Funding Values: The EU, Civil Society, and the Rule of Law in Serbia

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Between the 1960s and the 1980s, within the framework of the Cold War, democracy and the rule of law emerged as guiding principles of EU foreign policy in Africa (Hansen and Jonsson 2014). In continuity with earlier colonial practices, the European Community (EC) established relations with African states through a series of association agreements, including the Yaoundé (1963 and 1969) and Lomé Conventions (1975, 1979, 1984, 1989, and 1995). The European Commission's Directorate-General for Development and Cooperation (DG8) was responsible for administering the European Development Fund (EDF). Growing nationalist sentiments in African former colonies and the reconfiguration of coalitions within the EC and DG8 after the accession of new countries, including the United Kingdom in 1973, contributed to the rationalization of bureaucratic procedures and to the primacy of formal rules over opaque personal relationships between DG8 officials and African elites. To ensure impartiality, neutrality, and objectivity in the allocation of funds, DG8 introduced technical indicators into EU development policy, including political criteria such as democracy and respect for human rights (Dimier 2014).

Relations with African states became less central to the EU as the fall of the Soviet Union paved the way for Eastern Europe (Garavini 2019), where EU enlargement was considered an instrument for the continent's political reunification (Bernini and Zielonka 2023). At a time when multilateral organizations, development banks, bilateral agencies, and NGOs started legal reform initiatives in the region (Krever 2011),[1] the EU launched *Poland and Hungary: Assistance for the Restructuring of the Economy* (PHARE) (1990), initially limited to Poland and Hungary and later extended to other Central and Eastern European countries. Among the objectives of PHARE was "the introduction of pluralist democratic procedures and practices and the rule of law, … with the ultimate goal of supporting the process of economic and political reform" (European Commission 1993, 135). As Mayhew and Sargent (1996) highlight, PHARE was based on a model of EU development assistance previously applied in Africa. EU civil servants with extensive experience in development assistance in the "Third World" were tasked with managing programs in Eastern Europe that demonstrated little innovation, flexibility, and capacity to adapt to local needs. While adhering to complex and bureaucratically heavy contracting procedures, they "encountered, and colluded and collided with, societies that functioned in some fundamentally different ways from their own" (Wedel 2004, 41).

Unlike former colonies, the prospect of EU enlargement in Central and Eastern Europe raised concerns about the EU's integration capacity, defined as "the ability of the EU to prepare non-members for membership (external integration capacity) and to preserve its functioning and

[1] One prominent example is the Central and East European Law Initiative (CEELI) of the American Bar Association (ABA). The program brought thousands of legal experts to the region with the goal of "drafting constitutions and legislation, training judges, developing law school curricula, organizing bar associations, [and] educating the public about the law" (Stein 2009, 295).

cohesion once they join (internal integration capacity)" (Börzel, Dimitrova, and Schimmelfennig 2017, 2). Establishing the rule of law in Central and Eastern Europe was a precondition for the "functioning and cohesion" of the EU in socio-economic and commercial terms and for "Europe's self-understanding as a union of liberal democracies" (von Bogdandy 2018, 693). EU enlargement brings together these two dimensions of the rule of law – external and internal – insofar as a new state enters into the prospect of EU membership, participates in EU economic and political processes, and contributes to defining common constitutional principles and values.

The rule of law is today widely regarded as universally desirable, with all government leaders affirming – although often rhetorically – "the virtue of being bound by the law" (Tamanaha 2004, 141). On the other hand, the seemingly strong consensus on the importance of the rule of law has been accompanied by growing disappointment with the modest results of reform strategies (Garth 2002). As practices of external oversight and improvement extended within states, a growing set of monitoring tools and indicators – such as the World Justice Project's *Rule of Law Index*, the World Bank's *Worldwide Governance Indicators*, the Council of Europe's *GRECO Evaluation Reports*, and the European Commission's *Enlargement Reports* – came to assess the limited impact of rule of law promotion. The *EU Enlargement Reports*, in particular, monitor the progress of candidate countries toward accession and their compliance with the 1993 "Copenhagen criteria" – defining the conditions for EU membership, including stable democratic institutions, the respect for the rule of law and human rights, the protection of minorities, and a functioning market economy – both with regard to the adoption of EU legislation and the results of its implementation. Responsible ministries in candidate countries, EU delegations, CSOs, and the local offices of the Council of Europe, the Organization for Security and Co-operation in Europe, and IFIs, among others, contribute to the preparation of EU reports by providing information on the outcomes of their activities and on broader trends within the country (Hughes and Sasse 2003).

