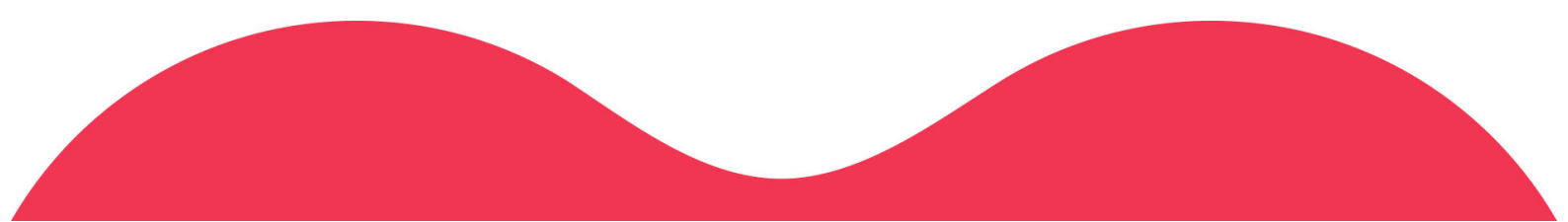


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Philea contribution to Rule of Law report: Restrictions to Philanthropy



Introduction

Philanthropy is part of the wider civil society, which forms an essential component of the checks and balances pillar of the European Commission's Rule of Law report. The closing of civic space is often one of the first indicators of a decline in democracy and the rule of law.

As Liberties notes in its shadow report¹, checks and balances is the area with the highest levels of regression, but the least amount of attention from the European Commission. The shadow report analysis shows that only 13 recommendations in checks and balances were issued, and progress on these remains extremely limited.

Philea contributed to the Civil Society Europe contribution to the rule of law annual report consultation. The joint civil society contribution finds that in 2025, civic space across Europe deteriorated further, with restrictions on civil society actors becoming more institutionalised. The CIVICUS Monitor downgraded France, Germany, and Italy from "Narrowed" to "Obstructed," and Serbia from "Obstructed" to "Repressed." The assessment included in this joint contribution highlights structural challenges in Italy, France, Bulgaria, and Slovakia, while rapid deterioration of civic space is taking place in Czechia and Belgium. Civil Society Europe warns that these trends point not only to isolated national developments but to a broader pattern of regression affecting the enabling environment for civil society across the Union.

This development is also applicable to philanthropy and foundations supporting European core values. Governments that wish to close civic space and introduce an illiberal democracy consider philanthropic organisations as undesired actors and may put restrictions on them. Major obstacles include over implementation of security regulations, issues surrounding funding and tax incentives rules, and restrictions on foundations' political activities. Another dimension is the desire to control and reduce foreign philanthropic funding and cross-border philanthropy. This, in turn, can lead to stigmatisation of foreign funded organisations. The following sections provide a deeper look into these barriers.

Obstacles deriving by over implementation of security policies (AML/CFT)

Legislative initiatives aimed at combating money laundering and terrorism financing (AML/CFT), though generally well intentioned, often result in unintended repercussions for civil society organizations, including public benefit foundations. These effects are

¹ Liberties, Rule of Law Report 2026, <https://www.liberties.eu/f/wtaqog>

particularly evident under authoritarian regimes but are not exclusive to them. The unintended consequences of AML/CFT policies include stricter registration and reporting obligations—such as requirements to disclose all beneficiaries as beneficial owners—and banks may refuse or make financial services harder to access.²

Obstacles to cross-border philanthropic action

Foundations and donors face barriers when operating across borders, including the difficulty in recognition of legal personality of foundations when they operate outside their jurisdictions; the absence of a regulation on transfer of seat and merging across borders; and the difficult implementation of the non-discrimination principle when it comes to taxations of donors and foundations in cross-border contexts. Equal tax treatment is only provided for donors and foundations where a foreign EU based public benefit organisation is considered comparable to a local EU based public benefit organisation, which is often a very lengthy and costly process for donors and organisations. A Single Market for philanthropy does not yet exist.³

Foreign Agent type of laws

Cross-border philanthropy faces obstacles deriving from `foreign agent laws`, which require NGOs receiving significant foreign funding to register as 'foreign agents.' Governments in Hungary, Georgia, Slovakia, Serbia, Bosnia and Herzegovina, and Czech Republic have proposed such laws, with Georgia successfully implementing one. Most recently, the parliament in Romania is discussing a similar law. The European Commission Defence of Democracy package includes a similar proposal.

Challenges related to funding and rules on tax incentives

Over the past two years, proposals to cut tax incentives for donors and deductions for donations have emerged, notably in the Netherlands and Italy and successfully implemented in Belgium. Many Eastern European countries lack strong tax incentives for individual or corporate giving, and the US funding freeze has especially had a severe impact on this region.

² Philea and ECNL, Unpacking the EU AML CFT Package: Impacts on the Non-Profit Sector, <https://philea.issuelab.org/resource/unpacking-the-eu-aml-cft-package-impacts-on-the-non-profit-sector.html>

³ Philea, European Philanthropy Manifesto, <https://philea.issuelab.org/resource/european-philanthropy-manifesto.html>

Limitations to political activities of foundations

Most European countries have no limitation in their civil or tax law when it comes to political activities in a wider, non-party political sense (Belgium, Bulgaria, Croatia, Denmark, Finland, Greece, Italy, Luxembourg, the Netherlands, Romania, Spain and Sweden). Another good number of countries (Czech Republic, Germany, Hungary, Latvia, Lithuania, Malta, Portugal and Slovakia) do set out by law some limits on political engagement of foundations. In France, there is a legal limitation for both advocacy and political activities of foundations. In Germany discussions are ongoing whether “political” engagement would put the tax-exempt status at risk.

In 2026, the French Senate set up a public enquiry commission to assess appropriate regulation of engagement and influence of philanthropic actors. Its conclusions are still awaited.

About Philea

With individual philanthropies and national-level infrastructure organisations in over 30 countries as members, we unite almost 9000 public-benefit foundations that seek to improve life for people and communities in Europe and around the world.

Our vision is for philanthropy to use its full potential to co-shape and support a pluralistic, just and resilient society that centres people and planet.

Our mission is to enable, encourage and empower the philanthropic community to build a better today and tomorrow.

We galvanise collective action and amplify the voice of European philanthropy. Together we:

- Co-create knowledge and learn from effective practices
- Collaborate around current and emerging issues
- Promote enabling environments for doing good

The Philea Legal Affairs Committee is guiding the policy work of Philea with a focus on promoting an enabling environment for philanthropy including good dialogue and collaboration opportunities with the EU.

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