

Geopolitics, State Capture and Peak Corruption



**What Is Next for Anticorruption
in the Western Balkans?**



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WESTERN BALKANS?**

Southeast European Leadership for Development and Integrity (SELDI) is a regional civil society anti-corruption and good governance initiative created in 2012. It is the successor of the Southeast European Legal Development Initiative pioneered by the Center for the Study of Democracy, Sofia and the International Development Law Organisation, Rome in 2001. As of 2022, SELDI covers 14 countries from South East Europe and the Black Sea through its more than 30 partner civil society organisations.

SELDI contributes to a dynamic civil society in the region, capable of participating in public debate and influencing policy and decision-making in the area of anti-corruption and good governance. The initiative established a coalition for the development and endorsement of a regional CSO strategy and action agenda and carries out good governance monitoring. SELDI raises public awareness and advocates reformist policies through its Regional Anticorruption Reports and Regional Good Governance and Anticorruption Policy Forums.

This Regional Anticorruption Report 2022 presents the innovative State Capture Assessment Diagnostics of the Western Balkans and the regular Corruption and Hidden Economy Monitoring System results for the region. The report proposes relevant recommendations for taking the EU enlargement process further, in particular as it relates to rule of law and anticorruption against the backdrop of rising global geopolitical tensions and the war in Ukraine.

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This publication has been produced with the financial assistance of the European Union (EU) and the Central European Initiative (CEI). Its contents are sole responsibility of SELDI.net and do not necessarily reflect the views of the EU and the CEI.

2022, Southeast European Leadership for Development and Integrity (SELDI)



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ISBN: 978-608-4848-39-4

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* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.



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EXECUTIVE SUMMARY



Zero hour: anticorruption should not slip from the agenda

The Kremlin's war in Ukraine has come to dominate the agenda in Europe in a very urgent way. It has forced the EU to scramble to action for reinvigorating enlargement in the Western Balkans, as the European Commission swiftly accepted Ukraine's own application for membership. Prioritising geostrategic considerations for enlargement has been read by leaders in the Western Balkans as an open invitation to free passage and risks undermining the integrity of the process itself. If anything, the war in Ukraine has rather thrown governance concerns into sharper relief, not in oblivion. In fact, this has been the main thrust of efforts in the Euro-Atlantic policy area. The European Commission stepped up its internal governance support efforts through the adoption of the European Democracy Action Plan and the revamped Rule of Law Mechanism. The US government included anticorruption as a key pillar of its national security strategy and launched the Summit for Democracy aimed at safeguarding democratic resilience.

The integrity of government remains under serious stress in the Western Balkans. Democratic resilience, which is in higher demand in times of instability, in large part depends on public services being free of corruption and nepotism. The war has emboldened autocratic forces in the Western Balkans and has further shrunk the space for civil society action. At the same time, it has made popular balancing acts between democracy and autocracy more difficult, increasing pressures on Western Balkan governments to take a firm stance in favour of democratic governance. The risk is that geostrategic considerations might gloss over persisting domestic or regional tensions in or between countries where ethnic animosity is still smouldering and could undermine the kind of consensus needed to revive stalled anticorruption progress.

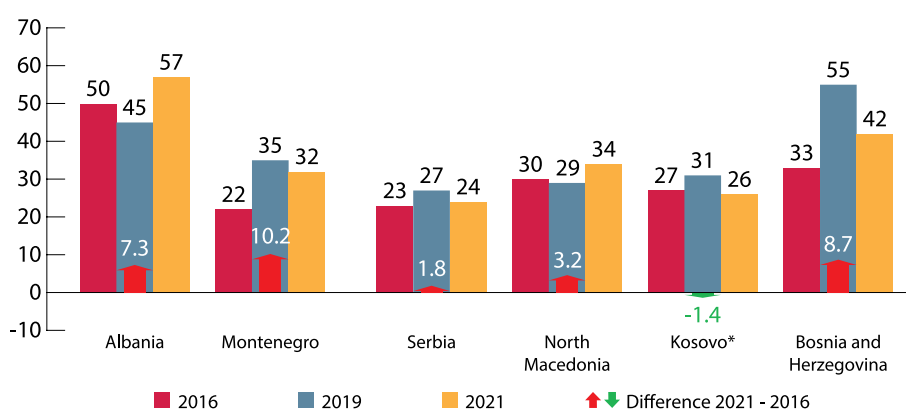
It is against the background of a very difficult time for anticorruption in the Western Balkans that the Southeast Europe Leadership for Development and Integrity (SELDI) has made its regular **in-depth diagnostic of corruption and governance gaps in the region**, the findings of which are presented in this report. SELDI's methodology combines a unique measurement of the actual proliferation of corruption and state capture vulnerabilities with an assessment of the anticorruption infrastructure that is designed to reduce them. The chapters of this report present the dynamics of corruption and state capture levels, developments in national anticorruption polices and legislation, institutional practices of anticorruption oversight bodies, linkages between corruption and the hidden economy, and the role of civil society and international cooperation in anticorruption.

Corruption levels: progress has stalled

Corruption victimisation in the Western Balkans remains high. Even in the countries with the lowest levels of administrative corruption, about a fifth of the population report having paid a bribe of some kind. Such levels are well beyond the average in the EU registered by the special anticorruption Eurobarometer surveys. This shows that **administrative corruption in the region is a mass phenomenon** and should be regarded as a specific risk for the operation of public institutions.

The anticorruption progress achieved in the Western Balkans between the early 2000s and mid-2010s has now been stalled. Some measures of administrative corruption indicate an increase in many countries in the region. There have been minor improvements in 2021 in some countries compared to the 2019 levels.

Corruption pressure in the Western Balkan countries has risen since the mid-2010s



Source: SELDI Corruption Monitoring System, 2021.

SELDI corruption measurement data suggests that countries that could see **the prize of accession** to the EU on the horizon perform better in their fight against corruption. In 2021 this positive effect continues to be true for Kosovo, but not so much for the other Western Balkan countries. Specifically, there are three findings that merit highlighting:

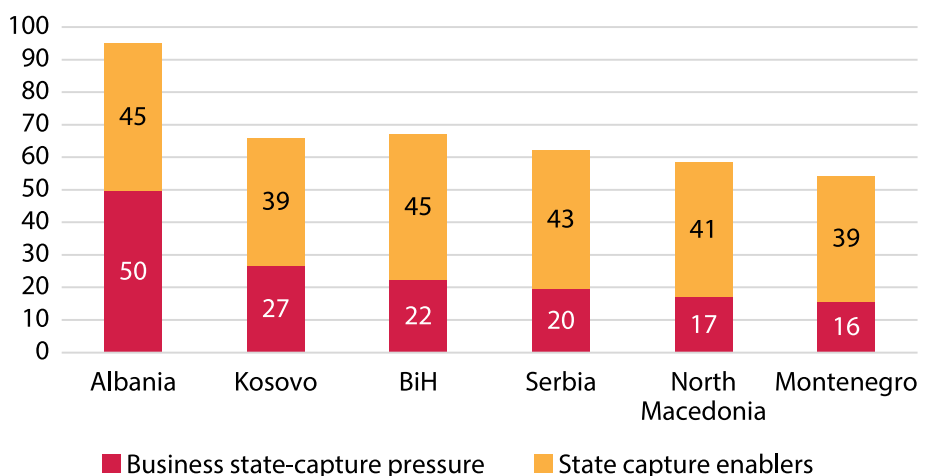
- Self-reported corruption victimisation in the Western Balkans remains very high – between 20% and 40% of the citizens admit to having paid some kind of a bribe.
- Tolerance of corruption by the general public, although on the wane, is still high, ranging between 25% and 40%.
- The overwhelming majority of the citizens in the Western Balkan countries are pessimistic about the prospects of anticorruption efforts.

State capture vulnerabilities: the crux of the matter

The anticorruption agenda in the Western Balkans should proceed from a key premise: that in many areas **corruption has gone beyond a simple deviation** in the functioning of a given public institution into a stable pattern of institutional behaviour, resistant to the application of generalised anticorruption policies. State capture in the region is now a mechanism through which the drafting, adoption and enforcement of government rules and regulations in some important domains of government functioning is warped in favour of a small number of captors at the expense of society and business at large.

Obvious as its presence is, **state capture still struggles to find its way as a problem into official policies** – none of the anticorruption strategies adopted by the countries in the region mentions it. It is primarily civil society, and on occasion foreign partners, that flag it up as a major concern. The European Commission, which brought it up as an issue a few years ago, now seems to shy away from it. Previously, the EC progress reports on countries in the region found “clear elements of state capture,” while in its latest editions the phenomenon is mentioned only *en passant*, which might be a reflection of the geopolitical priorities to speed up enlargement in the face of the threats from Russia and China. The fact that state capture is absent from the anticorruption agenda shows that the “measures” constituting that agenda are mostly administrative matters which cannot affect the deeper causes obstructing progress and the building of democratic resilience.

State-capture pressure levels in the region are high*



* Business state-capture pressure is centred on monopolisation pressure at national, sectoral or institutional level. State capture enablers include institutional and environmental factors at national level.

Source: SELDI SCAD, 2020.

SELDI's **pilot diagnostic assessment of state capture** carried out in the Western Balkans has shown that although none of the countries is close to full state capture, they exhibit critical impairments in democratic and economic checks and balances. This is manifested in the electoral process, the monopolisation of certain sectors of the economy, procurement concentration, legislative capture, and corruption in the judiciary. To complicate matters further, the oligarchisation of the governance systems of the countries in the region makes them vulnerable to the malign influences of foreign authoritarian powers.

**Policy developments:
official documents
abound, unlike results;
no checks and balances
culture yet**

The anticorruption agenda in the Western Balkans has been pursued as somehow separate from the need for a general improvement of the quality of governance; in other words, **no linkage has been demonstrated between anticorruption progress and improved public services**. While justified at the initial stages when it was necessary for mobilisation purposes, such a divergence risks making anticorruption laws and institutions into a self-serving domain of bureaucratic activity.

New laws and regulations have been targeting specific (and increasingly sophisticated) forms of corruption (conflict of interest, lobbying, origin of assets), which is a commendable development. On the other hand, policy enforcement is typically still entrusted to one-stop-shop type of anticorruption institutions. This puts these bodies at **risk of being overwhelmed and captured** by special interests, thus very often rendering them counterproductive after the first few years of their operation.

Enthusiasm for broad anticorruption strategies and action plans seems to be waning in the region (e.g., some strategies have not even been updated). It now becomes clear that they were to signal government commitment to reform (“political will”), rather than guide the delivery of specific results. The adoption of these documents had been driven to a large extent by extrinsic considerations – membership in the Council of Europe, need to assign and transpose UNCAC, or aspirations to join the EU. Because of their general nature – they lacked priorities and never committed the governments to any measurable improvement targets – it is not clear what has been verifiably achieved and what new measures are needed. The strategies and plans were drafted by the civil servants but there had been no prior or subsequent political debate on their contents. As a result, they ended up mostly as internal government management manuals rather than reform manifestos. Committing primarily the public administration, these documents did not seek to involve business, the economy, investors, or the broader civil society as equal stakeholders.

Legislative developments: upgrading anticorruption laws

The initially dynamic rate of legislative activity in the field of anticorruption in the Western Balkans has slowed down somewhat as some of the key aspects proclaimed by international standards have already been covered. One approach that was adopted throughout the region was **expanding the range of statutory incrimination of corruption-related offences**. This was a relatively unproblematic option as it did not immediately affect any special interests (unlike, for example, conflict of interest regulations) and corruption in the criminal justice system itself made sure that the provisions were applied selectively.

Lately, legal amendments or innovations concern aspects such as the mandatory length of sentences for different corruption-related offences, qualification of sanctions depending on the value of bribe/undue benefit or defining subtler (and therefore more difficult to prosecute) forms of corruption. In one form or another, all Western Balkan countries have laws sanctioning **conflict of interest**, although there have been delays in Bosnia and Herzegovina (BiH), where the state level law is still struggling to make its way through the House of Peoples, and in North Macedonia, where the law has been in the process of being amended since 2021. **Lobbying laws** are being upgraded in North Macedonia and Montenegro, although in the latter anticorruption legislation presents certain challenges as there are overlapping regulations among the various laws. The regulation of the **origin of assets** of public officials is fairly recent addition to the anticorruption legislative infrastructure of the Western Balkan countries. The process of adoption of a law in North Macedonia, however, takes place behind closed doors and stakeholders are not involved in the process.

Other legislative developments may be weakening the effect of anticorruption legislation. In February 2021, an authentic interpretation by the parliament of Serbia of the *Law on the Prevention of Corruption* narrowed the scope of the term “public official,” which excluded a number of officials in the public sector from the scope of the law.

In an important step for EU integration, following a referendum, Serbia amended its constitution intended to increase the independence of the judiciary and strengthen the division of powers in the country.

Anticorruption institutions: diminishing returns

Following an initial enthusiasm for specialised anticorruption institutions, many stakeholders started to realise that given the state of capture of government functions such bodies are at risk of being repurposed by oligarchic circles for whitewashing corrupt schemes and persecuting opponents. The most straightforward method by which this is done is the **selection and appointment of the management and staff** of these institutions. If nepotism is said to be pervasive in public services in the Western Balkans, then the staffing of institutions tasked with combatting corruption should be subject to particularly strict professional requirements and political checks and balances. The integrity of such institutions should be periodically evaluated and accounted for in parliaments.

The process of experimentation with various institutional formats has led, on occasions, to a **complicated and overlapping set of competences** (the Albanian institutional set-up, for example includes as many as six bodies). The specialised anticorruption bodies in the Western Balkans are rarely subjected to **rigorous scrutiny** as to the results of their work, so much so that often minor developments are presented as a sign of progress (in North Macedonia, the government presented the inauguration of new premises and equipment as evidence for its commitment to anticorruption). The political leadership also very often **ignores anticorruption bodies** (in Serbia, the government continues to pay no attention to the Anti-Corruption Council, its advisory body, which is not being consulted on draft legislation). The reconfiguration of the institutional anticorruption infrastructure is also often done with **little publicity** (in North Macedonia, an IPA-funded project envisaged a complete reorganisation of the administrative bodies, but information on this process was not made available to the public).

The results which anticorruption agencies present to the public are not intended to be used as an evaluation of the effectiveness of anticorruption policy since they are not provided with context. Such a context could be provided by indicators such as the rate of offense in the overall population of public officials, profile of offenders, basis for the rate at which cases are verified, etc. In fact, the agencies publish administrative reports, which most often showcase the workload of the staff rather than serve as sources for policy feedback.

This is mostly evident in the reporting for work done on **conflict of interest and assets oversight and verification**. In most countries, only a small fraction of asset declarations submitted by public officials are verified. While this is understandable given the large number of submissions, what is not clear is the basis for determining the size of the selection to be verified. The data does not allow the public to assess whether the share of the verified declarations is based on the capacity of the institution to carry out inspections or on verifiable risk assessment models.

Anticorruption enforcement: how big is the implementation gap?

For quite some time now the under-enforcement of anticorruption regulations, especially of criminal law, has been evident to all stakeholders in the Western Balkans. Exposing the size of this gap is important for mobilising support for reforms but also for the evaluation of anticorruption policies. The discrepancy between the vast constellation of anticorruption committees, agencies, councils and the scores of laws (all of which presumably warranted by a grave corruption problem), on the one hand, and the **trickle of cases that manage to get through to conviction**, on the other, needs to be clearly demonstrated. It also needs to be closely examined so that the factors that contribute to it be understood and tackled.

The constituent crimes that make up corruption crimes are complex schemes and effectively prosecuting them places a number of **demands on the criminal justice system** in the Western Balkans: their prosecution is expensive (not the least because it requires sophisticated forensics, mostly financial) and necessitates high level of professionalism among both the prosecutorial and judicial colleges. And that is even before the effects of state capture, so prevalent in the Western Balkans, are factored in. Demonstrating the divergence between stated intentions (supposedly manifested in the creation of specialised bodies and laws) and actual outcomes is hampered by a **dearth of relevant and reliable information**.

Some countries, such as Albania, report a high success rate of indictments to convictions, which could be the result of a very strong filtering before they reach the indictment stage. In BiH, however, out of 51 cleared up reports for corruption crimes in 2020 in almost half (47%) it was decided not to investigate, while more than 15% of investigations were resolved in “other ways”: transferring cases to another prosecutor’s office, merging cases, etc. In Montenegro, the State Prosecutor’s Office failed to win more than half the cases of criminal corruption offences of which the accused were charged. In the case of Serbia (as in the other Western Balkan countries), the collection of such evidence is complicated by the division of corruption prosecution among various judicial bodies and by changes over time in the methodology (e.g., while until 2019 statistics were available for numbers of instituted legal procedures and separately for the prosecution, from 2020 the data refers to persons and bundles together prosecution and court statistics).

Without **verifiable evidence** that the effectiveness of criminal justice policy against corruption is increasing, the overall anticorruption drive would be in doubt. There are two main dimensions of this effectiveness: in relation to the **prevalence of a crime** (in this case the various types of corruption) and in relation to the **chain of prosecution** – crime reports/referrals→investigations→indictments→convictions. The instrument in the case of the former are victimisation studies, such as SELDI’s Corruption Monitoring System (CMS) and Hidden Economy Index. The latter should be gleaned from official administrative and criminal statistics.

Public procurement: a high-risk zone

For more than a decade now, legislation in the Western Balkans has been playing catch-up with the innovations in the **corrupt practices in public procurement**. Albania, Montenegro, North Macedonia, and Serbia have recently adopted new public procurement laws with the aim of implementing provisions of the 2014 EU public procurement directives. Nevertheless, a number of **red flags** indicative of corruption risk remain. Various informal deals among politicians, senior civil servants and large companies continue to be pushed through the channels of formal procurement at each stage of the cycle – pre-tendering, tendering and post-award. There are a number of **common risk characteristics** and red-flags associated with public procurement that are found throughout the region:

- A ratio of open to **restricted procedures** in favour of the latter. Because there are few credible justifications for the use of restricted procedures (only those invited by the contracting authority may submit a bid) (e.g., national security or small value of the contract), a large share of such procedures should be a serious red flag for the anticorruption authorities.
- Use of **emergency procedures**. The Covid-19 pandemic brought temporary procurement regulatory changes in Albania, while existing regulations on urgent procuring were used in Bosnia and Herzegovina, Montenegro, Serbia, and North Macedonia to speed up procurement processes. A quantitative assessment of the procurement market shows that the pandemic caused overall integrity to decline, especially in the most affected markets, such as healthcare.
- One practice that is yet to make its way into the Western Balkans is the use of the **value-for-money approach** in public procurement. A risk factor common to all of the countries is the large share of lowest price bids which win tenders. While this is intended to exonerate the public administration of any suspicion of corruption, it most often achieves the opposite, as the acceptance of ensuing sub-par results of the public procurement are then often “greased” by corruption.

Price trumps quality in public procurement: only a fraction of public contracts are awarded on the basis of best price-quality ratio



Sources: Macedonia¹; Serbia²

- **“Strategic” exemptions.** A case in point is Serbia’s new law on special procedures for linear infrastructure projects (road, rail, waterways, airports, metro, water and wastewater systems), in fact, the most valuable procurements in any country. The law allows the government to exempt projects of “special importance for the Republic of Serbia” from the application of public procurement rules.

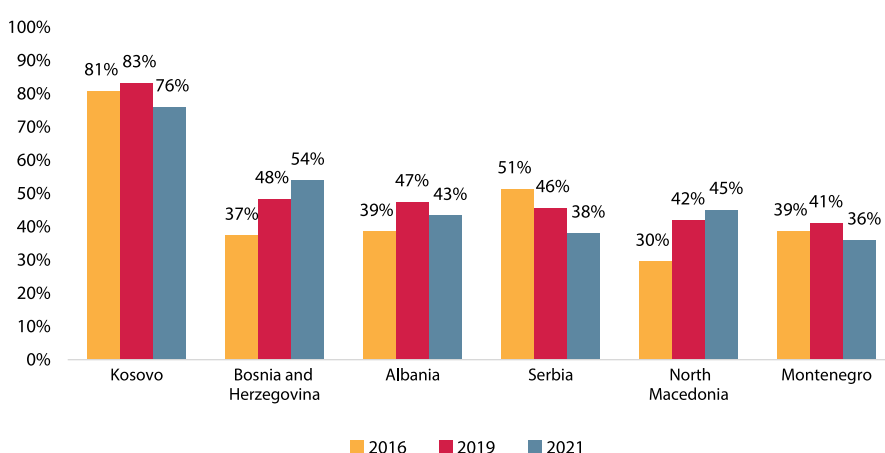
¹ Center for Civil Communications, *Monitoring of Public Procurements, Report no. 36, (January-June 2021)*, 2021.

