU acquis and standards, CRs are structurally open-ended and assess an accession country's the progress along two sets of scales (*vis-à-vis* full compliance with the EU acquis and standards required upon membership and *vis-à-vis* the progress made during the annual reporting period covered). These two mechanism also differ because of the level of development of legal, policy and institutional frameworks of the countries assessed. In this regard, the EURoLR is much more thorough than the CR in assessing developments and challenges facing the country assessed, which are then reflected in the list of recommendations.

This is because of two other differences between these mechanisms: clarity of benchmarks and strength of conditionality. Benchmarks are much clearer in the EURoL than in CRs, because they are based on the EU acquis and standards that are binding for MSs, while those for accession countries are based on scales of assessment of progress

of reforms towards EU membership and the pace of such reforms during the annual reporting period. Conditionality is also stronger in EURoLR, with costs of noncompliance for MSs ranging from loss of significant amounts of EU funds (especially for more recent ones that are to receive more to catch up with the level of development of older ones) up to the suspension of voting rights in EU decision-making. CRs carry much weaker conditionality (mainly because the accession process remains protracted and without clear timeframes), with much less costs for slow pace of reforms or backtracking on them. Such costs mainly in the form of political criticism and very little to no costs for EU funds they are to receive to implement precisely those reforms they demonstrate resistance to. Other differences between these two mechanisms have to do with the effectiveness of shared institutional frameworks, public and political attention inside the countries assessed, depth of screening and recommendations, the way how findings are presented, as well as with the structure of the respective reports.

TABLE 5. COMPARISON BETWEEN THE EU RULE OF LAW REPORT AND COUNTRY REPORTS ON WB6

EU Rule of Law Report	EC Country Reports (WB6)
<i>Purpose and legal/political basis</i>	
Post-accession monitoring aimed at ensuring MSs' compliance with one of EU constitutional principles and foundational values – the rule of law.	Pre-accession monitoring aimed at implementing reforms in accession countries to prepare them for membership through accession conditionality.
A firm constitutional and legal basis – EU treaties (TEU, TFEU) and the acquis.	No specific constitutional or legal basis, but only political commitment to the EU accession process.
<i>Content and structure</i>	
A narrower scope – three policy areas (justice system, anti-corruption framework and media pluralism); and one cross-cutting policy issue (institutional issues linked to checks and balances).	A wider scope – nine policy areas: (1) justice system; (2) anti-corruption policy; (3) fundamental rights (incl. freedom of expression); (4) border management; (5) fight against organized crime (narcotics, money laundering and financial crime, terrorism); (6) judicial cooperation in civil and criminal matters; (7) migration and asylum; (8) visa policy (incl. Schengen external borders); (9) Euro counterfeiting.
One scale of assessment of the state of play – treaties, the acquis and European standards.	Two sets of scales of assessment of the state of play: 1) Five scales on the progress made vis-à-vis membership – early stage, some level of preparation, moderately prepared, good level of preparation, or well advanced; 2) Six scales on the progress made within the year – backsliding, no progress, limited progress, some progress, good progress, or very good progress.
MSs have well-developed legal, policy and institutional frameworks and have achieved a European standards.	Accession countries have legal, policy and institutional frameworks that are in various stages of development, and have not yet achieved European standards.