The contribution of civil society to the *EU Enlargement Report* reflects the expanding role of CSOs in the enlargement process. Since the Treaty of Maastricht (1993), in response to the growing politicization of European integration, the EU has encouraged civil society participation as a catalyst for change from within candidate countries, complementing traditional forms of intervention (Fagan 2010). CSOs not only provide the EU with information on the government's performance, but also communicate the benefits of EU membership and the progress of accession negotiations to the wider public. Their centrality in EU enlargement has enabled CSOs to receive substantial political and financial support from the EU, which is channeled independently of national governments (Wunsch 2018). While government elites mainly influenced the design and implementation of pre-accession reforms during the enlargement to Central and Eastern Europe (2004 and 2007), civil society received greater support from the EU in the Western Balkans (Vidačak 2021).

In 2008, the European Commission established the *Civil Society Facility (CSF)* under the Instrument for Pre-Accession Assistance (IPA), providing increased financial support to CSOs in candidate countries with the objective "to strengthen participatory democracies and the EU approximation and integration process in the enlargement region" (European Commission 2022).

Support to civil society has been further expanded through the *Technical Assistance for Civil Society Organisations (TACSO)*, which provides training and advisory services to local organizations and facilitates exchanges between EU officials and civil society actors, and numerous programmatic documents emphasizing the importance of civil society support and participation in the reform process. These include the *2018 Enlargement Strategy for the Western Balkans* (European Commission 2018), the *Updated EU Guidelines for Support to Civil Society in the Enlargement Region (2021–2027)* (European Commission 2022), and the *EU Strategy for Civil Society*, complementing the activities of the *European Democracy Shield* (European Commission 2025).

EU support for civil society and the promotion of greater interaction between the state and CSOs should not lead to overstating CSOs' power and ignoring the importance of state sovereignty (Fagan 2010). EU enlargement negotiations have contributed to the institutionalization of CSOs, defined as "regularized patterns of interaction that are accepted by both state and civil society actors" (Fagan and Wunsch 2018, 608). However, this process remains incomplete and dependent on the political will of government officials who are often reluctant to open the policymaking model to external actors and respond to external pressures with limited and symbolic cooperation (Fagan and Wunsch 2018).

Recent debates on "what went wrong in Hungary" during EU enlargement (Anghel and Jones 2024) and the characterization of Serbia and other Balkan regimes as "stabilocracies" (Bieber 2018) call into question the impact of EU assistance. If relations between the EU and the Serbian government mainly concern the political sphere, characterized by dynamics of consensus and disappointment (Garth 2002), the EU has little influence on the cultural and social conditions for transformation.

A successful communication between the EU and Serbian authorities has historically depended on the political will of appointed ministers. In practice, this has often determined whether cooperation produced satisfactory or exceptional results, or whether projects stagnated due to merely formal collaboration. Changes in government may result in the replacement of a large number of civil servants and in newly appointed officials' reluctance to continue cooperating with the EU on projects initiated under the previous administration. In ministerial appointments, party affiliation and political loyalty are frequently prioritized over expertise and sustained commitment to ensuring Serbia's substantial compliance with European rules and standards.

The problem of sustainability emerges not only in relation to administrative changes. In some sectors, the conclusion of projects and the related funding may result in setbacks to previously achieved outcomes. On the other hand, unlike EU assistance to non-enlargement countries, EU-funded projects in Serbia are intended to encourage accession while also influencing *how* Serbia will accede and the nature of future relations between member states. The effort of EU staff in Serbia does not consist solely in promoting reforms in a particular direction but also in conveying their structural character. Joining the EU indeed entails obligations that are more demanding for new member states than for candidate countries, as Croatian experts working in the anti-corruption and organised crime sectors have pointed out.