² Office for Public Procurement, *Annual Report on Public Procurement (Article 182 of the PPL)*, 2022.

Hidden economy levels signal high distrust in formal institutions

The hidden economy and corruption in the Western Balkans feed off each other, such as when businesses choose to stay off the books given lax enforcement by corrupt officials or when a state of government capture encourages **large grey and black (illicit) financial flows** to connect business and politics. Besides corruption, informality in the region is also driven by the overall weak institutional and regulatory environment, insufficient enforcement capacity of the public authorities, and low awareness of the social externalities this creates. The hidden economy and its aspects continue to have **high prevalence in the region**. High informality opens up the region's economies to risks of illicit or opaque (offshore) financial flows, which could often originate from authoritarian countries, adversarial to the EU. In turn, such financial flows could **undermine competitive accountability** and corrode democratic institutions, strengthening the hands of authoritarian leaders.

Hidden employment index 2016-2021



Source: SELDI Corruption Monitoring System / Hidden Economy Monitoring System, 2021.

In terms of overall levels of informality, the outlier is Kosovo with double the rates of Montenegro, which recorded the lowest levels of hidden economy in the region in 2021. This means that there still is a **very wide gap between formal institutions governing the market economy and informal economic practices** in the region. As regards dynamics Bosnia and Herzegovina and North Macedonia have had a tangible increase, and Serbia a decrease, in the share of the hidden economy.

In the past two years, the negative effects of the hidden economy have been intensified by the Covid-19 pandemic – it distorted competition, affected the quality of public services, and caused less job security and safety at work, among others. The pandemic highlighted governance gaps and created further opportunities for abuses of the labour rights and the short-term financial support schemes.

The governments of the Western Balkan countries have all introduced policies aimed at tackling informality, but not all of them have been comprehensive, consistent, nor fully efficient. There is a **fragmented and uncoordinated approach** across the government bodies responsible for tackling undeclared work and a limited involvement of social partners.

One key aspect of anti-informality policies is adapting tax legislation to technological developments because it can have the added effect of bringing more economic activity into the open. Efforts to improve operational capacity of tax authorities, the introduction of **e-services** and computerisation of tax administrations have helped the fight against tax evasion and informal economy in all Western Balkan countries.

Civil society: leader and partner, not puppet in anticorruption

Civil society organisations have been an integral part and a driver of the anticorruption agenda in the Western Balkans. Yet, after all these years in most of the Western Balkan countries governments consider CSOs a little more than an appendage or necessary nuisance to the official anticorruption infrastructure. Civil society has time and again been treated (and often vilified) as part of an externally imposed and financed anticorruption plan, rather than an internally necessary and integral part of democratic accountability. Anticorruption reforms are presided over and steered (hence carefully controlled) by that which is supposed to be under reform – the government. When involved, CSOs are often there as **a token (check-box) of “inclusiveness”** rather than a respected stakeholder. There are, however, a number of critical elements of that infrastructure whose functioning can be ensured by CSOs only, such as the monitoring of public service delivery and diagnostics of corrupt practices, independent analysis of policy and legislation, and a general advancement of the political culture in their countries by raising civic awareness and working at the grassroots level.

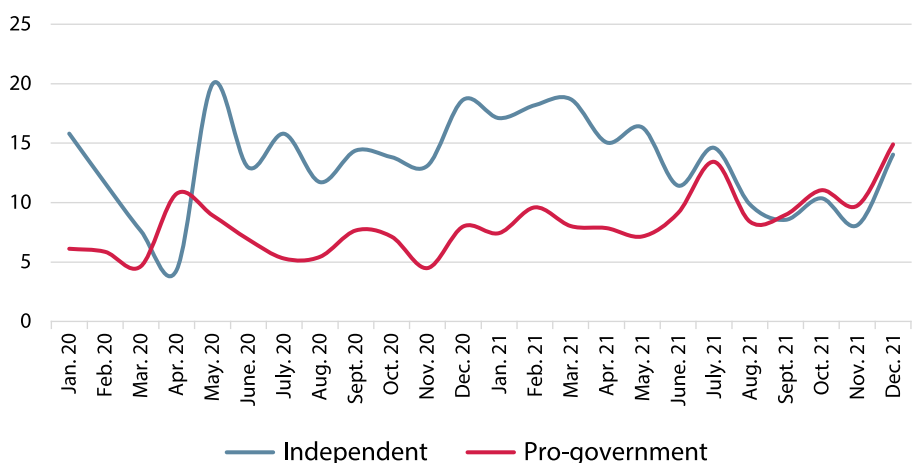
Formal mechanisms for engaging civil society on the part of the national governments in the region have been established in some of the countries, but they are still to become effective channels of civic contribution to the formation of the governments’ anticorruption agenda. The effects of state capture are visible in many **instances of marginalisation and even hostility** towards CSO. In a field such as anticorruption, CSOs functioning as both watchdogs and contributors to government policy-making places particular demands on the integrity and transparency of the process of funding. While **national public funding for anticorruption work** is now available throughout the region, **considerable deficiencies** remain in terms of the transparency of the procedures through which it is awarded. National funding mechanisms are not sufficiently secured against capture by public officials, who are sometimes in conflict of interest when allocating funding. There are still no support instruments, which guarantee the preservation of civic independence from the government of the day. Today, the ratio of foreign to national funding continues to be overwhelmingly in favour of the former, especially in BiH, Kosovo, and North Macedonia.

Media: the capture target of preference

The media are a critical link in the anticorruption infrastructure of democratic societies: they investigate, provide platform for advocacy, inform and raise awareness. Western Balkan media, however, are one of the weakest links in this infrastructure. All **four elements of media capture** are still very strong in the region: ownership by oligarchs, advertising pressure, pressure from government, and cognitive capture (the public are ready to accept corruption on many counts and media likes picking up stories from authoritarian leads).

A captured media market breeds public disillusionment with democracy as media are seen as ineffective (even when corrupt politicians are exposed there is no follow-up). **Coverage of corruption**, although generally improved, still fails to serve as a link between public demand for integrity and actual sentences or reforms. Independent media in the Western Balkans, though still a minority, are more active in their reporting on corruption than pro-government outlets. Yet, from the latter half of 2021, reporting on corruption in the pro-government outlets seems to mirror that of independent media, which among others, might be the result of the falling of corruption down the priority list of concern for the societies in the region.

Corruption coverage according to media bias, all Western Balkan countries*



* Average frequency per 1,000 of articles containing at least one of the following words or phrases: state capture, bribe, nepotism, graft, conflict of interest, favouritism, clientelism, embezzlement between January 2020 and January 2022 in 54 online media in the six countries.

Source: SELDI generated

Still, this is mostly done in a simplified manner, along with current events; corruption is usually presented as news without any broader analyses or commentaries, where there is usually one source of information. There are even fewer editorial stances and pressure to expose and reduce corruption.

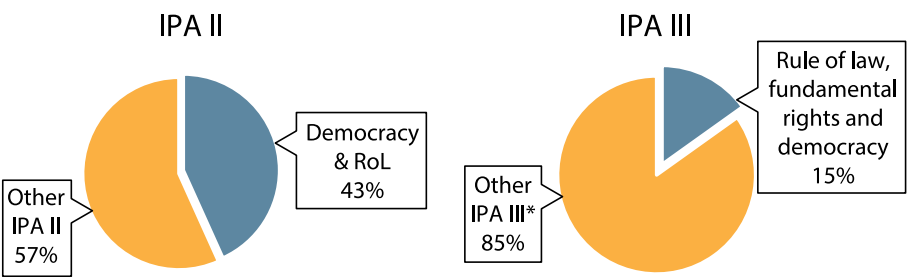
A matter of serious concern in the Western Balkans is the **high rate of intimidation of journalists** covering corruption - political pressure, verbal and physical attacks against the media are not uncommon. Such high incidence is indicative of both the senior political level at which corruption has been embedded and its impunity. Journalists and media professionals are also increasingly subject to threats and harassment on social networks. Against the background of these frequent incidents of harassment, the **impunity of perpetrators** is still a serious problem. Investigations of such cases are slow and rarely lead to indictments.

The international community:
friend, not foe

It has now become obvious to all anticorruption stakeholders in the Western Balkans that international institutions, the EU prime among them, have become **an indispensable factor for anticorruption progress** in the region. Today, Western Balkan governments rarely pronounce any movement on anticorruption without somehow referencing the EU: in Serbia, the amendments of the constitution were linked to EU hopes; in North Macedonia, the latest reform agenda is titled *Europe at Home*. The EU role spans the whole range of the reform process – from funding to framing anticorruption in a broader political context. On the face of it, making the success of reforms contingent on such an extraneous influence may cause doubt as to their sustainability. However, if EU membership is a realistic goal, then the indispensability of the EU for domestic good governance is not a factor but an objective.

The **beneficial impact of international assistance** is evident in a number of other developments. For one, there has been a broadening of the domestic interlocutors engaged with foreign partners. While in the early days, international institutions worked exclusively with the executive branch of government, the range of public bodies participating in this cooperation has expanded. Civil society has developed with foreign assistance and has become a recognised partner for impact to the EU and other international partners. Still, business, media, trade unions, academic institutions and other private sector stakeholders are not sufficiently involved. Also, the list of issues which international assistance addresses is becoming **increasingly sophisticated**: from integrity vetting of magistrates to local democracy, from improving parliamentary oversight to capacity building for law enforcement.

The share of governance-related assistance to the Western Balkans in IPA III is almost a third of that in IPA II



Source: Overview - Instrument for Pre-accession Assistance

Turning the tide: how to regain the anticorruption momentum

The current moment in Europe is one of opportunity since it shows like never before how much democracy depends on the integrity of government. While the war in Ukraine complicates democratic transition and EU integration, it provides impetus for a decisive stand towards democratisation and a new push towards a tipping point in anticorruption efforts across all countries in the region. **State-building and anticorruption are intricately linked.** Geopolitical arguments should be used to unlock the accession process immediately but not as an argument to turn a blind eye to corruption and state capture vulnerabilities in the Western Balkans. Regaining momentum is possible, provided two radical shifts are instituted in the approach to anticorruption in the region:

Prioritise the weakening and subsequent dismantling of state capture. The EU accession process with its focus on democratic and market institutions' fundamentals and rule of law is an outstanding framework for progress. It requires willingness and ability on the part of both sides – the candidate countries and the European Commission and member-states. Anything short of placing this issue at the heart of the agenda means that anticorruption is simply going through the motions. Loosening the tight grip of private interest on the levers of government can only be achieved through a rethinking of the structure of anticorruption stakeholders and their cooperation dynamics. Non-governmental organisations, business associations, trade unions, academia, media and other civic actors need to become an integral part of the whole anticorruption cycle – from designing policies to monitoring their implementation, **supported through an independent local funding mechanism.** For this to happen, civil society in the Western Balkans needs to be integrated in European professional and civic networks. **Joint Western Balkans-EU platforms** should facilitate the transfer of expertise and create a network effect for anticorruption advocacy.

Measure effect, not intentions. Currently, both national governments and international monitors base their assessment of anticorruption progress on targets that are, in effect, administrative. They mostly look into input indicators (regulations, procedures, resources), rather than outputs, i.e., actual impact. A genuine anticorruption drive should be based on **evidence-driven anticorruption policies.** Three existing data generation mechanisms could inform these policies:

- *State Capture Assessment Diagnostics (SCAD)*, a tool for assessing power concentration.³
- Measuring corruption victimisation of the general public (SELDI's *Corruption Monitoring System (CMS)*, implemented in the Western Balkans since 2001).⁴
- *Monitoring Anti-Corruption Policy Implementation (MACPI)* – a tool for evaluating the anticorruption performance and resilience of individual public institutions.⁵

³ For further details about this instrument see: Stoyanov, A. et al., *State Capture Assessment Diagnostics*, Sofia: Center for the Study of Democracy, 2019.

⁴ For the methodology of this instrument see: SELDI, *Western Balkans 2020: State Capture Risks and Policy Reforms*, 2020.

⁵ For further details about this instrument see: Stoyanov, A. et al., *Monitoring Anti-Corruption Policy Implementation (MACPI)*, Sofia: Center for the Study of Democracy, 2015.

The broader enabling framework for the national reform efforts in the Western Balkans is provided by the EU accession prospects. This framework focuses on several sets of measures that can help bring the region to a successful tipping point in this domain:

- **Political engagement.** The EU needs to push much more forcefully for reforms on the ground in each of the countries and regionally. The European institutions need to continue and enhance their direct cooperation with civil society and the business community in the region. EU diplomatic representations in the region need to work in concert with member states' embassies to deliver the same message on good governance and anticorruption.
- **Support for the economic recovery.** Given the strong correlation between economic development and anticorruption, EU's Economic and Investment Plan (EIP) for the region needs to establish a stronger linkage to anticorruption. Economic support should include anti-state capture considerations, i.e., investing in a way which enhances competition, boosts local professionalism, integrates local producers and service providers in European supply chains, reduces informality, promotes corporate governance standards, etc.
- **Focus on critical governance areas for sustained impact.** One such area is the judiciary and its capacity to ensure rule of law in economic governance domains prone to corruption, such as public procurement, concessions, licensing, privatisation, and real estate. Public procurement with EIP resources needs to be properly monitored and best practices need to apply to all other nationally and internationally sourced projects. Public procurement data needs to be openly available for analysis and scrutiny.
- The **role of parliaments** in providing checks for the judiciary and the executive needs to be strengthened. Parliaments, and in particular their anticorruption committees need to be empowered to finance and work with civil society in the country and in the region to bring up continuously emerging state capture and corruption issues.
- Continuous monitoring of the **hidden economy** should aim to identify trends with respect to undeclared work and the practice of hiding revenues in the excise goods and services sectors. Effective policies against informality would combine incentives for employers and employees to transition from the informal to the formal sector and the introduction of flexible labour contracts with the use of awareness campaigns. The reform of inspection policies should result in moving away from numerous intrusive inspections towards targeted inspections at key risk companies, sectors and locations. Progress in the introduction of e-government solutions and electronic payments should be consolidated.
- The EU and international finance institutions should work with the Western Balkan governments to insulate the region and its emerging market democracies from **the corrosive effects of illicit financial flows**, in particular such linked to foreign autocratic players, such as Russia and China. Building resilience in this respect would require serious capacity upgrade, from investment screening to asset tracing, and anti-money laundering (including through the process of establishing the EU Anti-Money Laundering Authority).

- **Countering media capture**, in all its dimensions, and extricating the region from ruthless Kremlin **disinformation** and its infrastructure is critical to regaining trust and strengthening anticorruption support in societies. A necessary first step is the building up and opening up of trade registries and ensuring corporate ownership transparency of final beneficial owners, in particular in relation to media holdings. Social media platforms' moderation in local languages need to be brought in line with upgraded EU standards under the EU Democracy Action Plan.

The broader enabling framework for the national reform efforts in the Western Balkans is provided by the **EU accession prospects**. The EU needs to test its newly found geopolitical prowess to get the accession process with its conditionalities move forward. In particular, it needs to find European solutions to the continuing crisis in Bosnia and Herzegovina and to the bilateral disagreements between Bulgaria and North Macedonia, which stall the start of EU negotiations. Most importantly, the EU needs to convince its citizens that enlargement is a win-win solution. It can use the current momentum, provided by the shock of the war in Ukraine, but its effects will invariably wear with time. Hence, in the end of the day, the EU, member states, Western Balkan governments and civil society need to move forward, creating local demand and will for continuous anticorruption reforms.

FOREWORD: CRISIS AS AN OPPORTUNITY



In a matter of weeks, Russia's invasion of Ukraine came to dominate political attention globally but with particular urgency the agenda in Europe and the future of the EU project, including its enlargement in the Western Balkans. The war in Ukraine upended EU's priority lists, focusing the minds of its leaders on **global power competition** and less so on what now appear to be technicalities of enlargement negotiations. A number of concerns that had demanded serious consideration in the European Union and its immediate neighbourhood before Kremlin's war in Ukraine began in February 2022 seem to have slipped down the list of priorities.

One such issue is the status of anticorruption reforms in the Western Balkan countries seeking to join the EU. Yet, if anything, the war in Ukraine has made it clear that the nature of government is a more, not less important matter. For one, Ukrainian resilience in the face of Russian brutality is in no small measure the result of efforts to enhance the integrity of public institutions, the most visible effects of which can be seen in the unexpected professional resolve of the Ukrainian army. This shows that **investment in good governance** must be moved up, not down the agenda. For another, the Kremlin has managed to establish clientelist relations with a number of politicians and parties in Europe, which have been pushing a Euro-sceptic and anti-liberal agenda.⁶ This agenda has in particular caught on with governments and societies in the Western Balkans as seen in the infamous Covid diplomacy pursued by China and Russia in the region. Now, the war has **emboldened autocratic forces** in the Western Balkans and has threatened to further shrink the space for civil society action. The results are deep societal divisions in countries such as Serbia, Montenegro and Bosnia and Herzegovina. The leadership of Republika Srpska has gone so far as to use the war to push for its secession from Bosnia and Herzegovina. The risk is that heightened domestic confrontation in countries where ethnic animosity is still smouldering could undermine the kind of consensus needed to revive stalled anticorruption progress. To complicate matters further, political tribalism is not confined to ethnic divisions: as shown in this report, **patronage and clientelist networks** shadow official government institutions throughout the region.

The decisive wins of incumbent strongmen in Serbia and Albania have resulted not in anticorruption breakthroughs but in **higher state capture risks** and more control over the media. Political competition in Kosovo, Montenegro and North Macedonia has created more expectations for bold reforms but has not yet impacted positively anticorruption capacity. The continuing stalemate in federal government institutions in Bosnia and Herzegovina has firmly rendered the country the anticorruption laggard in the region.

Civil society in the region has been increasing its capacity but has scrambled for ways to continue influencing public anticorruption policy. The introduction of pandemic-related states of emergency across the region has allowed governments to more easily abuse transparency, public procurement, competition and other regulations. Lockdowns and medical emergencies have shut out even the most active civil society organisations in the region. In addition, they have been unable to respond quickly to the changing external environment due to their excessive reliance on less flexible EU and other external grants. In addition, the **focus** of these grants **has shifted away from**

⁶ For a detailed analysis of this process see: Stefanov, R. et al., *The Kremlin Playbook in Europe*, Sofia: Center for the Study of Democracy, 2020.

anticorruption towards economic support and infrastructure development, as the EU has been trying to speed through more countries into enlargement negotiations to counter geopolitical pressure from Russia and China.

It seems that robust economic growth – a **critical anticorruption support factor** in the 2000-2010 decade – is unlikely to return to the region and in Europe in the short to medium run. The pandemic has been replaced in quick succession by the energy and inflation crisis and the war in Ukraine. Moreover, inflation can be expected to persist in 2022 and 2023, increasing destabilization forces in societies in the Western Balkans. This requires bolder action on all sides but the EU and its member states should lead, aided by local civil society.

It is against the background of a very difficult time for anticorruption in the Western Balkans that the Southeast Europe Leadership for Development and Integrity (SELDI) presents this **in-depth diagnostic of corruption and governance gaps** in the region. The findings and recommendations presented in this report aim to aid the EU, Western Balkan governments and civil society in reinvigorating and continuing anticorruption reforms in the region. Being the result of collaboration within SELDI, this evaluation provides a regional overview of civil society efforts, pledges and aspirations to deliver better anticorruption reforms in the region. SELDI has continued to believe and rely in its reporting on collaboration with government anticorruption institutions in the region. Yet, the network and its members noted the more difficult environment for **public-private partnerships in tackling corruption** in the region in 2020-2022, as government counterparts have grown reserved in their anticorruption cooperation, in particular in Serbia and Bosnia and Herzegovina.