<p>Clear benchmarks against which MSs is assessed, based on the treaties and the acquis.</p>	<p>A less clear framework and standards that accession countries aim to achieve annually, also due to lack of a timeframe for accession.</p>
<p>Stronger and more effective conditionality – reduction of significant amounts of EU funds; up to suspension of voting rights in EU decision-making.</p>	<p>Weaker and less effective conditionality – reduction of insignificant amounts of EU funds; political criticism; delays in reform dialogue/membership negotiations.</p>
<p>More effective institutional mechanism – the Annual Rule of Law Cycle, an official EU institutional mechanism designed to ensure MSs’ compliance with the treaties and the acquis.</p>	<p>Less effective institutional mechanisms – joint SAA and/or negotiation structures steering reforms in accession countries, based on political commitment.</p>
<p>It receives more attention by stakeholders and publics in MSs, because of the narrower scope, thus recommendations are addressed more swiftly.</p>	<p>RoL, as part of CRs, receives less attention by stakeholders and publics in accession countries, because of CRs’ wider scope, thus recommendations are addressed more slowly.</p>
<p>A much more accurate and thorough screening of the state of play in rule of law in MSs.</p>	<p>A less accurate and more general screening of the state of play on rule of law in accession countries.</p>
<p>More specific and better targeted recommendations for MSs to address non-compliance points/issues identified.</p>	<p>More general and more vague recommendations for accession countries to address challenges/problems identified.</p>
<p>A more transparent presentation of findings – each country chapter contains sources of information (footnotes and endnotes) and stakeholders involved in the assessment.</p>	<p>A less transparent presentation of findings – no source of information is quoted.</p>
<p>Report structure:</p> <ul style="list-style-type: none"> • Summary – a snapshot of developments and challenges in policy subareas and specific themes within the policy area in all the countries assessed; • Country chapters: <ul style="list-style-type: none"> ○ Abstract/summary; 	<p>Report structure:</p> <ul style="list-style-type: none"> • Summary – a snapshot of the state of play, indicating the stage of progress towards accession and the pace of implementation of reforms during the annual reporting period; • Recommendations;

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- **Recommendations;**
 - **Detailed assessment of the state of play in policy subareas and specific themes, discussing key developments and challenges in the country.**
 - Detailed assessment of the state of play in policy areas and subareas within the chapter, discussing progress and challenges of reforms at levels of legislation, policies, institutions and implementation.
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Lastly, Table 6 below provides a comparison between EC assessments of these four WB countries in the latest CRs, in negotiation chapters relevant to the EURoLR areas, focusing on the level of preparedness and on the progress achieved during the annual period covered. It shows that overall most of them have achieved the scale of ‘some to moderate level of preparation’ in most areas. In other words, most of them in most areas are halfway through towards meeting European standards in these chapters. Some level of preparation is found in one-fourth of cases, whereas there is a good level of preparation only for one country in one chapter. On the other hand, the picture is more pessimistic if one looks at the pace of reforms until mid-2024, because scales “good progress” and “very good progress” are only found in one-fourth of cases, while in two-thirds of cases there was either some, limited or no progress.

TABLE 6. STATE OF PLAY IN EURoLR AREAS IN FOUR WB COUNTRIES ACCORDING TO THE EC 2024 COUNTRY REPORTS³⁶

Albania	Montenegro	North Macedonia	Serbia
<i>Justice System</i>			
<i>Moderately prepared</i> 3/5	<i>Moderately prepared</i> 3/5	<i>Some to moderate level of preparation</i> 2.5/5	<i>Some to moderate level of preparation</i> 2.5/5
<i>Some progress</i> / 3/5	<i>Good progress</i> / 4/5	<i>Limited progress</i> / 2/5	<i>Limited progress</i> / 2/5
<i>Anticorruption Policy</i>			

³⁶ European Commission, *Albania 2024 Report*, pp. 5, 6, 7, 13, https://neighbourhood-enlargement.ec.europa.eu/document/download/a8eec3f9-b2ec-4cb1-8748-9058854dbc68_en?filename=Albania%20Report%202024.pdf; *Montenegro 2024 Report*, pp. 5, 6, 7, 13, https://neighbourhood-enlargement.ec.europa.eu/document/download/a41cf419-5473-4659-a3f3-af4bc8ed243b_en?filename=Montenegro%20Report%202024.pdf; *North Macedonia 2024 Report*, pp. 5, 6, 7, 13, https://neighbourhood-enlargement.ec.europa.eu/document/download/5f0c9185-ce46-46fc-bf44-82318ab47e88_en?filename=North%20Macedonia%20Report%202024.pdf; *Serbia 2024 Report*, pp. 5, 6, 7, 13, https://neighbourhood-enlargement.ec.europa.eu/document/download/3c8c2d7f-bff7-44eb-b868-414730cc5902_en?filename=Serbia%20Report%202024.pdf.