Just as important as sustainable cooperation between the EU and Serbian government officials, and the adoption of laws and regulations, are the conditions necessary for their effective implementation. Serbian authorities may decide to introduce new laws or amend existing ones to align domestic legislation with EU standards, but their implementation often undermines the very objectives those standards are meant to achieve. For example, while Serbian laws establish high standards for media independence, the ruling party *de facto* controls the Regulatory Authority of Electronic Media (REM) and has repeatedly awarded national broadcasting licenses to pro-government outlets, undermining media pluralism across the available frequencies. Another example is the 2022 reform of the Serbian Constitution, which transferred the election of judges and prosecutors from the National Assembly to the High Court Council and the High Prosecutorial Council, with the objective of strengthening judicial independence. Both councils include a quota of "prominent lawyers" selected among candidates who have "at least ten years of experience in the legal profession," are "worthy of that office," and are "not member[s] of a political party" (Constitution of the Republic of Serbia, as amended 2022, Arts. 151 and 163). However, these provisions do not establish detailed and measurable standards for assessing independence, merit, and professional distinction, and the definition and selection of non-judicial members provide the National Assembly with significant discretion in choosing and promoting candidates.

Reflecting on the limited success of rule of law assistance programs in Latin America and Russia, Carothers (2006, 11) argues that, in addition to effective implementation, "aid must support domestically rooted processes of change, not attempt to artificially reproduce preselected results." Serbian political and administrative practices frequently limit the impact of EU initiatives, and legal and institutional reform alone is insufficient to generate structural transformation or Europeanization. Civil Society Organizations (CSOs) are seen as representing citizens' interests and mediating between citizens, the EU, and candidate countries. On the other hand, the Serbian state actively delegitimizes civil society initiatives that promote government accountability and the rule of law (Vuković 2026).

After 2000, the overthrow of Slobodan Milošević in Serbia signaled a shift from previous hostility toward human rights and student organizations to a more supportive climate for civic activism, though still threatened by political instability – especially after the assassination of Prime Minister Zoran Djindjić in March 2003 – and increasing authoritarian tendencies within the new democratic government (Spasić 2003). While some members of the Democratic Party acknowledged the importance of institutional representation for civil society, the latter was still viewed with suspicion (Fagan and Ostojic 2008). The victory of the Serbian Progressive Party (SNS) in the 2012 parliamentary elections, under the leadership of Aleksandar Vučić, increased pressure on the political opposition and civic groups (Vladisavljević 2026), portrayed as enemies of the state in media outlets loyal to the ruling party (Dragojlov 2025).

Recent episodes reveal the hostile political climate for civil society in Serbia. In 2020, the Anti-Money Laundering Administration secretly instructed banks to hand over financial information on several CSOs and media outlets without prior notification. The list included donor names and transaction details. More recently, the draft legislation on a "Special Register of Foreign

Influence Agents," submitted to the Serbian Parliament in November 2024, required organizations that receive most of their funding from abroad to register as "foreign agents" and comply with specific reporting requirements. The category of "foreign agent" appears in the 2012 Russian federal law "On Amendments to Legislative Acts of the Russian Federation on Protecting the Foundations of the State" and the 2024 Georgian Law on "Transparency of Foreign Influence," which stigmatize independent CSOs and media as traitors and spies, turning a transparency mechanism into a tool for arbitrary discrimination and political repression of critics.

By supporting civil society, the EU promotes the rule of law, while engaging with Serbian authorities who consistently intimidate civic groups, independent media, and the political opposition. The triangular relationship between the EU, the Serbian state, and civil society during the enlargement process (Wunsch 2018) can either reinforce or deteriorate, and potentially break down. Negotiations may be suspended "in the case of a serious and persistent breach … of the values on which the Union is founded" (EU Council 2024). Yet what constitutes a "serious and persistent breach" is unclear. The EU will maintain diplomatic and strategic flexibility until the erosion of the rule of law becomes difficult to accommodate or pressure from civil society intensifies. As one member of a prominent human rights organisation in Serbia observed, "the only question is whether the red line will be crossed."