SELDI's methodology is unique as it combines a measurement of corruption victimisation and state capture vulnerabilities with an assessment of the anticorruption infrastructure that is designed to reduce them. The infrastructure includes both formal institutions and policies (as embodied in laws and regulations). Such an approach allows the anticorruption work of governments to be assessed not against administrative targets (as is typically done in national reporting and in some international assessments) but in the light of *actual progress*: fewer bribes, reduced corruption pressure and state capture vulnerabilities. To find out whether these are achieved, SELDI employs its *Corruption Monitoring System*, which relies on a data-driven method of **measuring corruption victimisation**. The individual chapters of this report analyse the dynamics of corruption levels and state capture vulnerabilities, developments in national anticorruption policies and legislation, institutional practices of oversight bodies, linkages between corruption and the hidden economy, the role of civil society and international cooperation. The evaluation of the national institutional and legal aspects enabling corruption in the region is not a comprehensive inventory of regulations and practices in all countries but rather emphasises some of the priority issues for the regional anticorruption policy agenda.

THE STATE OF CAPTURE: ASSESSING HIGH LEVEL CORRUPTION



For the past few years, the focus of attention of anticorruption stakeholders in the Western Balkans – both local and international – has shifted from the general phenomenon of corruption to its qualified variant – state capture. This comes as a recognition of the fact that corruption has gone beyond a simple deviation in the functioning of a given public institution into a stable pattern of institutional behaviour, resistant to the application of generalised anticorruption policies. State capture in the Western Balkans is a mechanism through which the drafting, adoption and enforcement of government rules and regulations is warped in favour of a small number of captors at the expense of society and business at large. It is based on several main pillars, including the establishment of clientelistic relations between politicians and business, the intervention of politicians in court proceedings, the award of contracts and public tenders without competition, custom-made laws, etc. One of the most common high-level corruption cases is **clientelistic relations** among senior officials (and sometimes their relatives) and private entities.

Obvious as its presence is, state capture still struggles to find its way as a problem into official anticorruption policies – none of the “strategies” in the Western Balkans mention it. It is primarily civil society, and on occasion foreign partners, that flag it up as a major concern; even the European Commission, which few years ago brought it up as an issue, now seems to shy away from it. Its absence from the anticorruption agenda shows that the “measures” constituting that agenda are mostly administrative matters which do not affect the deeper causes obstructing progress.

The **pilot diagnostic assessment** of state capture carried out by SELDI in the Western Balkans⁷ has shown that although none of the countries is close to full state capture, they exhibit critical impairments in democratic and economic checks and balances. This is manifested in the electoral process, in the monopolisation of certain sectors of the economy, procurement concentration, legislative capture, corruption in the judiciary. Across the region, the score for state capture enablers spans from 39 to 45 out of 100 (full state capture). Serbia and Kosovo, which have the lowest administrative corruption rates among the six assessed countries, do not fare that well in terms of state capture.⁸ This suggests

that the decreasing administrative corruption levels are not necessarily related to efficient anticorruption reforms but could have more to do with more effective control or capture of the workings of the administration by political-oligarchic circles in power. The trend could also potentially be a side-effect from growing state capture and influx of corrosive capital, which transform the petty forms of corruption into more complex ones, in particular under regimes governing continuously over several political terms. It might be following the same pattern as when organised crime takes hold of a particular community, it does away with petty crime. The process whereby administrative corruption is suppressed but state capture and oligarchic networks thrive is not new and it could also be observed, to various degrees, in EU member states as well.⁹

While state capture is a hidden phenomenon – most of the evidence for its presence is anecdotal – it still leaves behind public traces. These traces betray not only the seniority of the level at which corruption is perpetrated but the **audacity of the schemes**, which in turn can only be indicative of an awareness of impunity – a sure mark of state capture. A number of its effects have been manifested recently in the Western Balkans:

Electoral aspects

Pervasive as state capture may be, there are signs that the public is not completely desensitised towards it. In North Macedonia, during the campaign for the local elections in 2021, the political parties in a large segment addressed the issue of corruption and a government campaign sought to highlight the problems of abuse of office and corruption of administrative officials through videos, including how citizens can oppose this phenomenon.¹⁰ This campaign met with public outcry because it showed existence of low-level corruption and did not present a realistic picture of the overall situation.¹¹ In Montenegro, the government which came to power in 2020¹² pledged to fight corruption, as well as organised crime, more efficiently and to deliver in

⁷ SELDI, *Policy Brief 10: State Capture Assessment Diagnostics in the Western Balkans 2020: Risks and Policy Options*, 2020.

⁸ Ibid. Serbia has a score of 43 in regards to state capture enablers, while Kosovo has a score of 27 in terms of monopolisation pressure.

⁹ Stoyanov, A. et al., *State Capture Assessment Diagnostics*, Sofia: Center for the Study of Democracy, 2019.

¹⁰ Government of the Republic of North Macedonia, “*Zaev and Nikolovski promoted the campaign ‘Now everything is public - Corruption does not pay off’: Let’s stand in the way of all those who corrupt our society’*”, 03 September 2021.

¹¹ In September 2021, the government promoted a campaign for raising awareness and support of the fight against corruption called “Now it is public – The corruption does not work”.

¹² The government was given a vote of no confidence in January 2022.

that regard in the EU integration process. Still, there seems little change has happened in the impunity for high-level corruption and the adoption of tailor-made laws. In terms of enforcement, “courts tend to give milder penalties for high-level corruption than for administrative corruption. They also have a more lenient attitude towards high-level corruption in the public sector, which causes multi-million-euro losses in the state budget, than to corruption in the private sector, where damages are less harmful to state finances.”¹³

Monopolisation effects

SELDI’s previous regional corruption assessment report analysed the effects of state capture on the monopolisation of certain sectors of the economy.¹⁴ And there is continued evidence of the inefficiency of antimonopoly laws in the Western Balkans. In Albania, the annual reports of the Competition Authority have identified some markets with a lack of competition and monopoly or oligopoly tendencies, such as the energy and hydrocarbons markets, construction industry, air and sea transport, fiscal equipment, etc. In Serbia, these effects are pronounced in the telecoms sector. Telekom Srbija and Telenor have been filed with criminal charges from Serbia Broadband (SBB) and United Media over a restrictive agreement on media market competition.¹⁵ The deal would give Telenor access to Telekom Srbija infrastructure to enter the media market.¹⁶ In a leaked statement the CEO of Telekom Srbija acknowledged that the ultimate motive of the deal was to “destroy” SBB.¹⁷ Despite these serious allegations, the Commission for Protection of Competition approved the deal between the companies.¹⁸ In addition, Telekom Srbija recently acquired Posta NET cable and internet provider,¹⁹ confirming the use of Telekom Srbija as a tool of the government to expand its control over the media sector.²⁰ Several experts considered the deal between Telekom Srbija and Posta NET as illegal, given that

clients were not informed about the ownership change of their personal data²¹ and the purchase of the cable operator was not done via public tender, thus excluding other companies from making a potential offer.²² The Anti-Corruption Council started an investigation into Telekom Srbija²³ over its acquisition of Wireless Media. However, the Anti-Corruption Council did not issue a final decision²⁴ despite the pressure received from Wireless Media owner’s Igor Zezelj.²⁵

Procurement concentration

Evidence of procurement concentration also point to the presence of state capture. In Albania, one of the most telling cases of differentiated treatment and unfair access to procurement, and evidence of clientelistic relations of business people with senior politicians is the case of incinerators. The Albanian government awarded three contracts to construct waste incinerators for electricity generation in Elbasan, Fier, and Tirana through public-private partnership investment schemes. The total cost of the three incinerators was approximately €178 million.²⁶ In all three cases, the companies that received the contracts from the Albanian government were the only bidders. Although formal tendering procedures were followed for incinerators in Fier and Tirana, the government initiated the procedures after receiving unsolicited proposals from the single bidders. Moreover, the key individuals in all three companies are closely related to each other through formal business partnerships or acquisitions. This case suggests a high-level or political corruption risk where the same business actors have submitted three proposals to construct incinerators. Investigative media and civil society in the country have often raised suspicions that Mirel Mërtiri and Klodian Zoto, two businessmen close to the former Minister of Finance and Economy, Arben Ahmetaj of the Socialist Party, as well as links to the Democratic Party, have conspired with officials in the Albanian government to award contracts for waste incinerators to companies

¹³ MANS, *State Capture: Montenegro National Report*, 2021.

¹⁴ SELDI, *Western Balkans 2020: State Capture Risks and Policy Reforms*, 2020.

¹⁵ Dziadul, C., “*Telekom Srbija and Telenor face legal action*”, Broadband TV News, 09 April 2021.

¹⁶ Dordević, N., “*Telekom Srbija – Telenor deal raises concerns about media freedom in Serbia*”, Emerging Europe, 10 February 2021.

¹⁷ N1 Belgrade, “*Telekom Serbia CEO confirms documents on deal with Telenor leaked*”, N1, 10 February 2021.

¹⁸ Dziadul, C., “*Telekom Srbija/Telenor deal wins approval*”, Broadband TV News, 23 April 2021.

¹⁹ N1 Belgrade, “*Telekom Serbia takes over Posta Net cable and Internet provider*”, N1, 10 September 2021.

²⁰ Čačić, D., “*Telekom Srbija: Vucic’s weapon to stifle media freedom*”, Euractiv, 23 July 2021.

²¹ N1 Belgrade, “*Latest Telekom deal illegal, experts say*”, N1, 04 October 2021.

²² N1 Belgrade, “*UG’s SBB to Govt: Why is Serbia’s NET Post ceded to Telekom without public call?*”, N1, 05 October 2021.

²³ FoNet, “*Anti-Corruption Council to discuss Telekom Srbija on September 23*”, N1, 20 September 2020.

²⁴ N1 Belgrade, “*Anti-Corruption Council silent about Telekom-Wireless Media contract*”, N1, 17 November 2020.

²⁵ N1 Belgrade, “*Zezelj tries to pressure Anti-Corruption Council*”, N1, 23 September 2020.

²⁶ Bogdani, A., “*Controversial incinerator concessions in Albania*”, Voice of America, 23 May 2018.

run by their associates.²⁷ Furthermore, reports by the Supreme State Audit Office have identified violations and irregularities related to the implementation of the incinerator project and undeclared payments. In August 2020, the Special Structure Against Corruption and Organised Crime (SPAK) launched investigations into breaches of fair competition in the tenders for the incinerators. At the end of October 2021, the Assembly set up a commission of inquiry into incinerators, at the request of the opposition. On December 14, 2021, SPAK arrested the former Minister of Environment, Lefter Koka, who is accused of abuse of office and corruption in connection with the procedure of the concession of the incinerator of Elbasan.

In North Macedonia, in 2021 the government signed a memorandum with the American and Turkish consortium Bechtel-Enka to build several highways throughout the country.²⁸ The government ignored similar bad examples from the past with Sinohidro, where high-ranking members of the then VMRO-DPMNE government were later put on trial for abuse of office. Their indictment was based on the use of a *lex specialis* instead of abiding by the applicable procurement laws and regulations. In a similar manner, several MPs proposed and the Macedonian parliament enacted a special law for strategic partnership with Bechtel-Enka as a follow-up from a process initiated by the government. The law avoided both procurement and public private partnership legislation and gave preferential treatment to the consortium.

Legislative capture

Another sign of the presence of state capture is the quality of the laws that are adopted by national parliaments. By capturing the legislative process, special interests subvert the public interest in the long term. If, say, a nature reserve is to be stripped of protection in order to benefit speculative developers, this is presented as “investment in rural tourism”. It is by establishing rules that favour private interests that customised legislation in the Western Balkans legalises state capture; the costs then appear on society’s balance sheet, while profits accrue to specific companies, their owners and political patrons. Such laws are usually adopted without prior public consultation and are not based on substantive assessments of sustainable economic growth and development. In Serbia, the law on special procedures for linear infrastructure projects (road, rail, waterways, airports, metro, water and wastewater

systems) – in fact, the most valuable procurements – that allows the government to exempt projects of “special importance for the Republic of Serbia” from the application of public procurement rules. In Albania many new laws were adopted for the ostensible purpose of promoting free competition but in fact provide a preferential status for specific companies. Such was the case of the law on determining the special procedure for the contract’s evaluation, negotiation, and conclusion with the object design and implementation of the urban project and the new building of the National Theatre. In early 2018, the government publicly announced its intention to build a new national theatre through a public-private partnership (PPP) agreement with Fusha Shpk, a private company, which had submitted an unsolicited proposal for this purpose. The European Commission suggested that direct negotiations with a private company were contrary to competition law. In response, the government amended the bill to allow other private companies to submit bids, too. However, the new draft, which was approved (Law No. 37/2018), and especially the bylaws, provided a preferential status for Fusha Shpk. Evidence of a captured legislative process was also present in the drafting of Albania’s gambling law. In its initial version it sought to limit the gambling industry and its adverse effects on young people and families.²⁹ However, 24 hours before the plenary session of the parliament, two MPs introduced several amendments that dramatically changed the law and allowed the massive (rather than limited) expansion of gambling in Albania in the two years that followed.

External influences

State capture involving foreign authoritarian powers is another problem for the Western Balkans. Typically, such projects are much bigger than the capacity of the local administrations to manage them, are technically complex and rely on the personal engagement of government figures from the highest echelons of power.

In Bosnia and Herzegovina, as elsewhere, there is a growing presence of Chinese capital in major projects in the energy sector. BiH is the second country in the Western Balkans in terms of the presence of Chinese capital in financing investments, which generally do not meet EU standards and are an obstacle to European integration process because they do not take into account environmental risks and community health.³⁰

²⁷ Bogdani, A. and Likmeta, B., “*Garbage policy: Who is the shadow businessman of the incinerator monopoly?*”, Reporter.al, 17 September 2020.

²⁸ Filipovska, S., “*What does the Government Memorandum with ‘Bechtel and Enka’ for construction of highways contain?*”, 360Stepeni, 29 April 2021.

²⁹ Measures included a 25% tax; limiting the maximum number of units to a maximum of 500 for gambling companies; stipulating that gambling establishments should not be opened within 200 meters of religious and educational institutions.

³⁰ Center for Civil Initiatives (CCI) and Center for International Private Entrepreneurship (CIPE), *Investments in the 4G network in Bosnia and Herzegovina*, 2020.

Similarly, in Serbia infrastructure projects with Chinese companies are usually presented as FDIs, while these are in fact loans, often including an obligation to hire Chinese companies, use Chinese technology, materials and, in some cases, even labour force from China.³¹ They have had a negative impact on the environment and legislation, especially when it comes to public procurement since projects are usually based on interstate agreements and circumvent domestic legislation.³²

Projects with Russia are also based on interstate agreements. These are problematic because their implementation does not always follow the EU principles of equal treatment, transparency, non-discrimination, and competition.³³

³¹ Novaković, I., *“China in the Western Balkans Energy Sector: Between development and ecological reforms”*, European Western Balkans, 02 November 2020.

³² European Western Balkans, *“[BSF] Due to influence of the state, investments from China can be a source of political risk”*, 29 October 2021.

³³ For a further analysis of Russian and Chinese influence in the region: Stefanov, R. and Vladimirov, M., *The Kremlin Playbook in Southeast Europe. Economic Influence and Sharp Power*, Sofia: Center for the Study of Democracy, 2020; Vladimirov, M. and Gerganov, A., *The Chinese Economic Influence in Europe. The Governance and Climate Conundrum*, Sofia: Center for the Study of Democracy, 2021.

THE DYNAMICS OF CORRUPTION



It has been over two decades now that SELDI has been measuring corruption victimisation levels in Southeast Europe. This has allowed it to build a large archive of data on the characteristics and trends along **three main dimensions**:

- the **experience** of the public with corruption;
- their **attitudes** towards corrupt practices; and
- their expectations about anticorruption progress.

The major outputs of the *Corruption Monitoring System* (CMS) – SELDI’s measurement tool – are the corruption indexes. They are based on surveys included in the CMS and summarise the most important aspects of **corruption behaviour patterns**. Their value for policy makers is in revealing whether a general improvement or deterioration is happening at the country level, as well comparing these among countries with similar backgrounds.

The 2021 round of the CMS has identified a number of patterns both compared to the previous round in 2019 as well over the last decade.

General trends

Experience with corruption - the involvement of individuals in corrupt transactions (**corruption victimisation**) - in the Western Balkan countries **remains high**. Even in the countries with the lowest levels of administrative corruption, about a fifth of the population report having paid a bribe of some kind. Such levels are well beyond average levels registered by the Eurobarometer surveys in the EU.³⁴ This shows that administrative corruption in the region is a mass phenomenon and should be regarded as a specific risk in the mode of operation of public institutions. Stalled progress with curbing administrative corruption opens wide avenues for state capture³⁵ and for corrosive capital from authoritarian states to enter freely the affected countries. High-level corruption in turn makes the fight with administrative corruption even harder.

The anticorruption progress achieved in the Western Balkans between the early 2000s and mid-2010s has now been reversed with most measures of administrative

corruption indicating an increase. There have been minor improvements in 2021 in some countries compared to the 2019 levels. Data from the 2019 CMS round showed that countries that could see the prize of accession to the EU on the horizon performed better in their fight against corruption. In 2021 this positive effect continues to be true for Serbia and Montenegro, but not so much for Albania and North Macedonia. Specifically, there are **three findings that merit highlighting**:

- Self-reported involvement in corruption in the Western Balkans remains very high – between 20% and 40% of the citizens admit to having paid some kind of a bribe.
- Tolerance of corruption by the general public, although on the wane, is still high, ranging between 25% and 40%.
- The overwhelming majority of the citizens in the Western Balkan countries are pessimistic about the prospects of anticorruption efforts.

A key factor in the integrity of an environment of governance is **corruption pressure** – the incidence of implicit or explicit rent-seeking by public officials in their dealings with members of the public.³⁶ It is a measure of the victimisation of individuals by corrupt officials accounting for their direct experience with various corruption patterns.

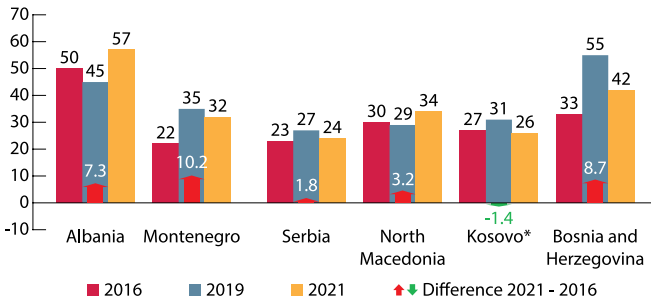
CMS results show that despite the 1% decrease in corruption pressure since 2019, corruption levels on average remain higher in the Western Balkans in 2019-2021 than during the period between 2014 and 2016.

³⁴ Data.europa.eu, *Special Eurobarometer 502: Corruption*, 09 June 2020.

³⁵ SELDI, *Western Balkans 2020: State-Capture Risks and Policy Reforms*, 2020.

³⁶ For public institutions to be considered corruption-free their corruption pressure needs to be below 5% on SELDI’s CMS evaluation scale. At these levels, public trust in institutions and pressure for further anticorruption efforts create a momentum reducing the incidents of corruption even further.

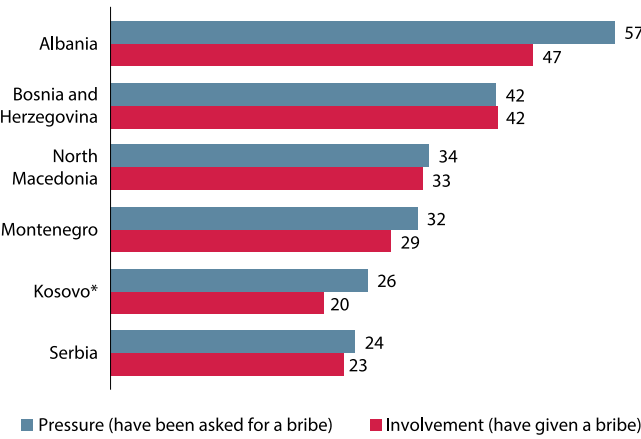
Figure 1. Corruption pressure in the Western Balkan countries has risen since 2016



Source: SELDI Corruption Monitoring System, 2021.

In 2021, **corruption pressure remained above 24%** in all countries in the region. Albania appears to be the country plagued by the highest administrative corruption in the region with 57% of the citizens being asked for a bribe at least occasionally during the year preceding the survey and 47% actually participating in corruption transactions.