<i>Some to moderate level of preparation 2.5/5</i>	<i>Some to moderate level of preparation 2.5/5</i>	<i>Some to moderate level of preparation 2.5/5</i>	<i>Some to moderate level of preparation 2.5/5</i>
<i>Some progress / 3/5</i>	<i>Good progress / 4/5</i>	<i>No progress / 1/5</i>	<i>Some progress / 3/5</i>
<u><i>Media Freedom</i></u>			
<i>Freedom of Expression</i>			
<i>Some to moderate level of preparation 2.5/5</i>	<i>Some to moderate level of preparation 2.5/5</i>	<i>Some to moderate level of preparation 2.5/5</i>	<i>Some level of preparation 2/5</i>
<i>No progress / 1/5</i>	<i>Good progress / 4/5</i>	<i>Limited progress / 2/5</i>	<i>No progress / 1/5</i>
<i>Digital Transformation and Media</i>			
<i>Moderate to good level of preparation 3.5/5</i>	<i>Good level of preparation 4/5</i>	<i>Moderately prepared 3/5</i>	<i>Moderately prepared 3/5</i>
<i>Some progress / 3/5</i>	<i>Very good progress / 5/5</i>	<i>Limited progress / 2/5</i>	<i>Limited progress / 2/5</i>

3. Inclusion of WB6 Countries into the European Union Rule of Law Report: A Proposed Roadmap

Based on the analysis of the setup and functioning of the EU Rule of Law Report, as an instrument of the EU Rule of Law Framework, and of the state of play of each WB6 country in policy areas within the scope of this instrument, this paper proposes a number of recommendations aimed for them to be effectively included and involved in this mechanism, with a view to them benefiting from it in rule of law reform processes in the context of their EU accession processes.

- As a first step, in order for all WB6 countries to become part of the EU Rule of Law Framework on permanent basis, their inclusion in it needs to be formalized. This paper recommends that this is done through an official communication on EU's policy for their inclusion in the EU Rule of Law Framework, prepared and issued by the EC. Such a communication would set out the rationale and objectives of their inclusion in this mechanism, as well as their obligations, conditionality mechanisms in it and functioning of the entire setup.
- Given that the purpose of the EURoLF is to safeguard the rule of law within the EU, based on Union's constitutional and legal order, and that WB6 countries are not legally bound by it, the rationale and objective of their inclusion in this mechanism would be to support them to align with the EU legislation, policies and standards on rule of law through their EU accession process. Such a communication would also set out objectives, WB6 countries' obligations and aspects of functioning at the level of instruments of this mechanism.
- The objective and focus of WB6 countries' inclusion into the EU Rule of Law Report needs to be to support them through policy assessments and recommendations to implement reforms to achieve sustainable and irreversible progress towards compliance with the EU rule of law legislation, policies and standards.
- The objective and focus of WB6 countries' inclusion into the EU Annual Rule of Law Cycle needs to be to put in place an institutionalised monitoring setup and policy dialogue with the EC to achieve effective conditionality that ensures effective reforms.