Figure 2. Albania exhibits the highest corruption pressure and involvement in the Western Balkans*



* 2021; % of the population 18+ who have been asked to give and have given a bribe/money/favour/gift

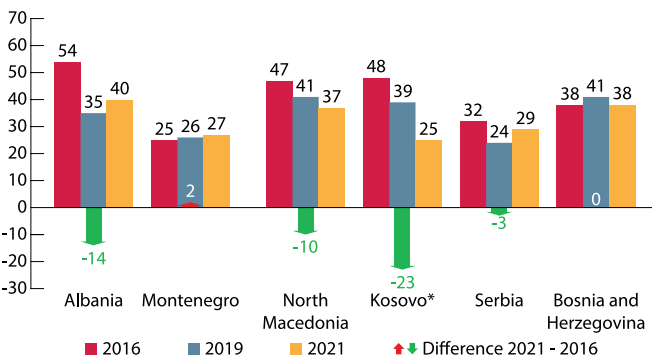
Source: SELDI Corruption Monitoring System, 2021.

While Serbia remains the country with the lowest corruption pressure rates in the region, Kosovo actually has lower rates of actual involvement in corruption activities with 20% of the citizens having paid a bribe at least on some occasions compared to 23% in Serbia.

Direct involvement in corruption transactions is accompanied by the prevalence of specific attitudes towards corruption and corruption behaviour and by perception of the spread of corruption in a society.

The measure of **acceptability of corruption** reflects the belief of citizens that certain corrupt practices by public officials are normal and can be tolerated. In 2021, acceptability is highest in Albania (40%), Bosnia and Herzegovina (38%), and North Macedonia (37%), but even the lowest scores (Kosovo - 25% and Montenegro - 27%) remain quite high. Nevertheless, consistent decline in acceptability in all countries but BiH and Montenegro since 2016 demonstrates the increased resilience to corruption among the citizens. Bosnia and Herzegovina remains the only exception of this trend with acceptability of corruption remaining consistently very high in the last three CMS waves (38%-41% between 2016-2021).

Figure 3. Acceptability of corruption is decreasing in most Western Balkan countries, except in Bosnia and Herzegovina and Montenegro*



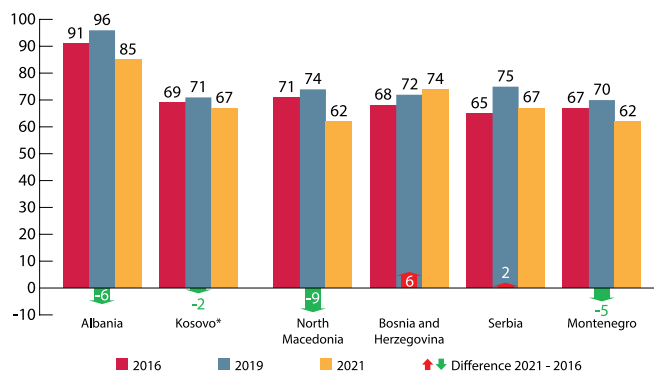
* % of the population 18+ who find various forms of corrupt behaviour acceptable

Source: SELDI Corruption Monitoring System, 2021.

Another measure of CMS is **susceptibility to corruption**. It reflects the tendency of the respondents to react in two hypothetical situations – one involves being in the role of an underpaid public official and accepting or denying a bribe that was offered; the other situation asks about giving a bribe to a corrupt public official, if one had a major problem to solve and was asked explicitly for a bribe in cash. Its significance is as a sign of how much integrity is valued in a given society.³⁷

³⁷ “Not bribing” in both situations is interpreted as the respondent being not susceptible to corruption; accepting/giving a bribe in both is interpreted as susceptibility, while giving/taking a bribe in one of the situations and not in the other is defined as “mixed behaviour”.

Figure 4. In the Western Balkans between a third and a half of the public are susceptible to corruption



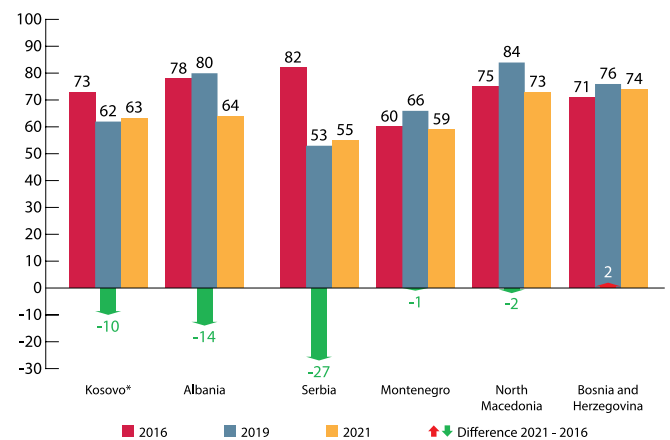
* % of the population 18+ who are susceptible to accepting or offering a bribe in at least one of the tested scenarios

Source: SELDI Corruption Monitoring System, 2021.

The 2021 findings indicate considerable differences between the outlier Albania, where (despite substantial progress over the years) susceptibility to corruption behaviour remains higher than in the other countries. Overall, in the region such high levels are the result of **an impunity culture** established for the whole period after systemic changes of 1990s, corrupted electoral system (patronage system), conflict of interest of highest politicians, lack of integrity of high ranks of public administration, etc.

The experience with corruption and the attitudes towards corruption, as well as the general current sentiment and level of trust towards public institutions in society determine the public's assessment of the corruptness of the environment. Asked about their estimate of the **likelihood of being pressured** by a government official into bribing, the public in the Western Balkans is considerably apprehensive. Between half (Serbia) and three-quarters (North Macedonia and BiH) of the adult population expects such pressure. In five of the countries (Kosovo, Albania, Serbia, Montenegro, North Macedonia) a decline in these expectations has been taking place since the mid-2010s. But in the last two years the expectations have levelled off at above 50% in all Western Balkan countries. At the same time, citizens in BiH perceive corruption pressure to be even more likely now than it was 2016.

Figure 5. The majority of people in the Western Balkans expect to be asked to bribe*

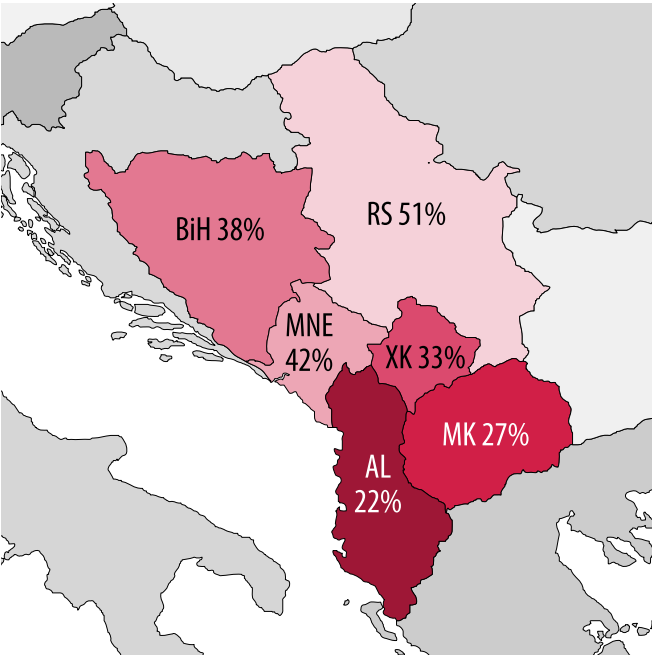


* % of the population 18+ considering corruption pressure "very likely" and "likely", excluding "not very likely" and "not likely at all"

Source: SELDI Corruption Monitoring System, 2021.

While the perceptions of the likelihood of corruption pressure show some improvement in four of the six countries, the CMS results for 2021 reveal great doubts of the citizens that corruption can be reduced substantially. With the exception of Serbia, where "only" 47% believe that corruption cannot be reduced substantially, in all five remaining countries **more than half of the population have lost hope in the feasibility of policy response**, with four of the five countries having either the same percentage of sceptics or even show increase. In fact, the only country where more people optimistic about anticorruption now than in 2014, is Serbia with 11% decline in the percentage of answers "corruption cannot be reduced substantially".

Figure 6. The map of enervated anticorruption optimism



** % of the public who believe that corruption can be reduced substantially*
Source: SELDI Corruption Monitoring System, 2021.

This result, in combination with the decreased tolerance most Western Balkan societies show towards corruption, comes to demonstrate the **crisis of the trust in the governments** and their capabilities to enforce consistently the rule of law. This points to a deep-seated crisis in the trust in government in the region.

ANTICORRUPTION LAW AND POLICY



Since the outset of the anticorruption drive in the Western Balkans, the measures adopted by the countries have been very similar – create specialised anticorruption institutions³⁸ (both in the executive and in the judiciary), expand the range of crimes constitutive of “corruption”, adopt long-term strategies and short-term plans, pass laws on previously unregulated practices (conflict of interest asset declaration, whistle-blowers, etc.). The similarity of approaches, however, extends also to their **deficiencies**:

- The anticorruption agenda has been pursued as somehow separate from the need for a general improvement of the quality of governance; in other words, no linkage has been demonstrated between anticorruption progress and improved public services. While justified at the initial stages when it was necessary for mobilisation purposes, such a divergence risks making anticorruption laws and institutions into a self-serving domain of bureaucratic activity.
- There are two trends in the anticorruption policies in the region, which are not entirely compatible. On the one hand, the anticorruption agencies are created as centralised bodies tasked with comprehensive oversight and enforcement mandates. Similarly, laws are adopted aiming at the prevention of and/or fight against corruption, again based on an all-inclusive logic. Such an approach was intended to demonstrate the importance governments are supposed to attribute to this matter. On the other, the concept of “corruption” is parsed in the legislation into an increasingly sophisticated list of practices and offenses.³⁹ The oversight and enforcement of these new legal standards require the development of a specialised and decentralised expertise.
- None of the countries has even attempted some kind of prioritisation in terms of the corrupt practices to be persecuted/prevented or sought to understand and address the incoherence described in the previous bullet without pressure from the EU or other international bodies.

This pattern is consistent with the findings of SELDI’s CMS: while there has been some tangible progress, in all of the countries, the prevalence of corrupt practices is at alarmingly high levels.

³⁸ See more on their role in: SELDI, *Western Balkans 2020: State Capture Risks and Policy Reforms*, 2020.

³⁹ The Serbian Ministry of Justice has aptly termed this a “normative mosaic”: Serbian Ministry of Justice, *“2020 is fully dedicated to the fight against corruption”*, 12 September 2020.

Policy developments

Enthusiasm for **broad anticorruption strategies** and action plans seems to be waning in the region. This should hardly come as a surprise, as it is caused by several factors:

- Given the highly partisan politics in the Western Balkan countries, these strategies were designed as if to stand above politics and ensure some continuity across elections cycles. Quite because of that, however, they never went to the heart of the problem and contained mostly generalised intentions. Their “implementation” assumed a bi-partisan consensus that was never there.
- Because of their general nature – they lacked priorities and never committed the governments to any measurable improvement targets – it was not clear what has been verifiably achieved and what new measures are needed.
- The adoption of the strategies has been driven to a large extent by extrinsic considerations – membership in the Council of Europe, need to assign and transpose UNCAC, aspirations to join the EU.
- Committing mostly the public administration, these documents did not seek to involve business, the economy, investors, or the broader civil society as equal stakeholders.

In the past two years, some of the Western Balkan countries have adopted new anticorruption strategies. They carry, however, the faults of the previous ones: providing exhaustive lists of relevant policy fields instead of setting priorities and specific goals, and addressing all possible aspects of corruption; with respect to anticorruption “**strategic**” still signifies simply “**exhaustive**”. Further, in being general and comprehensive, the national strategies have become hardly distinguishable. There is little, if any, national specifics in them to reflect national circumstances in the generation and manifestation of corruption. Strategy has become one of the most overused concepts applied to any documented set of intentions by a public institution. The trivialisation of the strategic is not exclusive to the Western Balkan governments – the European Commission, for example, uses “strategy” 100-odd times in each of its 2021 reports on the Western Balkan countries.

The **absence of nationally-owned policy** is evident in the absence of any meaningful stock-taking of the previous

strategies. A policy without a feedback mechanism – something none of Western Balkan countries have (with the possible exception of an attempt at risk evaluation in North Macedonia) – is wishful thinking at best and fake policy-making or box-ticking at worst.

The policy documents are also sometimes **structurally incoherent**. In the case of the North Macedonian Action 21 plan, for example, it loops on itself – the plan envisages an anticorruption programme, one of whose tasks is to identify “the causes, conditions and factors that enable corruption”.⁴⁰ The plan contains an assortment of planned activities of predominantly technical nature, many of which have a tenuous link to anticorruption at best. It mixes measures that a matter of administrative competence (e.g., digitalisation of various services) and amendments to anticorruption law, which is a policy and political matter. Similarly, in the government’s “Европа дома” (Europe at Home) agenda the set of intended actions to promote the rule of law combine the investigation and prosecution of high-level corruption with removing illegal construction on the banks of Lake Ohrid.⁴¹

On the positive side, the National Strategy for Prevention of Corruption and Conflict of Interest 2021-2025,⁴² drawn up by the North Macedonian State Commission for Prevention of Corruption (SCPC), while covering a very broad range of public sectors nevertheless manages to present policy guidance on the priorities of anticorruption. This is achieved by a prior risk assessment exercise, which had identified sectors and practices of high vulnerability to corruption (e.g., public procurement, the issuing of licences and permits, etc).

The anticorruption strategies and plans are drafted by the civil servants in the anticorruption agencies in the Western Balkans but there is **no** prior or subsequent

political debate on their contents.⁴³ As a result, they end up mostly as internal government management manuals rather than reform manifestos. And they do not even live up to the standard of good administrative documents: there is, for example, no attempt at data generation beyond the listing of implemented “activities”. The availability of sufficient data for an independent analysis of policy delivery should be a minimum and immediate requirement for such documents. Yet another result of this bureaucratic approach is that the most serious concerns of civil society, business and foreign partners – state capture, clientelism, impunity of senior public figures – never make it into these strategies.

Even more unusually, the strategies are given timeframes, the result of which is that at some point they appear “expired,” while not being clear whether they have achieved their strategic objectives. Serbia’s and Bosnia’s strategies, for example, have “expired” and new ones have not been adopted. The Bosnian Agency for the Prevention of Corruption and Coordination of the Fight against Corruption prepared a draft for the 2020-2024 period and tried to push it through the government agenda⁴⁴ but the Council of Ministers of BiH has still not adopted it. Not waiting for central government, some of the governments at lower levels have taken the initiative and adopted their own strategies (Figure 7).

⁴⁰ Government of the Republic of North Macedonia, *“Action 21” Anti-Corruption Plan*, 2021.

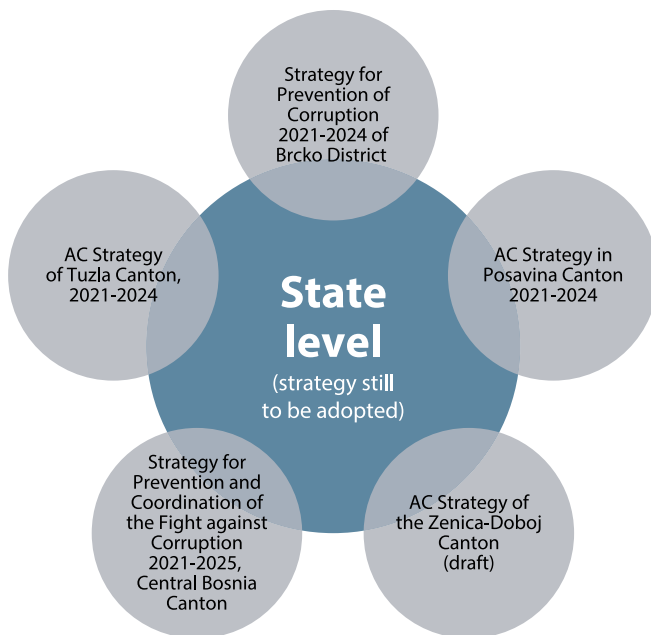
⁴¹ Government of the Republic of North Macedonia, Secretariat for European Affairs, *Agenda: Europe at home. We continue with reforms and Europeanization of North Macedonia*, 2021.

⁴² The *strategy* was supposed to be adopted for the period 2020-2024, but due to a non-functioning parliament during 2020 this process was postponed and it was adopted by the Assembly in 2021 with a changed implementation period and deadlines. Additionally, SCPC has developed a risk management strategy: State Commission for Prevention of Corruption, *Risk Management Strategy 2021-2023*, 2020.

⁴³ This often results in general statements bordering on the meaningless, such as this example from Kosovo’s anticorruption strategy: “primary sectors have been divided and greater accountability and full transparency will be required in performing the duties and the mandate of relevant institutions. [...] based on problems identified and challenges presented, measures and activities have been proposed which have effectively foreseen the tools and methods for prevention and combating corruption.” Anti-Corruption Agency, *Anti-Corruption Strategy 2021 – 2023*, Republic of Kosovo, 2020.

⁴⁴ Agency for Prevention of Corruption and Coordination of the Fight against Corruption, *“Press release on the occasion of December 9 - International Anti-Corruption Day”*, 9 December 2020.

Figure 7. The constellation of the Bosnian anticorruption strategies



Source: SELDI generated

In Albania, the 2015 Cross-Cutting Anticorruption Strategy (even the name suggested comprehensiveness rather than purpose) had some changes introduced to it and had its deadline extended until 2023. An Anti-Corruption Action Plan 2020-2023⁴⁵ then specified some concrete measures and a Coordinating Committee was set up to implement these documents chaired by the Minister of Justice. An Inter-Institutional Anticorruption Task Force was also established, responsible for anticorruption inspections across government agencies. Such institutional innovations are the logical result of the sweeping nature of these strategies, which cover the gamut of government services. In this case, the task force has a broad mandate to identify the main areas for internal control and initiate administrative investigations in central or subordinate institutions, monitor the activity of contracting authorities in the field of public procurement, and even make proposals for improvements or adaptation of legal acts. Although the force is expected to be very public about its work, it has not published any reports since March 2019.

In September 2021, dynamic plans for Chapters 23 and 24 of the EU negotiations package were adopted in Montenegro, with the deadline to complete their implementation by the end of 2021. The government also adopted a plan for addressing key recommendations

of the European Commission's Report on Montenegro 2021.⁴⁶ However, the parliament was not consulted in the process of drafting this document, although most of its activities requires the parliament's involvement, particularly the resolution of the stalemate in the judiciary and the prosecution. Therefore, this document was adopted without a broad political, institutional and social consensus.⁴⁷

Legislative developments related to anticorruption

The initially dynamic rate of legislative activity in the field of anticorruption in the Western Balkans has slowed down somewhat as some of the key aspects have been covered. One approach that was adopted throughout the region was **expanding the range of statutory incrimination** of corruption-related offences. This was a relatively unproblematic option as it did not immediately affect any special interests (unlike, for example, conflict of interest regulations) and corruption in the criminal justice system made sure that the provisions are applied selectively.

Lately, legal amendments or innovations concern aspects such as the mandatory length of sentences for different corruption-related offences, qualification of sanctions depending on the value of the bribe/undue benefit or defining subtler (and therefore more difficult to prosecute) forms of corruption. It is these latter upgrades to criminal anticorruption laws that might face some opposition as they would infringe on the practice of state capture. In Albania, the latest wave of amendments to the Criminal Code came in parallel with the amendments to the Code of Criminal Procedure and concerned the jurisdiction of the Special Courts against Corruption and Organised Crime. The new texts were voted by a majority in the parliament but were returned by the President because, according to him, these amendments to the Criminal Code had been adopted through a completely unconstitutional procedure, without transparency and comprehensive consultation.

Other legislative amendments which curb **institutionalised corruption practices** can be expected to face even stiffer opposition. In Albania, it took the formation of a "Political Council" – a body consisting of representatives of the parliamentary majority, representatives of the parliamentary opposition, and representatives of the extra-parliamentary opposition – in order to draft changes to the law on financing of

⁴⁵ Council of the Ministers, *Anti-Corruption Action Plan 2020-2023*, Republic of Albania, 2020.

⁴⁶ Government of Montenegro, "50th Session of the Government of Montenegro - 9.12.2021", 09 December 2021.

⁴⁷ Institute Alternative, "No progress towards the EU without the Parliament", 15 December 2021.

political parties. The amendments introduced changes regarding the rules of financing of election campaigns, including a cap on donations by individuals or businesses for the electoral campaign of a political party in order to prevent the involvement of dubious sources of funding in elections, requirements for the reporting of candidates on their expenses, banning the use of public resources for election campaigns, etc. Agreement among parties was difficult to achieve and the law was returned by the President for review (and only managed to pass at the second attempt).

Conflict of interest legislation is another powerful anticorruption tool as it narrows the opportunities for corrupt officials (even when under-enforced) to enjoy the proceeds of graft and makes corrupt deals more difficult to accomplish. In one form or another, all Western Balkan countries have such legislation; in Albania and Kosovo it is a specialised law, while in Serbia, Montenegro and North Macedonia it is bundled with the general anticorruption law. The draft of the Bosnia law at the state level was sent to the parliamentary procedure in 2017 by a group of members of parliament of House of Representatives where it was finally adopted in late 2020, but never adopted by the House of Peoples, due to inconsistencies in the amendments in the parliamentary procedure. The law was proposed again in July 2021, and the initiative should be on the agenda of the Parliamentary Assembly. The BiH Federation (FBiH) (entity level) has a law regulating conflicts of interest but its scope has been narrowed, both in terms of persons and the public functions to which it applies. As of 2022, there is no body responsible for the implementation of the law in the FBiH authorities, which is why this law is not implemented at all. The consequence is that a large number of officials in the FBiH are in conflict of interest, taking advantage of the non-enforcement of the law.

The 2018 North Macedonian conflict of interest law was opened again for amendments in 2021. The need for amendments arose from the requests of the SCPC to increase the functionality of the law in line with the competencies of the Commission. The working group drafting the amendments has been proceeding in a transparent manner and includes all relevant stakeholders (unlike the process of changing the origin of assets law).⁴⁸

⁴⁸ The process of amendment of the Law on Prevention of Corruption and Conflict of Interest is led by the Ministry of Justice, while the Law on Origin of Assets is led by the Deputy Prime Minister for Combating Corruption and Crime, Sustainable Development and Human Resources with the support of Council of Europe. The two institutions have shown different approaches in this process, as there is no unique consultation procedure established. The Law on Origin of Assets is being prepared by an expert group established by the Cabinet of the Prime Minister and Council of Europe.

In most Western Balkan countries **public procurement** is considered an area of heightened corruption risk.⁴⁹ In early 2021, some changes to the Bosnian Law on Public Procurement were approved by the government and then adopted in the House of Representatives in both readings, as well as in the first reading of the House of Peoples of the Parliamentary Assembly of BiH. Although some proposals made by civil society organisations were accepted during the drafting process, the current draft (as of spring 2022) of the law does not contain certain anticorruption regulations that existed in the original draft. These envisaged improving the transparency of public procurement that takes place under accelerated procedures, strengthening mechanisms for preventing corruption and preventing conflicts of interest, strengthening the mechanism for monitoring and supervising the entire process, and increasing sanctions for non-compliance.

Lobbying laws are being upgraded in North Macedonia and Montenegro. In the latter, the process of public consultations⁵⁰ of the draft did not identify any problematic provisions. In North Macedonia, the 2008 law was almost not enforced due to the legal gaps that were seen in it. In 2021, a new Law on Lobbying was adopted, which regulates the conditions for acquiring the status of lobbyist and lobbying organisation, registration and other requirements for lobbyists and lobbying organisations, etc.

In general, the upgrading of the Montenegrin anticorruption legislation presents certain challenges as there are overlapping regulations among the various laws. The amendments to the law on political party funding, for example, were being made by the Parliamentary Committee on Comprehensive Electoral Reform. The anticorruption law (Law on Prevention of Corruption) is expected to be amended also by the same Committee, since the law regulates the Agency for Prevention of Corruption, which, in turn, is in charge of implementing political party funding regulations. However, the anticorruption law covers mainly assets declaration, conflict of interest of public officials and whistle-blowers protection, which makes it meaningless to have the electoral reform committee treat it as an issue of elections. "There have been no amendments to the Criminal Code that address new forms of crime in the public sector, particularly in areas vulnerable to corruption, such as unlawful enrichment of public officials, corruption in public procurement,

⁴⁹ See more on public procurement in Center for the Study of Democracy, *Public Procurement Integrity in Southeast Europe: Mechanisms, Red Flags, and State-Owned Enterprises in the Energy Sector*, 2022.

⁵⁰ Report from public consultations available at: Ministry of Justice, *"Report on the conducted public debate - Law on Lobbying"*, 03 December 2021.

privatisation and bankruptcy, even though strong evidence in favour of such amendments can be found in international conventions and useful comparative experiences.”⁵¹

The regulation of the **origin of assets** of public officials is fairly recent addition to the anticorruption legislative infrastructure of the Western Balkan countries. A novelty in the North Macedonian anticorruption legislation is the proposal for enactment of a law on the origin of assets.⁵² The process of creating this law is ongoing, but it takes place behind closed doors and stakeholders are not involved. Representatives of civil society organisations requested to open the process for discussion and consultation so that the purpose and intention of the proposers and the possible solutions could be scrutinised. In the meantime, a draft for a law for establishing an office for confiscation of assets is prepared and published for comments.

Some legislative developments, however, may be **weakening the effect of anticorruption legislation**. In February 2021, an authentic interpretation by the parliament of Serbia of the Law on the Prevention of Corruption narrowed the scope of the term “public official.”⁵³ This excluded a number of officials in the public sector, such as directors and board members of state-owned enterprises, but also directors and members of steering and managing boards of healthcare institutions.⁵⁴ The latter is particularly revealing of where the government’s anticorruption priorities lie, given that “when asked to single out only one institution that they consider the most corrupt in Serbia, the respondents [...] answered - health care.”⁵⁵

Serbia is also amending its Law on Access to Information of Public Importance. The process was initiated in the context of the country’s EU integration (as were the amendments to the Constitution; see Box 1), but has

taken several years and a number deadlines have been missed. Such foot-dragging could be indicative of tacit opposition to more transparency in public governance. Furthermore, “instead of using these reforms to bring Serbia as close as possible to the highest standards of the rule of law and respect for human rights, some proposals seem to lead the country in the opposite direction.”⁵⁶ Neither is the drafting process transparent – the working group to draft the law was established without involving civil society.

Box 1. Dividing the powers: changes to the Constitution of Serbia

In January 2022, a referendum in Serbia approved changes to the constitution of the country in its part relating to the governance of the judiciary. The problem with the previous arrangement was identified as early as 2007, when the Venice Commission wrote in an opinion that “the influence of parliament on the judiciary is clearly excessive.”⁵⁷ In the 2006 constitution members of the High Judicial Council and the State Prosecutors’ Council were directly or indirectly elected by the National Assembly. By proposing changes to that system, the government argued that “the High Judicial Council and the State Prosecutors’ Council should be strengthened in a way that would include taking a leading role in the management of the judiciary.”⁵⁸ Another change, which might appear semantic but is in fact of utmost significance for democratic governance, concerns the description of the division of powers. Their relationship had been defined as one of “balance and mutual control” (which could be interpreted that the legislature and the executive could have the ability to control court decisions), whereas the change would have them in “mutual checking and balance.”

The context in which these changes were adopted is important to assess their significance and future impact. The amendments were approved in a referendum with very low turnout, which suggests limited domestic demand for the advancement of the fundamentals of the rule of law. While the 2007 opinion of Venice Commission had no follow up at the time, what has changed since is Serbia’s aspiration to join the European Union. The importance of constitutional changes in the justice sector was also fixed in the EU-Serbia Stabilisation and Association Agreement of 2014. This context implies that such fundamental advances in the legislative framework of democracy take place mostly as a result of external prompts.

⁵¹ MANS, *State Capture: Montenegro National Report*, 2021.

⁵² Akademik.mk, “*Law on the origin of property - confiscation of property over 30 thousand euros whose origin cannot be proven*”, 22 September 2021.

⁵³ The process of adoption of the amendment is indicative of the haphazard way in which law-making takes place. In its original form, the interpretation – introduced hastily and without an official justification – narrowed the scope of the term so much that it would have led to the absurd situation in which the judicial quota in the Constitutional Court appointed by the President and the Supreme Cassation Court would not qualify as public officials. It was later “corrected” in the same hurried and non-transparent way. See: Bjeloš, M. et al., *Preugovor Alarm Report on the Progress of Serbia in Chapters 23 And 24*, Belgrade: PrEUgovor Coalition, 2021.

⁵⁴ European Commission, *Serbia 2021 Report*, 2021.

⁵⁵ Center for Free Elections and Democracy (CeSID), *Opinion poll Report: citizens’ perceptions of anti-corruption efforts in Serbia 2020*, 2020.

⁵⁶ Ivković, A., “*Warning signs for the process of amending Serbia’s Law on Free Access to Information*”, European Western Balkans, 25 May 2021.

⁵⁷ European Commission for Democracy Through Law, *Opinion on the Constitution of Serbia*, adopted by the Commission at its 70th plenary session, Venice, 17-18 March 2007, p.11.

⁵⁸ Bogdanović, N., “*Five answers on changing the Constitution of Serbia*”, Radio Slobodna Evropa Srbija, 8 December 2020.

ANTICORRUPTION IN THE EXECUTIVE AND PUBLIC ADMINISTRATION



General institutional developments

Following an initial enthusiasm for specialised anticorruption institutions, many stakeholders started to realise that given the state of capture of government functions such bodies are at risk of being repurposed by oligarchic circles for whitewashing corrupt schemes and persecuting opponents. The most straightforward method by which this is done is the **selection and appointment of their management and staff**. If nepotism is said to be pervasive in public services in the Western Balkans, then the staffing of institutions tasked with combatting it should be subject to particularly strict requirements. In North Macedonia, there were two notable changes of management of inspectorates that raised questions about the independence of these institutions.⁵⁹ In April 2021, the government replaced the Head of the Market (Commerce) Inspectorate, who had clashed with the government over an order to employ new clerks by way of affirmative action scheme, claiming the proposed staff did not meet the needs and necessary requirements.⁶⁰ In Serbia, appointments to the most important body when it comes to fighting corruption – the Board of the Agency for the Prevention of Corruption – were made after considerable delay and the integrity of the entire process was brought into question.⁶¹

The process of experimentation with various institutional formats has led, on occasions, to a **complicated and overlapping set of competences**. This kind of institutional innovation could be demonstrated on the example of Albania. The establishment in 2019 of SPAK, a judicial body tasked with investigating corruption and organised crime at the highest levels of government,⁶² was followed by the creation of a plethora of anticorruption bodies (see Figure 8). An Inter-Institutional Anti-Corruption Task Force was also set up headed by the Minister of Justice⁶³, which has a mandate to carry inspections across the bodies of the executive branch, and a Network of Anti-Corruption Coordinators⁶⁴ was established, which could be expected to perform some complaints management functions. Its 44 members, who represent institutions at central and regional level, collect, analyse, coordinate, verify and administratively investigate all information on corruption cases coming from any source of information. The Ministry of Justice, which chairs the network, reports that by the end of 2021 it had a backlog of half of the 200-odd complaints and referrals it received. For whistleblowing to be encouraged, the efficient management of received cases is of utmost significance. Another institution that has been announced to be established is the Anti-Corruption Agency as a new body under the Ministry of Justice. This agency is viewed with suspicion by independent experts as it is not yet known what its role will be and whether there will be a clash of competencies with the National Anti-Corruption Coordinator, the Inspectorate of Declaration and Control of Assets and other institutions.

⁵⁹ The replacement of the Head of the Market (Commerce) Inspectorate in April 2021 and of the Head of the Environment Inspectorate in August 2021.

⁶⁰ Deutsche Welle, *"The government did not give in, the first man of the market inspectorate, Stojko Paunovski, was dismissed"*, 27 April 2021,.

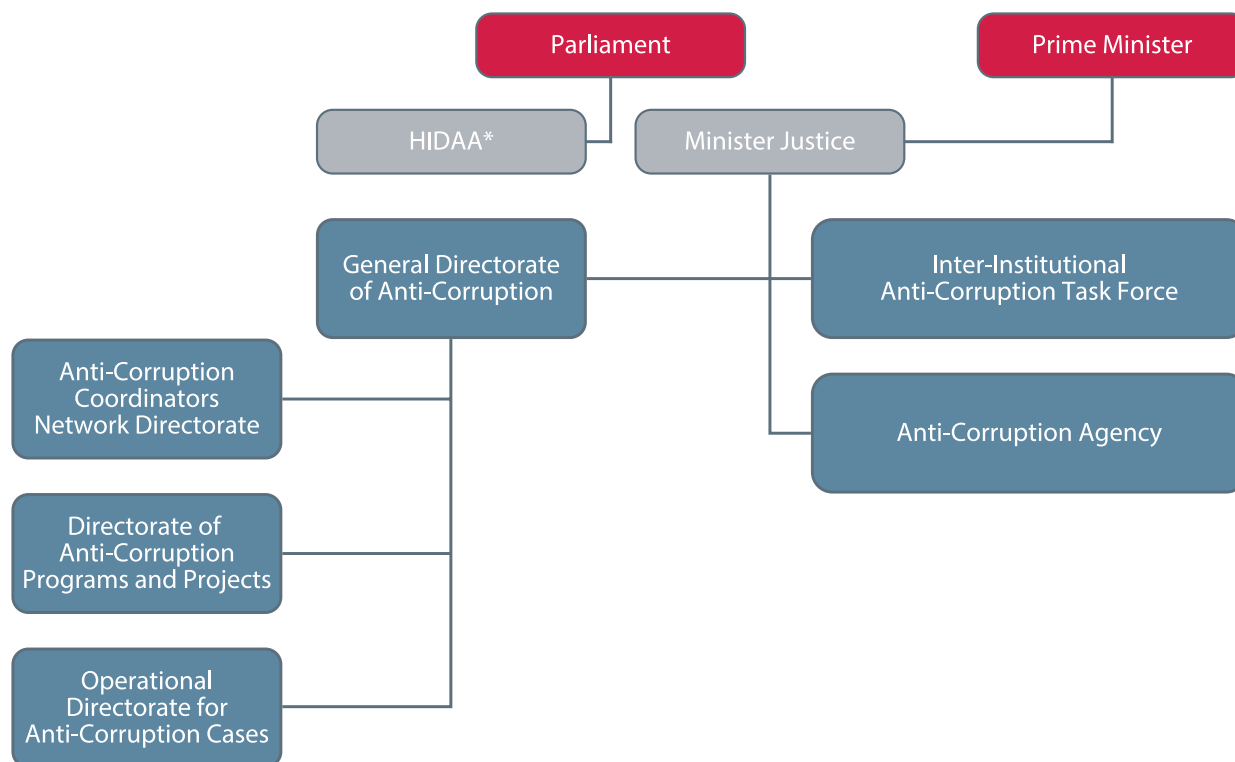
⁶¹ Popović, S., *"Delays, controversial criteria for election of new members of Board of Agency for Prevention of Corruption"*, European Western Balkans, 06 May 2021.

⁶² For the initial problems in the functioning of SPAK, see: SELDI, *Western Balkans 2020: State Capture Risks and Policy Reforms*, 2020.

⁶³ The Minister of Justice plays the role of National Anti-Corruption Coordinator.

⁶⁴ Ministry of Justice, *Network of Anti-corruption Coordinators*, Republic of Albania, 2021.

Figure 8. The institutional setup for anticorruption in Albania



* High Inspectorate of Declaration and Control of Assets and Conflict of Interest

Source: SELDI generated

The specialised anticorruption bodies in the Western Balkans are rarely subjected to **rigorous scrutiny** as to the results of their work,⁶⁵ so much so that often minor developments are presented as a sign of progress. In North Macedonia, for example, the government presented the new premises and equipment for the State Commission for Prevention of Corruption⁶⁶ as evidence for its commitment to anticorruption.

The reconfiguration of the institutional anticorruption infrastructure is also often done with **little publicity**. In 2021, in North Macedonia a report on the reform of the state administration bodies developed under an IPA funded project⁶⁷ envisaged a complete reorganisation

of the administrative bodies and their reduction.⁶⁸ Information on this process, however, is not available to the public and it is not clear whether this reform includes anticorruption measures, i.e., how and whether the reforms will affect the creation of concentrated power in certain administrative bodies. CSOs have taken the initiative to stop this process until it is available for public consultation.

Anticorruption bodies are also sometimes **ignored**. In Serbia, the government continues to neglect its advisory body, the Anti-Corruption Council, which is not being consulted on draft legislation and is not working to full capacity.⁶⁹ The same goes for the coordination body created for the implementation of the action plan for Chapter 23 of negotiations with the EU. There is no publicly available information whether the coordination body held a constituent session (online or in person), which, according to the revised action plan should have been conducted no later than 30 days after its establishment.⁷⁰

⁶⁵ For a model of what such an evaluation should be see: Stoyanov, A. et al., *Monitoring Anti-Corruption in Europe. Bridging Policy Evaluation and Corruption Measurement*, Sofia: Center for the Study of Democracy, 2015.

⁶⁶ Government of the Republic of North Macedonia, “ZPV Nikolovski, Ivanovska and Mirceovski to inspect the new premises of the SCPC: We put all resources in the service of implementation of the Anti-Corruption Plan, the SCPC will soon move into the new premises”, 10 March 2021.

⁶⁷ *PreAccession Countries / New Member States, Instrument for Pre-accession Assistance for Rural Development*.

⁶⁸ Government of the Republic of North Macedonia, “At the 9th session of the Council for Public Administration Reform, the first proposal for reorganization of the state administration bodies, agencies and inspection services at central level was presented”, 13 July 2021.

⁶⁹ European Commission, *Serbia 2021 Report*, 2021.

⁷⁰ Bjeloš, M. et al., *Preugovor Alarm Report on the Progress of Serbia in Chapters 23 And 24*, Belgrade: Preugovor Coalition, 2021.

Most of the attention of local and international monitors of the Western Balkans has been focused on the anticorruption infrastructure at the central government level. Its impact, however, is on mostly central government institutions and do not automatically trickle down to **local government** – the level at which most individuals face bribery pressure. In this context, the experience of Bosnia and Herzegovina is instructive as the unwieldy political process at state level encourages local government initiatives. The Office for Combating Corruption and Quality Management of the Sarajevo Canton is a case in point.⁷¹ At its core is an information processing portal, which places anticorruption in the broader agenda of quality public services, such as the management of data on all financial flows, employment processes, verification of the legality and control of expediency of all public procurements, the assets (and their origins) of public officials, etc.

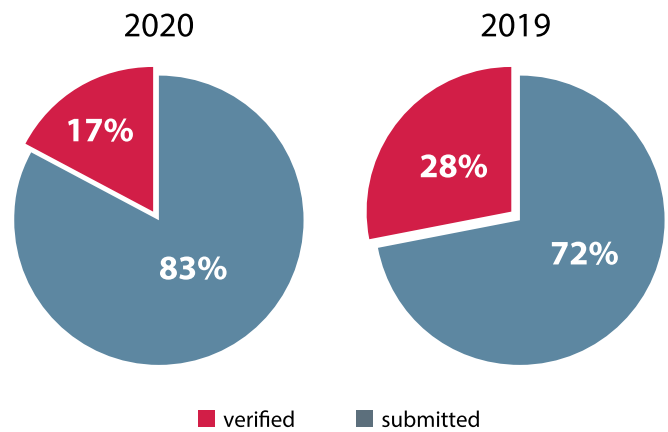
Conflict of interest and assets oversight

As noted above, despite the increasingly sophisticated legislation on the variety of corrupt practices in government, its enforcement is concentrated in specialised anticorruption bodies. In the case of conflict of interest and asset declarations oversight, the merger of these functions makes some sense because the cross-checking of data in various public registers maintained by various public bodies would enhance the detection capacity of the enforcement agency (whether this is done in practice is quite another matter). This aspect also has a regional dimension: the Regional Anti-Corruption Initiative has raised the question of the **lack of cross-border exchange of information** among institutions needed to verify asset declarations. Such an exchange is warranted by the fact that many corrupt public officials spend their actual wealth abroad: they buy real estate, own businesses, or deposit money on foreign bank accounts.⁷²

In Albania, the verification function is entrusted with the High Inspectorate of Declaration and Control of Assets and Conflict of Interest (HIDAA) (it reports to the parliament, while the other bodies are executive agencies). The Inspectorate is mainly engaged in evaluating the statements of judges and prosecutors who are subject to re-evaluation as part of the vetting process. Thus, a lot of control was exercised over the

declarations of 238 candidates in the judiciary who have undergone the vetting process.

Figure 9. The share of verified asset declarations in Albania



Source: High Inspectorate of Declaration and Control of Assets, *Annual Report 2020*, p. 15; High Inspectorate of Declaration and Control of Assets, *Annual Report 2019*, p. 20.