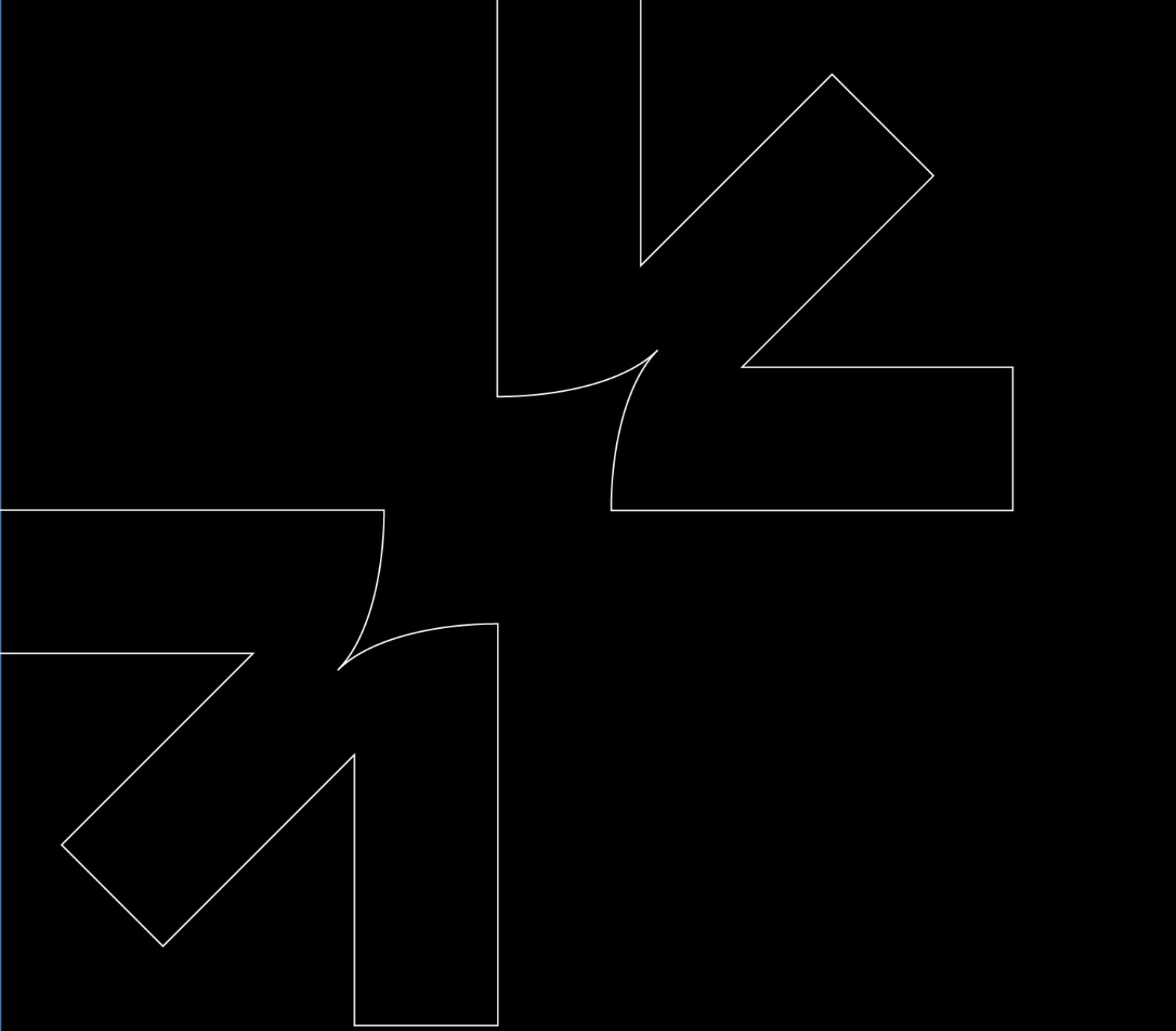
- The objective and focus of WB6 countries' inclusion into the EU Network of Rule of Law needs to be to support them through exchange of good practices and expertise, in order to build intuitional capacities to ensure that the EURoLR is an effective policy assessment instrument and its recommendations are effectively implemented.
- In order to implement reforms in the area of rule of law and address recommendations of the EURoLR, all WB6 countries need to prepare, adopt and implement medium-term rule of law strategies. The structure and content of such strategies would be the same as those of the EURoLR. The process of preparation, implementation and monitoring of such strategies would be directly linked to the three instruments outlined in the previous recommendation. In addition, all stakeholders, both domestic ones such as CSOs and external ones in addition to the EC, need to be fully involved in this policy development, implementation and monitoring process.
- All WB6 countries need to appoint rule of law contact points to be engaged with the EU Network of Rule of Law in the process of preparing the EU Rule of Law Report and in the exchange of good practices with EU Member States. In order to facilitate and support this process nationally, they would also need to appoint rule of law teams bringing together all relevant institutions. In order to engage more actively among themselves regionally in support of joint integration into the EURoLF as a mechanism, it would also bring an added value for WB6 countries to establish a regional rule of law network.

In order to track the progress of alignment with the EU rule of law legislation and standards and enhance transparency, all WB6 need put in place indexes on alignment with the EU on rule of law. Such indexes would be developed jointly by them, i.e. have the same structure, while findings would be published annually by each country for themselves.

We approach every challenge with a focus on collaboration and engagement. By bringing together experts, policymakers, and community leaders, we aim to develop solutions that reflect the diverse perspectives of the region. Our research and initiatives are designed to support the enlargement process and ensure that it is both inclusive and beneficial to all.

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