Although the share of verified asset declarations in Albania (Figure 9) is somewhat higher than in other Western Balkan countries, it is not clear what is the basis of determining the size of the selection to be verified. As in the other countries, the data do not allow the public to assess whether the share of the verified declarations is based on the capacity of the institution to carry inspections or on risk assessment models.

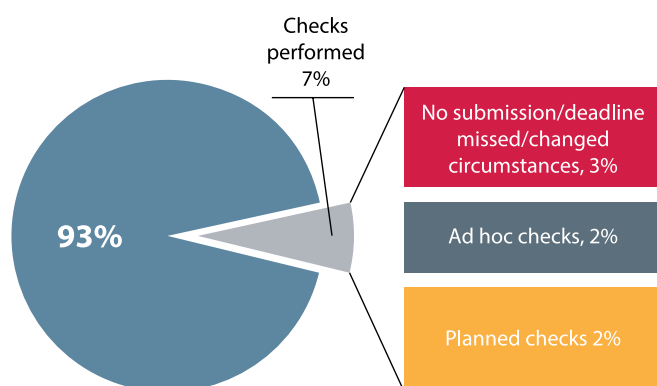
The North Macedonian SCPC carries out **risk assessment**, but this is done at the level of public sectors and government services, which does not allow for individual profiling. The country's anticorruption legislation considers conflict of interest such a significant aspect of corruption that it is embedded in the title of the law. As regards asset declarations, by its own acknowledgement the SCPC is powerless to make a difference even when imposing sanctions for non-compliance: "certain persons who have not submitted an asset declaration or a statement of interest do not meet this requirement even after the imposition of a sanction."⁷³ A **high rate of non-compliance** should be sufficient red flag for the presence of a culture of impunity that can only be explained by state capture.

⁷¹ Office for the Fight against Corruption and Quality Management, Government of the Sarajevo Canton, Sarajevo.

⁷² A Treaty on Exchange of Data for the Verification of Asset Declaration was signed in Belgrade on March 19, 2021, (under project jointly implemented by RAI and UNODC), although it is not clear when it will be implemented in practice. See further: Regional Anti-corruption Initiative, "Regional Data Exchange on Asset Disclosure and Conflict of Interest", 21 April 2021.

⁷³ State Commission for Prevention of Corruption, *National Strategy for Prevention of Corruption and Conflict of Interest (2021-2025)*, Republic of North Macedonia, 2020.

Figure 10. Less than a tenth of asset declarations are verified by the North Macedonian SCPC (2020)



Source: Државна комисијата за спречување на корупција, 2021, *Годишен Извештај За Работата На Државната Комисија За Спречување На Корупција за 2020 година*

The low percentage of performed checks (Figure 10) is a combination of **staff shortages and slow responses**⁷⁴ from other institutions which should deliver information for these checks. Additionally, the officials are selected for checks on the basis of incomplete risk analysis, due to the lack of suitable input data provided by public institutions to the SCPC.

The problem in Kosovo is somewhat different, although no less serious:

“The current system of detecting public officials’ property and incomes is only a paper-based system (submission of asset forms physically, the online system is not yet operational) and is therefore prone to mistakes by submitting officers and monitoring officers within the Anti-Corruption Agency. Although the compliance rate for submissions is very high, the ability to use these data for detailed investigations in unexplained properties is negligible.”⁷⁵

In Bosnia and Herzegovina, not all levels of government have passed their own laws on the reporting and verification of data on the assets of public office holders. In some cantons, proposals for such a law are being considered. In all adopted laws, as well as those being drafted, the responsibility for the implementation

and monitoring of the implementation is assigned to offices or departments for the fight against corruption. The Sector for Prevention of Corruption within the Agency for Prevention of Corruption and Coordination of the Fight against Corruption BiH is responsible for monitoring and determining the accuracy of data on the property status of public figures. However, the latest available report on the work of the agency (2019)⁷⁶ does not mention at all the activities they have carried out related to conflicts of interest and property status of public figures. The Sarajevo Canton’s Anti-Corruption and Quality Management Office has developed special software for collecting and processing data related to the assets of appointed officials.⁷⁷ It is still not fully operational and other public bodies which are required to submit the data are not particularly collaborative (not providing data in timely manner) or data might be provided selectively (e.g., providing data only on political opponents etc). Furthermore, there is no legal sanction for those who do not fulfil the data submission requirement.

The implementation of a proper integrity policy for the Montenegrin civil service is hampered by the **overlap of several pieces of legislation**, including the anticorruption law and civil service law. The former refers only to public officials, which, in the case of the civil service, include only senior managers and heads of administration authorities, while the latter cover all civil servants and state employees. Some issues (e.g., conflict of interest, receipt of gifts and benefits) are regulated by both laws, while others (e.g., requirement to disclose assets) are regulated only by the anticorruption law and “apply solely to the narrow group of civil servants included in the definition of ‘public officials’”.⁷⁸

⁷⁴ An example of how slow the process could be is described here: Magleshov, V., “*We have been checking for three years whether three judges have become disproportionately rich*”, Prizma, Anti-Corruption Agency, *Anti-Corruption Strategy 2021 – 2023*, Republic of Kosovo, 2020.

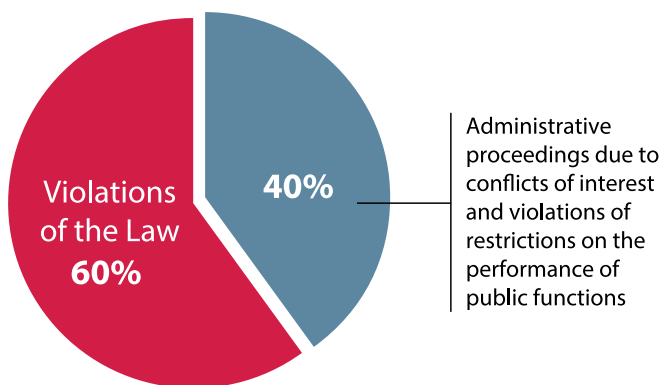
⁷⁵ Anti-Corruption Agency, *Anti-Corruption Strategy 2021 – 2023*, Republic of Kosovo, 2020..

⁷⁶ Agency for Prevention of Corruption and Coordination of the Fight against Corruption, *Work Report 01.01.-31.12.2019*, 2020.

⁷⁷ *Office for the Fight against Corruption and Quality Management*, Government of the Sarajevo Canton, Sarajevo.

⁷⁸ SIGMA, *The Principles of Public Administration: Montenegro Monitoring Report*, 2021.

Figure 11. Over half of all conflict-of-interest verifications in Montenegro find violations (2020)



Source: Agencija za sprječavanje korupcije, 2021, Izvještaj o Radu Agencije za Sprječavanje Korupcije u 2020. godini, p. 12.

In terms of asset declarations, the compliance rate in Montenegro is high – 99.9% of state employees required to report assets did so on time, while only 59% gave their consent to the Agency to access their bank accounts. The Agency for Prevention of Corruption, however, does not report separately on the number of verifications, which precludes any assessment of whether the asset declaration policy has any anticorruption effect.

The results which the enforcement agencies in the Western Balkans report do not seem to be intended to be used as an evaluation of the effectiveness of policy since they are not provided with context. Such a context could be provided by indicators such as the rate of offense in the overall population of public officials, profile of offenders, basis for the rate at which cases are verified, etc. Without contextual information it is impossible to tell whether a rise or a fall in infringement proceedings is due to changing corruption practices or to the way the enforcement agency operates. In fact, these are administrative reports which are intended to showcase the workload of the staff rather than serve as sources for policy feedback.

Inspectorates in the public administration

Two years ago, SELDI's regional assessment report found that "[t]he work of inspectorates has been marked by **lack of transparency, shortage of inspectors, overlapping of competences**, problems with the announcement of inspections in advance (such as when inspectors do not respect the schedule for advance warning and use this to put pressure on the inspected entity with an unannounced visit), and misuse of inspections by exercising excessive control as means for rent-seeking."⁷⁹ There is little evidence to suggest that this has changed over the intervening period.

There is a trend in the Western Balkan countries of **centralisation of the inspectorates**, although this concerns not so much the functions of internal control of the civil service but rather the inspectorates which perform various oversight functions (food safety, transport, labour, etc.). One possible positive effect of this is the removal of overlapping competences among the various inspectorates. In Serbia, for example, there is a Coordination Commission, which is an institutional mechanism that helps achieve the goals of inspection reform and improve the inspection profession, while reducing administrative costs and increasing legal certainty. In Montenegro, centralisation has affected only some inspectorates: twenty-two of them (as of May 2021) were clustered within the Administration for Inspection Affairs, while a number of other (e.g., the inspection of administrative procedures, agriculture, fisheries, food safety, etc.) are organisational units within the line ministries or independent administrative bodies. As a consequence, reporting on their performance is not uniform, and the government does not have a comprehensive overview of their effectiveness. In May 2021, the government prepared its own analysis of the effectiveness of the Administration for Inspection Affairs, concluding that despite the decade-long efforts to profile itself as a single inspection body, limited effects and the counter-trend of decentralising certain inspectorates negatively affected the adopted model of inspection oversight.⁸⁰ However, the government has still not undertaken any steps to reform inspectorates.

In Bosnia and Herzegovina, the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption (APIK) has the authority to prescribe a uniform methodology for collecting data on the assets of public servants and analyse submitted data to determine corrupt practices. Yet,

⁷⁹ SELDI, *Western Balkans 2020: State Capture Risks and Policy Reforms*, 2020.

⁸⁰ Government of Montenegro, *Analysis of the efficiency of the activities of the Directorate for Inspection Affairs*, 2021.

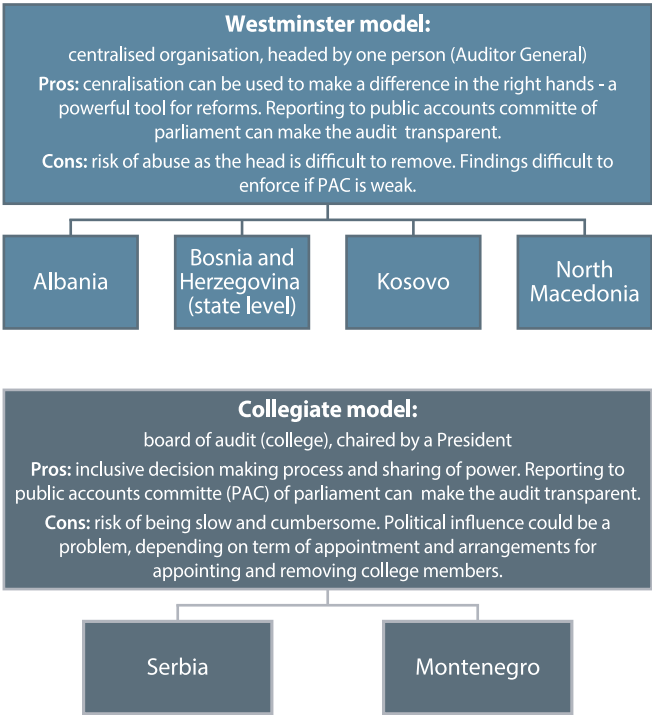
many government institutions have their own internal inspectorates, which are also in charge of checking the property records of public officials. Information on their work, however, is not publicly available: it is not clear how many inspections they carry out, the rate of irregularities or whether sanctions are being imposed for those irregularities. One of APIK’s findings is that data on the assets of public servants are not sufficiently accessible and available to public.⁸¹

In 2021, North Macedonia joined the other Western Balkan countries in introducing an **e-inspector system** as a means to support the inspection services through digitalisation of the everyday work of the inspectors by providing direct e-access to data from different public institutions necessary for the inspection procedure. Changes are also being made in the procedures for distribution of cases to inspectors, as well as distribution of supervisors. These procedures will also be automated and performed in accordance with certain criteria such as: the scope, complexity, and weight of supervision, as well as the experience and professional level of the inspectors.⁸² In addition to increasing transparency, the digitalisation of the inspections can be expected to avoid excessive inspections and thus reduce disruption of the operation of the inspected institutions.

The role of supreme audit institutions

The scale of the corruption problem in the Western Balkans has prompted not only a sense of urgency of the anticorruption agenda but also warranted its distinctness as a specialised field of reform. At best, it has been situated within the rule of law agenda. Much rarer has anticorruption been seen as a means towards a **quality of governance objective** – which ultimately is the justification of all government reforms. Keeping this objective constantly in sight requires that reforms at some point need to outgrow the exclusive reliance on specialised anticorruption institutions towards a measure of progress based on improved quality of public service. This is where the supreme audit institutions (SAIs) can play a crucial role.

Figure 12. Western Balkan countries’ SAIs by type*



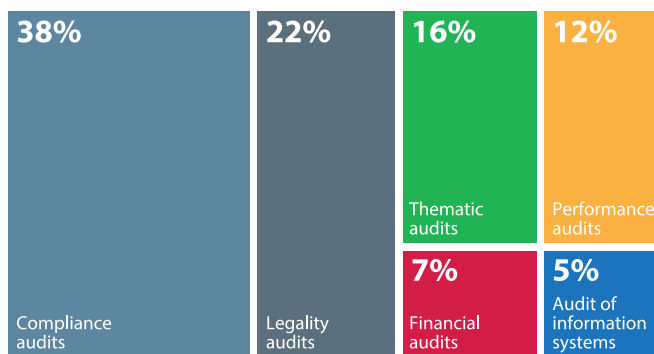
* Pros and cons based on: Department for International Development (DFID), 2004, *Characteristics of Different External Audit Systems*

Source: SELDI

Most SAI’s in the Western Balkans now perform **compliance and performance audits**, in addition to financial and legal ones. While not immediately relevant to a narrowly understood anticorruption agenda (to root out corrupt practices and individuals), such evaluations define the standards by which a corrupt-free public service would be measured. Their potential in terms of criminal justice is, of course, negligible – KLSH, Albania’s Supreme State Audit, for example, made 1,430 recommendations as a result of its audits but made only 8 referrals to the criminal justice system.

⁸¹ APIK in BiH does not collect nor publish data on the assets of public servants but is responsible for prescribing a uniform methodology for collecting the data.

⁸² Republic of North Macedonia Inspection Council, “*The realization of the system ‘E-inspector’: digitalized and powerful weapon in the fight against corruption begins*”, 2021.

Figure 13. Share of the various types of audits, Albania 2020

Source: Supreme State Audit, *Annual Performance Report 2020*, p. 8.

In recent years, KLSH has aimed to increase the percentage of the number of performance audits, being in sync with the requirements of the European Commission for external audit of the public sector (Figure 13). Performance audits were focused on government reforms (effectiveness of inter-institutional coordination within the process of Albania's EU integration for the period 2016-2019, tax debt performance), infrastructure projects (railways), environmental and energy projects, etc.

In Bosnia and Herzegovina at the state level all institutions are audited every year. At the entity level, however, audit offices do not have the capacity to audit all institutions.⁸³ The public audit process is not efficient because **parliamentary oversight of audit findings is not effective**, which leads to few recommendations being implemented. For example, the Audit Committee of the National Assembly of Republika Srpska did not fulfil its function, did not act as a corrective and acted disinterestedly in relation to the spending of public funds, transparency and shortcomings pointed out by auditors in audit reports. This is despite the fact that 51% of the opinions of the Main Audit Office for the period 2016-2019 were qualified (not positive), and an additional 7% were negative, meaning that a significant number of audited entities still do not comply with laws and other regulations and that their financial discipline is still insufficient.⁸⁴

⁸³ The office for audit of institutions of FBiH, for example, is responsible for over 2,000 institutions, and annually performs between 70-100 audits, of which 20 institutions are subject to mandatory audit every year.

⁸⁴ Center for Civic Initiatives, "*Without public hearings, there is no control of public funds spending*", 12 May 2021.

Table 1. The North Macedonian national audit in numbers, 2020

Regularity audit reports	65
Performance audit reports	7
Compliance audit as a separate type of audit	7
Revision of specific elements in the financial statements	
Follow-up audits	2
Audit reports submitted to the legal representative of the audited entity	82
Audit reports submitted to the public prosecutor	16
Audit reports submitted to the State Commission for Prevention of Corruption	4
Audit reports submitted to the assembly	82
IT audit reports	1
Checks performed to determine the status of the given recommendations in the final audit reports (follow up)	24
Issued reports on the conducted checks to determine the status of the given recommendations in the final audit reports (follow up)	41
Audited entities	481
Findings from audit reports	1014
Recommendations in audit reports	604

Source: Државен завод за ревизија, 2021, *Годишен извештај за извршените ревизии и за работата на Државниот завод за ревизија за 2020 година*

In Montenegro, the State Audit Institution conducts on average 1-2 performance audits per year (out of an average 16-17 conducted audits per year). One significant example are the performance audits of the capital budget spending in the sector of education and health, where the SAI has gone beyond financial and compliance aspects, and analysed the performance of the government in public infrastructure development and described the bottlenecks in the process. The government, however, is required to report on follow-up only in the annual audit of the year-end budget report. It does so because the parliament adopts a special conclusion on this requirement each year.

This exemplifies a common weakness in the Western Balkans – there is **no real public or political pressure to enforce audit findings**. Compelling governments to incorporate the results of SAI's findings into its reform programmes would make national audit an integral element of good governance. Now, the programmatic documents of the Western Balkan governments make little reference of the potential collateral benefit on anticorruption of national audit. SAI's, however, are indispensable in closing the loopholes that sophisticated corruption schemes – state capture, in other words – exploit.

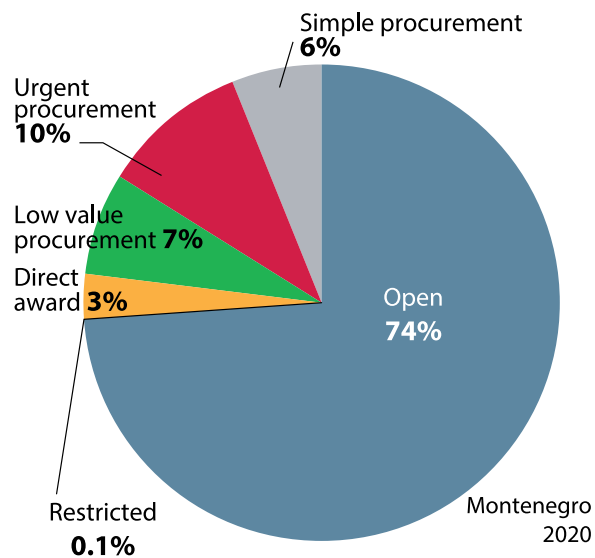
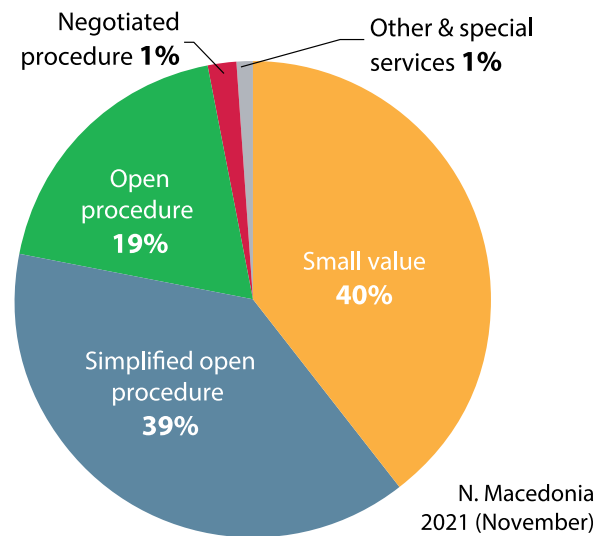
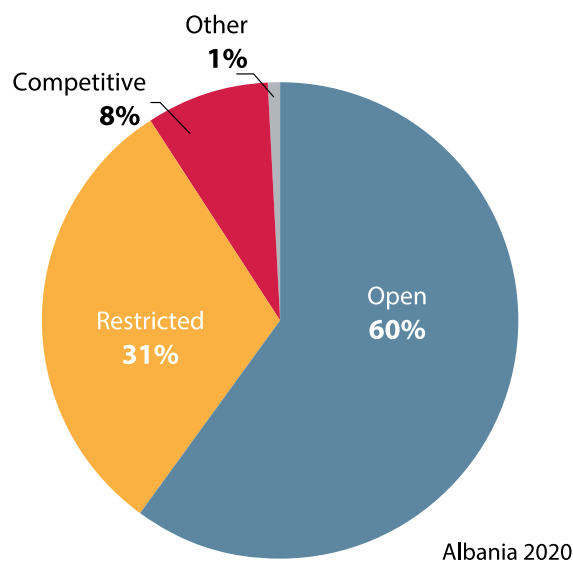
Anticorruption in public procurement

For more than a decade now, legislation in the Western Balkans has been playing catch-up with the innovations in the corrupt practices in public procurement. Albania, Montenegro, North Macedonia, and Serbia have recently adopted new public procurement laws implementing provisions of the 2014 EU public procurement directives. Nevertheless, a number of red flags indicative of corruption risk remain. The various informal deals among politicians, senior civil servants and large companies are pushed through the channels of formal procurement at each stage of the cycle – pre-tendering, tendering and post-award. There are a number of **common risk characteristics** and **red-flags** associated with public procurement that are found throughout the region: tenders without prior public notice, restricted procedures, large share of tenders with a single bidder, large share of cancelled tenders, etc.

Use of restricted procedures

From an anticorruption point of view, the ratio of the various types of procedure used in the public procurement process is one of the key risk indicators. Because there are few credible justifications for the use of restricted procedures (only those invited by the contracting authority may submit a bid) (e.g., national security or small value of the contract), a large share of such procedures should be red flag for the anticorruption authorities.

Figure 14. Shares of the various tendering procedures



Sources: Albania - Public Procurement Agency, www.app.gov.al; North Macedonia - <https://www.bjn.gov.mk/category/godishni-izvешtail>; Montenegro - [Public Procurement Annual Report 2020](#), Ministry of Finance and Social Welfare

In Albania, an analysis of public procurement data about **tenders conducted through the negotiated procedure**, without prior announcement in the period March-May 2020 showed that ALL 1.1 billion (€8.92 million) was tendered by public institutions with direct procurement during the pandemic. A good part of the tenders had nothing to do with the situation, while others have been accompanied by allegations of corruption and breaches of the law. During this period, this form of procurement was used in 177 tenders by 113 public institutions, while the vast majority of them had 1 or 2 participating companies, which raises concerns about lack of competition. The institution with the highest value of negotiated procurement, without prior announcement was the Ministry of Defence, which has spent ALL 141.5 million (€1.16 million) (Table 2).

Table 2. Contractors with the highest value of negotiated contracts without announcement, Albania, March-May 2020

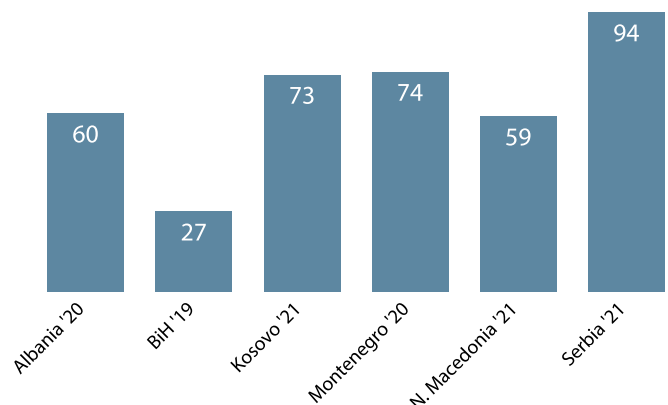
No.	Contractor	Contracting authority	Value of the contract
1	Eurovia	Ministry of Defence	101.4 million ALL (€836,000)
2	Experts Systems	Ministry of Defence	40.1 million ALL (€330,000)
3	Consortium of security companies “Global Security” “Eurogjici Security”, “Brecani - ROSP” and “PC Security”	Water Supply and Sewerage Tirana	99.3 million ALL (€819,000)
4	Albania Business Partner	National Agency of Information Society	85 million ALL (€701,500)
5	Eurolab Internacional Group	Municipality of Tirana	58.1 million ALL (€480,000)
6	N.S.S Ndreu Security Services	Electricity Distribution Operator	17.3 million ALL (€143,000)
	TOTAL		401.2 million ALL (€3,311,000)

Source: Ola Mitre, June 4, 2020, “Tenderë pa shpallje, institucionet prokuruan 8.9 milion euro gjatë epidemisë”, *Reporter.al*

In North Macedonia only 1% of all tender procedures in the country have been subject to administrative controls, with irregularities being found in 22% of them. The monitoring sample includes significant number of tender procedures in which the estimated value was not published in advance, i.e., was not indicated in the procurement notice, but bidders have somehow “ideally” pitched their offer within that amount.⁸⁵ Submission of **bids that are identical to the procurement’s estimated value**, which had not been published, provides undeniable indication about prior tacit arrangements.

This is reflected in the attitudes of business: 60% of surveyed companies believe that economic operators make informal arrangements with the authorities when participating in tender procedures; 47% of companies believe that corruption is present in public procurements; and 47% of companies do not lodge appeals in tender procedures due to distrust in the State Commission on Public Procurement Appeals.⁸⁶

Figure 15. The shares of open procedures diverge widely among the Western Balkan countries



Source: Public procurement agencies of the six countries

Use of emergency procedures

Urgent procurement procedures are another grey zone prone to abuse because of the limited opportunities for oversight. The pandemic brought temporary changes to procurement regulations in Albania, while existing regulations on urgent procuring were used in Bosnia and Herzegovina, Montenegro, Serbia, and North Macedonia to speed up procurement processes. A quantitative assessment of the procurement market shows that the pandemic caused overall integrity to decline, especially in the most affected – markets (healthcare and other pandemic-related sectors).⁸⁷ As

⁸⁵ Center for Civil Communications, *Monitoring of Public Procurements, Report no. 36, (January-June 2021)*, 2021.

⁸⁶ Ibid, p. 4.

⁸⁷ See further Center for the Study of Democracy, *Public Procurement Integrity in Southeast Europe: Mechanisms, Red Flags, and State-Owned Enterprises in the Energy Sector*, 2022.

elsewhere, in Bosnia and Herzegovina in the first days of the pandemic there was pressure from the managers of the largest public health institutions to temporarily suspend the Public Procurement Law or make certain amendments to it in order to avoid “months-long tender procedures.”⁸⁸ The Public Procurement Agency obliged and in March 2020 issued a statement interpreting the law as regards public procurement in conditions of extreme urgency. This allowed procurement to be conducted without respecting the usual safeguard procedures. In North Macedonia, the State Audit Office and the Center for Civil Communications, in their separate special monitoring, identified significant price differences in the procurement of parts of personal protective equipment. According to the findings of their reports, contracting authorities invited one bidder and did little to research the market prices (albeit in a volatile market at that particular time). Differences in prices were also thought to be a result of vague technical specification in the affected tenders, which permitted products with different specifications to compete on a single tender (e.g., single use vs multiple use protective suits).^{89,90}

How fast-track procurement can result in **overpricing** is exemplified by the “ventilators affair” in Bosnia and Herzegovina. In 2020, the Federal Department for Civilian Protection procured lifesaving medical equipment, imported from China, from the company FH Srebrna malina that produces raspberries. Not only is it not clear how a raspberry farm obtained a licence to trade in medical equipment, but the government paid €5.3 million for 100 ventilators which ended up useless as they did not meet the necessary standards to be used in intensive care units.

A compliance audit of the public procurements awarded during the Covid 19 pandemic by the North Macedonian State Audit Office (SAO) shows one source of the risk associated with emergency procurement in the Western Balkans: **vague laws**.⁹¹ The conclusion in the audit report⁹² is that the public procurements are not regulated in a sufficient and appropriate manner regarding times of crisis or emergency. The laws do not define precise criteria for the urgency of a particular procurement, for not implemented group procurements

and for pricing caps. This **legal gap** had contributed to significant differences in prices for the same or similar goods purchased by different institutions. The overwhelming percentage (88%) of Covid-related procurements have been “urgent” (although the SAO notes that this concept is defined precisely) and conducted through a negotiated procedure without publication of a contract notice. The justification of the urgency could not be fully confirmed, and the nature of such procurement omits some of the phases such as planning and announcement. In order to conduct the procurement process, only a small number of economic operators had been invited to participate on the bids, and without detailed specifications of the requested equipment and quantity.

Another legal loophole can be seen in the 2020 urgency-related amendments to the Montenegrin procurement law, which allowed the contracting authorities to apply internal regulations rather than the law. These would be applicable in case of “unforeseen events” as a result of which the authority is unable to conduct public procurement procedure and act within the deadlines set by the law.⁹³ Yet another change reduced the discretion of the contracting authorities and abolished internal acts and procedures for urgent procurement, but allowed shorter deadlines due to emergency (shorter than a minimum of 15 days for regular procurement procedures). Emergency has been also envisaged for a negotiation procedure without prior publication of a public call. As a result, in 2020 urgent procurement expenditure rose by 360% compared to 2018.⁹⁴

Price over quality

One practice that is yet to make its way into the Western Balkans is the use of the value-for-money approach in public procurement. A risk factor common to all of the countries is the large share of lowest price bids which win tenders. As a trend, this is **indicative of the low value placed on quality public service**. In Montenegro, a July 2020 amendment to the procurement law sought to redress the balance between price and quality allowing the lowest price to be used only in exceptional circumstances. However, contracting authorities allocate high percentage of points to the price as a sub-criterion (for example 10% quality/90% price or 10% quality/10% delivery time/80% price).⁹⁵

⁸⁸ Bljesak.info, “*Sebija Izetbegović for procurement without tender*”, 17 March 2020.

⁸⁹ Center for Civil Communications, *Public procurements in North Macedonia at times of corona: How it was and what can be done in the future?*, Skopje, 2020.

⁹⁰ State Audit Office, *Final report on compliance audit on the award of public procurement contracts by public sector institutions to protect and prevent the pandemic caused by the Covid-19*, Skopje, 2020.

⁹¹ Ibid.

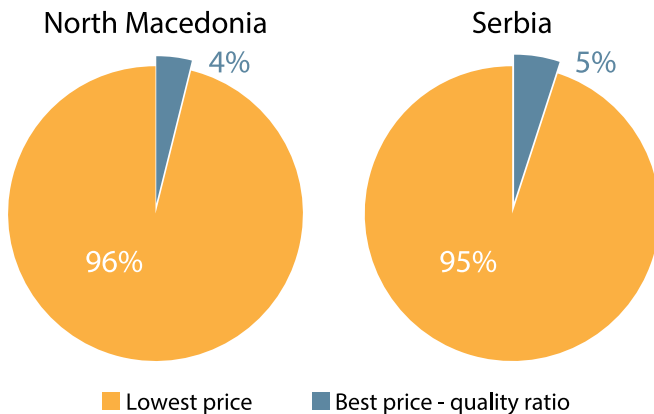
⁹² State Audit Office, “*88% of public procurement during a pandemic without an announcement*”, 13 July 2021.

⁹³ Article 29 of the Public Procurement Law, “Official Gazette of Montenegro”, No. 042/17.

⁹⁴ Institute Alternative, “*Public Procurement 2020: Triple Emergency Spending*”, 02 June 2021.

⁹⁵ Prior to that, in 2019 for example, 87.82% of contracts were concluded on the basis of the lowest offered price. See: Đurđić, A. and Jaćimović, D., *Implementation of the New Public Procurement Law: A Chance to Leave the Vicious Circle*, Podgorica: Institute Alternative, 2021.

Figure 16. Price trumps quality in public procurement: only a fraction of public contracts are awarded on the basis of best price-quality ratio



Sources: Macedonia⁹⁶; Serbia⁹⁷

“Strategic” exemptions

In Serbia, the new Law on Public Procurement, which entered into force in 2020, “significantly raised the threshold for the implementation of public procurement procedures, and consequently, a higher number of contracts that have been awarded without bidding.”⁹⁸ In February of the same year, Serbia adopted a new law on special procedures for linear infrastructure projects (road, rail, waterways, airports, metro, water and wastewater systems) – in fact, the most valuable procurements – that allows the government to exempt projects of “special importance for the Republic of Serbia” from the application of public procurement rules. The government (by way of a “conclusion,” a specific type of decision of the executive branch in Serbia) also exempted all procurements related to Covid-19, which were declared as “strictly confidential”, although the law does not provide such an option. Although the “conclusion” has not been published by the government and remains confidential, it is used as a legal base for denying free access to information on Covid-19 public procurements. At the same time, there are numerous suspicious Covid-related cases of procurement of respirators and other medical equipment, for which the Health Insurance Fund

refuses to provide information,^{99,100} although there is a justified interest of the public to know in the matters Covid-related cases, as well.

Box 2. Misuse of public resources

In several cases, Telekom Srbija has been accused of misusing public resources in overpaid deals and agreements. For instance, Telekom Srbija paid for Wireless Media software more than 2000 times the actual cost.¹⁰¹ Telekom Srbija bought Premier League rights to broadcasts football matches at almost 10 times the price of a previous agreement done by SBB,¹⁰² which could also potentially undermine media freedom in the region.¹⁰³ Most importantly, in a deal completely void of transparency the National Bank of Serbia bought Telekom Srbija bonds, in what is a clear case of state aid in favour of the state-owned company,¹⁰⁴ most probably aimed to overcome the increasing debt accrued by the media outlet in recent years.¹⁰⁵

The new procurement law also abolished the institute of the **civic monitor**, which was introduced ten years ago. Its role was to oversee the high value (over a billion dinars/ €10 million) public procurement procedures, which included continuous oversight of the procedure and access to all documentation. The monitor could present opinion and recommendation to the procuring entity and could also request additional explanations from the procuring entity.¹⁰⁶

⁹⁶ Center for Civil Communications, *Monitoring of Public Procurements, Report no. 36, (January-June 2021)*, 2021.

⁹⁷ Office for Public Procurement, *Annual Report on Public Procurement (Article 182 of the PPL)*, 2022.

⁹⁸ Bjeloš, M. et al., *Preugovor Alarm Report on the Progress of Serbia in Chapters 23 And 24*, Belgrade: Preugovor Coalition, 2021.

⁹⁹ Tomić, J., “*Procurement of PCR tests from egg laying hens to a multimillion deal with the authorities*”, Center for Investigative Journalism of Serbia, 19 August 2020.

¹⁰⁰ Marković, S., “*Health Ministry breaks the law by hiding information on ambulances’ procurement for COVID-19 hospitals*”, Center for Investigative Journalism of Serbia, 26 April 2021.

¹⁰¹ N1 Belgrade, “*Wireless Media paid 2,000 times more than cost for software deal*”, N1, 25 February 2021.

¹⁰² Dziadul, C., “*Telekom Srbija Premier League deal criticised*”, Broadband TV News, 22 July 2021.

¹⁰³ Milosavljević, M., “*Game on for the Premier League in the Balkans?*”, OpenDemocracy, 16 July 2021.

¹⁰⁴ Danas, “*Serbian central bank buys Telekom bonds from business banks*”, N1, 30 September 2020.

¹⁰⁵ FoNet and N1 Belgrade, “*NBS: Telekom Serbia issues almost € 200 million bonds despite experts’ warnings*”, N1, 25 September 2020.

¹⁰⁶ Bošković, M. M., and Kostić, J., *The Legislation of the Republic of Serbia in the Field of Prevention of Corruption in Public Procurement*, Bratislava: Bratislava Law Review, 2021.

ANTICORRUPTION ENFORCEMENT



It is commonplace now for all reformist stakeholders – in the Western Balkans and elsewhere – to assess somewhat positively the state of anticorruption legislation but note with concern that it is poorly implemented. The latter is typically attributed to a “lack of political will” and evidenced with the scant numbers of senior public figures convicted of corruption. While true, a simple proposition of this kind neither reveals the scale and complexity of the problem nor does it arm reformers with concrete evidence of the size of the **under-enforcement gap**.

Exposing the size of this gap is important for mobilising support for reforms but also for the evaluation of anticorruption policies. The discrepancy between the vast constellation of anticorruption committees, agencies, councils and the scores of laws (all of which presumably warranted by a grave corruption problem), on the one hand, and the trickle of cases that manage to get through to conviction, on the other, needs to be clearly demonstrated. It also needs to be closely examined so that the factors that contribute to it be understood and tackled.

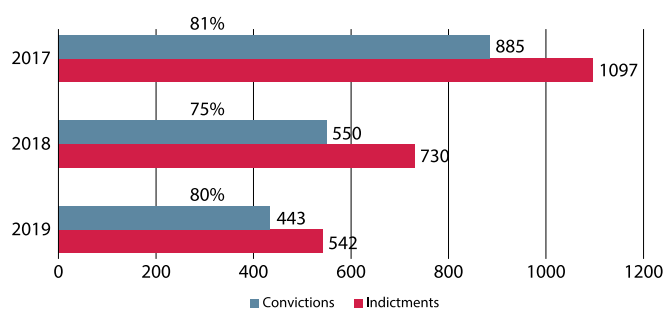
How effective is anticorruption enforcement?

The constituent crimes that make up “corruption” are complex schemes and effectively prosecuting them places a number of demands on the criminal justice system in the Western Balkans: their prosecution is expensive (not the least because it requires sophisticated forensics, mostly financial) and requires high level of professionalism among both the prosecutorial and judicial colleges. And that is even before the effects of state capture, so prevalent in the Western Balkans, are factored in.

Demonstrating the divergence between stated intentions (supposedly manifested in the specialised bodies and laws) and actual outcomes is also hampered by the **dearth of relevant and reliable information**. SELDI’s findings in its 2014 assessment report that there is a “shortage of reliable and publicly accessible data on the performance of government institutions, especially as relates to anticorruption,” and that “information and statistics are either not collected, not available to the public, or gathered so haphazardly as not to allow monitoring and analysis”¹⁰⁷ still hold true eight years later.

In 2020, at the level of the Prosecutor’s Office of Bosnia and Herzegovina, approximately the same number of reports for all other criminal offenses was registered as the number of reports for corruption offenses. However, out of 51 cleared up reports for corruption crimes in 2020 in almost half of them (47%) it was decided not to investigate, while more than 15% of investigations were resolved in “other ways”: transferring cases to another prosecutor’s office, merging cases, etc. During 2020, the Prosecutor’s Office of BiH had a total of 33 investigations in progress for corruption crimes (a slight increase compared to 2019) and resolved (cleared up) a total of 19 investigations, of which 7 were pending by order of suspension of the investigation, while the indictment was filed in 11 cases. This is an increase in the number of indictments for corruption offenses in 2020 compared to 2019 (only 4 indictments for corruption offenses were filed in 2019 – the lowest result of the Prosecutor’s Office of BiH since 2015). In 2020, there was also an increase in the number of convictions for corruption offenses, although a jump from 1 in 2019 (a suspended one at that) to 6 in 2020 could hardly be judged to be adequate to the scale of the problem of corruption, especially given the fact that none were cases of high-level corruption.¹⁰⁸

Figure 17. A high success rate for corruption-related indictments in Albania*



* Data refers to persons and is only available up to 2019. For the crimes of “corruption in the public sector, conflict of interest and declaration of assets, high level corruption, corruption in the judicial system, corruption in the private sector, falsification” tried at the Court of First Instance and the Court of Appeals.

Source: Statistical Yearbook, Ministry of Justice, <https://drejtesia.gov.al/statistika/>

¹⁰⁷ SELDI, *Anticorruption Reloaded: Assessment of Southeast Europe*, 2014.

¹⁰⁸ Transparency International Bosnia and Herzegovina, *Monitoring the Implementation of Anticorruption Policies in Bosnia and Herzegovina. Report for 2020, 2022*.

In Montenegro, there have been “no final judgements for many criminal offences with elements of corruption [...] in the economy. The State Prosecutor’s Office failed to win more than half the cases of criminal corruption offences of which the accused were charged. Sixty-three percent of all offences for which a final verdict has been issued in the last five years relate to abuse of office, passive bribery or negligent exercise of official duties; 26 per cent of all acts for which a final verdict has been passed in the past five years relate to offences of abuse of position in business operations and abuse of powers in the business sector.”¹⁰⁹

Figure 18. The ratio of investigations to convictions in Montenegro, high level corruption cases, 2017-2020



Source: Prosecutorial Council, *Annual reports 2017-2020*; European Commission Report on Montenegro 2018, 2019, 2020.

In Serbia, the High Judicial Council (HJC) and the State Prosecutorial Council (SPC) amended their rules of procedure in April 2021 in order to establish a more effective reaction and protection mechanism for judges and prosecutors against undue influence.¹¹⁰ The changes create clearer procedures for reacting to cases of political and any other type of undue influence, such as those originating from lawyers, media and business

(see also Box 1 on the constitutional changes affecting the judiciary in Serbia).¹¹¹

One requirement which should be (but is not always) built in all international assistance for reforms aiming to make criminal enforcement more effective is the **availability of a feedback mechanism**. Without verifiable evidence that the effectiveness of criminal justice policy against corruption is increasing there is no way of knowing whether such reforms are successful. There are two main dimensions of this effectiveness: in relation to the prevalence of a crime (in this case the various types of corruption) and in relation to the chain of prosecution: reports/referrals → investigations → indictments → convictions. The instrument in the case of the former are victimisation studies, such as SELDI’s CMS and Hidden Economy Index. The latter should be gleaned from official administrative and criminal statistics.

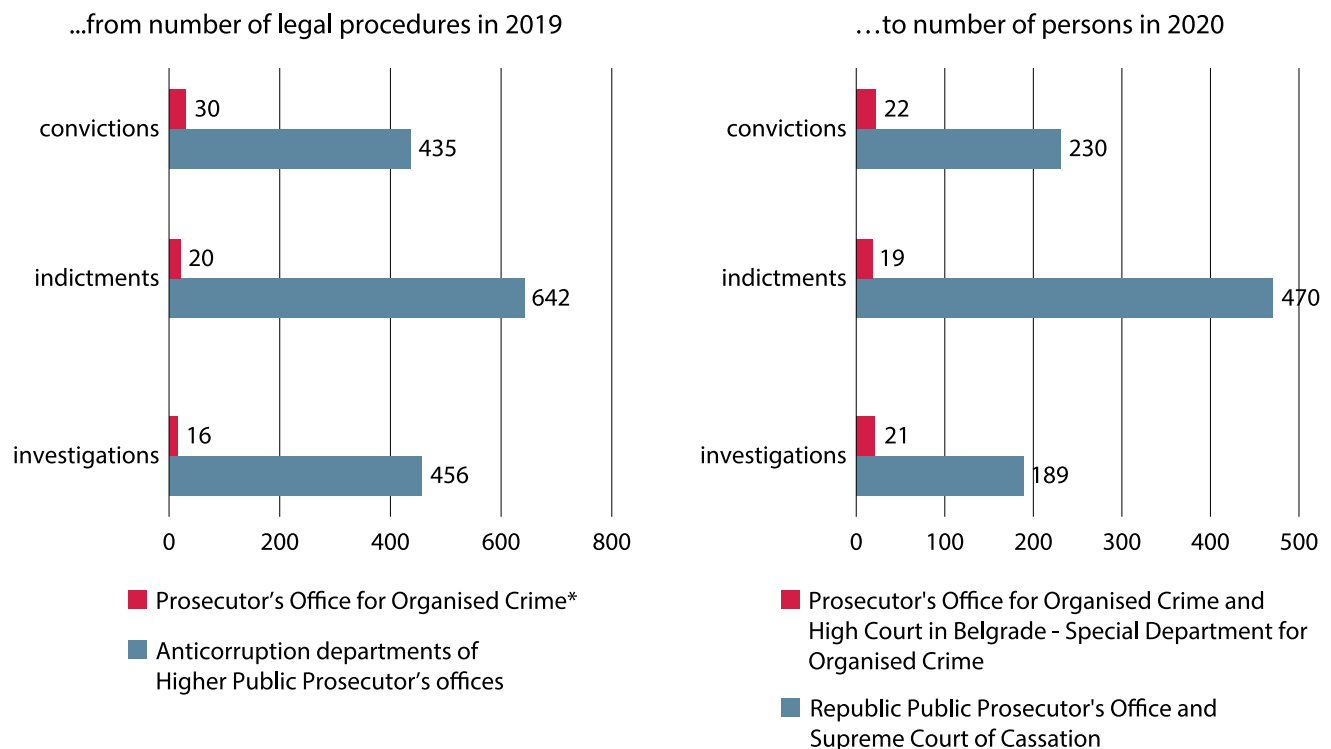
In the case of Serbia (as in the other Western Balkan countries), the collection of such evidence is complicated by the division of corruption prosecution among various judicial bodies and by changes over time in the methodology. Thus, while until 2019 statistics were available for numbers of instituted legal procedures and separately for the prosecution (Figure 19), from 2020 the data refer to persons and bundles together prosecution and court statistics ().

¹⁰⁹ MANS, *State Capture: Montenegro National Report*, 2021.

¹¹⁰ The HJC does not strictly define undue (недозвољен) influence but it is understood as influence which is “detrimental to democratic, fair and transparent justice”. See: High Judicial Council, “*Press Release of the High Judicial Council*”, 15 April 2021.

¹¹¹ The work on these amendments was supported by a joint European Union–Council of Europe initiative “Strengthening independence and accountability of the judiciary”. See: EU Delegation to the Republic of Serbia, “*EU Delegation and Council of Europe Office Welcome New Rules Aimed at Preventing Undue Influence on Judges and Prosecutors*”, 20 April 2021.

Figure 19. Anticorruption prosecutions in Serbia



* Prosecutes criminal offenses against official duties, crimes against the economy and public procurement above a certain threshold of value involved.

Sources: SELDI based on data from the Higher Public Prosecutor's offices, - Prosecutor's Office for Organized Crimes, Supreme Court of Cassation, High Court in Belgrade¹¹²

The Prosecutor's Office for Organised Crimes claimed in 2021 to be conducting investigations against more than 50 current and former high public officials for "high corruption" and "grave corruption" crimes, including four former ministers, three assistant ministers, a state secretary, 14 judges, including four court presidents and two deputy public prosecutors, as well as against a number of general directors and directors of public companies in which the state owns shares.¹¹³

The effect of judicial reforms

Measuring judicial efficiency against corruption, needs to factor in the broader context of reforms in this sector. The cases of Albania and Montenegro demonstrate how such reforms impact on the effective prosecution of corruption.

In Albania, the process of **vetting of judges**¹¹⁴ has turned out to be much more complex than expected, with over 50% of prosecutors and judges leaving the system in the process. Over the last 3-4 years, the ratio of those leaving and entering the judiciary has created a **gap in human resources** by generating vacancies at all levels. As a result, over 30,000 cases are pending in the Supreme Court.¹¹⁵ As a very large number of judges and prosecutors have not yet completed the vetting process, the government has requested the extension of the mandate of vetting bodies. The vetting process has taken

¹¹² Public Prosecutor's Office and the Supreme Court of Cassation, *Summary table overview of criminal offenses against economy and official duties*, 2020. Prosecutor's Office for Organized Crime and the High Court in Belgrade – Special Department for Organized Crime, *Summary table overview of criminal offenses against economy and official duties*, 2020. Prosecutor's Office for Organized Crime, *Summary table overview of criminal offenses against economy and official duties*, 2019.

¹¹³ Radio Television of Serbia, "[More than 50 top officials are responsible for 'high corruption'](#)", 16 May 2021.

¹¹⁴ SELDI has covered it extensively in its previous reports. See: SELDI, *Western Balkans 2020: State Capture Risks and Policy Reforms*, 2020.

¹¹⁵ At the rate of the average efficiency that this court had during 2015, it would take about 20 years to for it to adjudicate on these cases. See: Agolli, I., "[File backlogs and vetting block the Supreme Court](#)", Voice of America, 21 September 2019.

longer than anticipated for two main reasons. When it first started and the deadlines were set, it was not well known how many judges and prosecutors would leave the system as a result. At the beginning of the vetting, judges and prosecutors were given the opportunity to choose to leave the justice system voluntarily without vetting, but this option has not been widely used. The second is the result of the slow pace of work given the complexity of the issues. Here it is a bit difficult to speculate whether this delay is intentional or not, as the vetting system has started from the top down and the high courts have completed it as a process and without submitting to vetting, judges and prosecutors of the first level in districts.

In Montenegro, political gridlock is obstructing the upgrading of the anticorruption infrastructure. The country still does not have a legitimate solution for judicial institutions, whose election requires dialogue and compromise between the government and the opposition - the Judicial Council, the Supreme State Prosecutor, and the Constitutional Court:¹¹⁶

- Amendments to the Law on the State Prosecutor's Office now pave the way for a change in the composition of the Prosecutorial Council, in a way that gives members outside the prosecution a majority. However, although non-prosecutors are elected by a simple majority, the ruling parties have failed to reach an agreement on the selection of candidates, jeopardising the functioning of the prosecution.
- The Judicial Council is functioning in an incomplete composition, with a transitional solution for extending the mandate from 2018, since the election of new members requires an agreement between the government and the opposition, which is not being worked on.
- The President of the Supreme Court was not elected even after three attempts.
- The Constitutional Court, which should have 7 judges elected by a two-thirds majority, now has 5 judges. Two judges have retired, and another has qualified for retirement. In the future, this could create delays and problems in the protection of constitutional rights, since the Constitutional Court decides by a majority vote.

¹¹⁶ The 2013 Constitutional Amendments require a qualified majority for the election of holders of these judicial functions.

ANTICORRUPTION IN THE ECONOMY: THE HIDDEN ECONOMY



Existing outside the world of legal rules, the hidden economy and corruption feed off each other, such as when businesses choose to stay off the record books given lax enforcement by corrupt officials or when a state of government capture encourages large grey and black (illicit) financial flows to connect business and politics. Besides corruption, informality is also driven by the overall weak institutional and regulatory environment, insufficient enforcement capacity of the public authorities, and low awareness of the social externalities this creates.

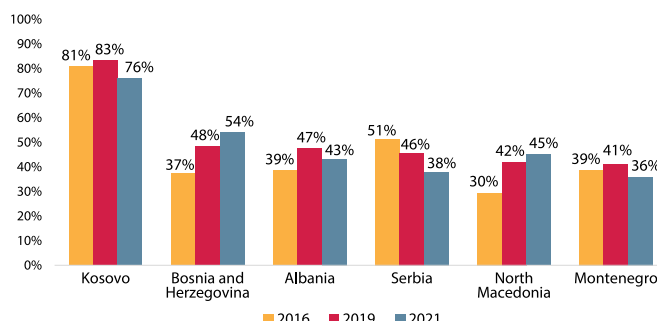
Key hidden economy trends

SELDI's *Hidden Economy Monitoring System*,¹¹⁷ which is closely related to the *Corruption Monitoring System*, provides detailed survey data on the overall size, different aspects and the dynamics of the hidden economy in the region. The Hidden Employment Index¹¹⁸ shows the existence of any of five practices common in the hidden economy:

- Working without a written contract with the employer;
- The official remuneration written in the contract is lower than the wage actually paid to the employee, as agreed upon verbally between the two parties;
- The employee has no social security coverage;
- The base for the social security contributions paid is the amount written in the contract, and not the higher amount actually received;
- There is no health insurance on the main job.

In 2021, SELDI data on **hidden economy** shows that **prevalence continues to be high** in the region. A small **decline** is observed in Kosovo, Montenegro and most notably Serbia. This decline has placed Serbia right behind Montenegro in terms of the lowest hidden employment among the six countries. On the other hand, there is a notable **increase** in hidden economy aspects in Bosnia and Herzegovina and North Macedonia. Albania shows small improvement since 2019, but the index scores for 2021 are still higher than in 2016.

Figure 20. Hidden employment index 2016-2021



Source: SELDI Corruption Monitoring System / Hidden Economy Monitoring System, 2021.

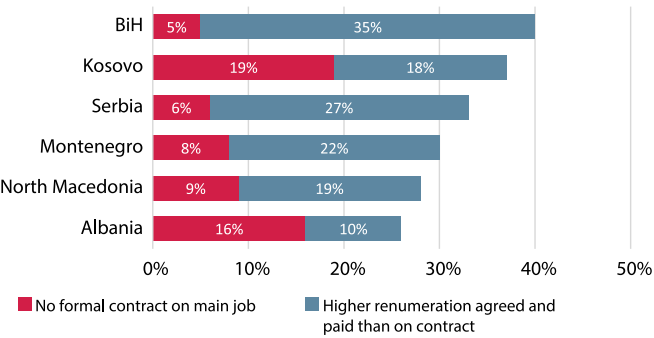
Understanding the dynamics of the hidden employment index requires exploring the changes in its components. The **hidden employment** index (Figure 20) provides a general view of informality on the labour market in a country. Within that general measure are two of the most typical examples of hidden employment practices – working without an employment contract or receiving higher remuneration than claimed in the employment contract both reflect the presence of hidden employment (Figure 21). While Bosnia and Herzegovina has the lowest percentage of respondents working a main job without an employment contract (5%), it is at the same time the country with the highest percentage of citizens reporting difference between the remuneration documented in the contract and the actual salary they receive.

Kosovo (the country with by far the highest hidden employment score in the region) and Albania have much higher shares of employed without a contract. At the same time the share of workers in the two countries whose actual remuneration differs from the contract is among the lowest in the region.

¹¹⁷ Stoyanov, A. and Gerganov, A., *Hidden Economy Indexes in Bulgaria 2002-2015: Results and Methodological Notes*, Sofia: Center for the Study of Democracy, 2016.

¹¹⁸ The index represents the percentage of respondents (of all employed in a main job) who indicated their participation in at least one of the five practices listed above.

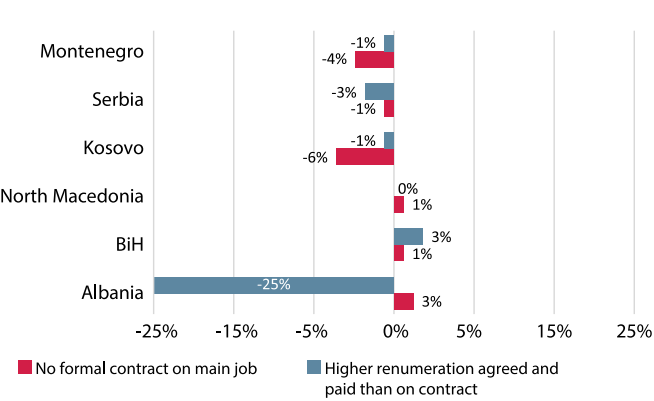
Figure 21. Workers without written contract on the main job or receiving higher than the declared remuneration (2021, in %)



Source: SELDI Corruption Monitoring System / Hidden Economy Monitoring System, 2021.

Both “no written contract” and “higher remuneration agreed and paid than on contract” indicators remain relatively similar to 2019 across the region. The exception is Albania where data shows a 25 percentage points decline of the cases where higher remuneration was paid than on contract. At the same time there is a 3% increase in the “no written contract” cases in Albania showing a reverse trend from the typical for the region of transforming employment relations without contract to partially declared work.

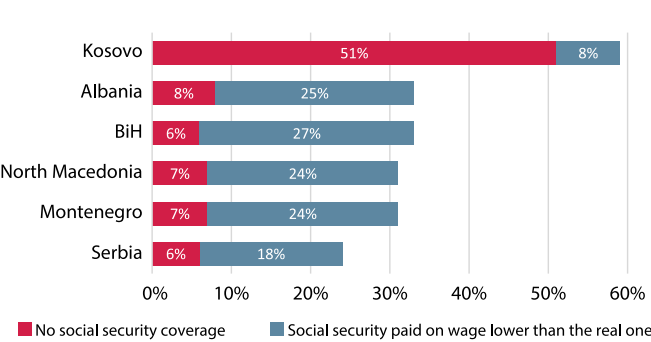
Figure 22. Workers without written contract on the main job or receiving higher than the declared remuneration (% change 2021-2019)*



* Negative numbers show decline (improvement), while positive numbers show increase.
Source: SELDI Corruption Monitoring System / Hidden Economy Monitoring System, 2021.

Social security-related hidden employment practices are those in which workers report either not paying any social security contributions or paying them on the officially declared basis which is lower than the real one actually received. On this indicator, Kosovo again is the leader with 51% of the employed not paying any social security coverage (27 percentage points more than in 2019).

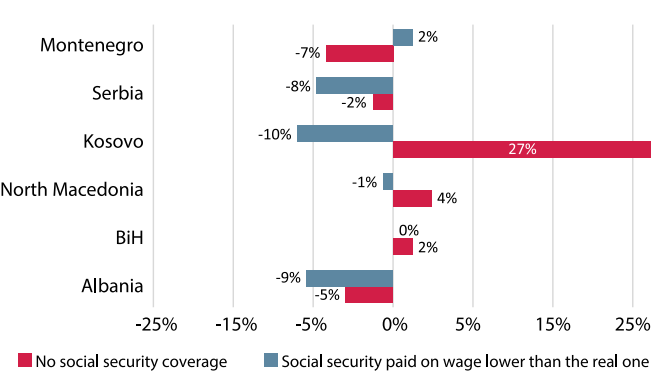
Figure 23. Hidden practices in social security coverage (2021, in %)



Source: SELDI Corruption Monitoring System / Hidden Economy Monitoring System, 2021

With the exception of Kosovo, these indicators tend to decrease in most other countries (Albania, Serbia, Montenegro) or stay the same as in 2019 (in North Macedonia and Bosnia and Herzegovina).

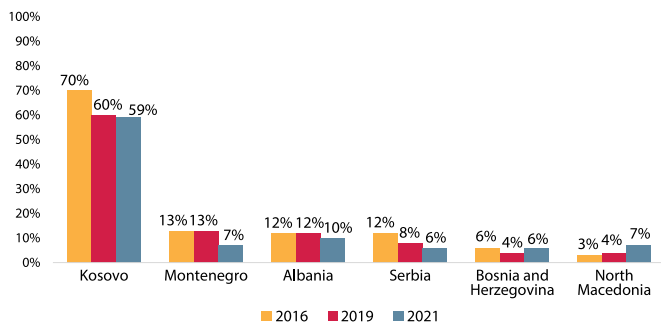
Figure 24 Trends in social security coverage (% change 2021-2019)



Source: SELDI Corruption Monitoring System / Hidden Economy Monitoring System, 2021

Finally, the percentage of workers who have **no healthcare insurance** paid is particularly important because of the Covid-19 crisis. Naturally, in most of the countries there is a decline in the number of employed without health insurance since 2019 (Kosovo, Montenegro, Albania and Serbia) or at least the share of these cases remains relatively low over time (6% in Bosnia and Herzegovina in 2016 and 2021). The only exception is North Macedonia where this indicator is 7% in 2021 – a 3 percentage points increase since 2019 and a 4 pp increase since 2016 when North Macedonia had the lowest score among all six countries.

Figure 25. Workers with no health insurance coverage on the main job 2016-2019, % of all employed in a main job



Source: SELDI Corruption Monitoring System / Hidden Economy Monitoring System, 2020.

The impact of Covid-19

In the past two years, the negative effects of the hidden economy have been intensified by the Covid-19 pandemic – it distorted competition, affected the quality of public services, reduced job security and safety at work, etc.¹¹⁹ Moreover, the pandemic highlighted governance gaps and created further opportunities for abuses of labour rights and short-term financial support schemes.

One specific factor in the Western Balkan economies is their **reliance on remittances** from abroad, which have declined (except in Kosovo) due to growing unemployment in other countries and restrictions on travelling. Similarly, travel restrictions have hit hard the tourism sector, which normally contributes 15% of the GDP of the Western Balkans.¹²⁰

The region had a faster-than-expected recovery from the pandemic-induced recession which all six economies experienced in 2020.¹²¹ This rebound was due to a combination of domestic reopening and favourable external conditions for the region's exports. However, the recovery remains fragile in light of the rising energy prices since the second half of 2021 and the effects of the war in Ukraine after February 2022. Job losses from the Covid recession and its aftermath have disproportionately affected women and youth, which

¹¹⁹ See further: SELDI, *SELDI Policy Brief 11: Hidden economy in the Western Balkans 2020: Trends and Policy Options*, 2020.

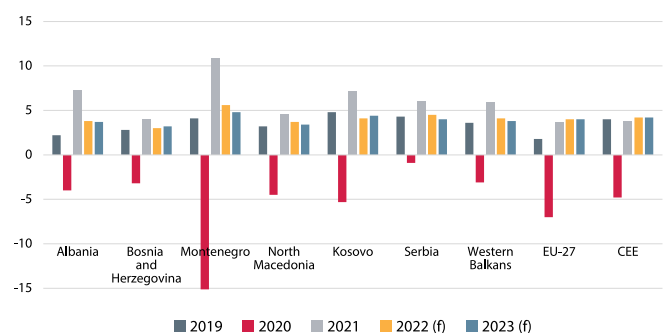
¹²⁰ Organization for Economic Cooperation and Development (OECD), *Covid-19 Crisis Response in South East European Economies*, 2020.

¹²¹ Stucka, T. et al., *Western Balkans Regular Economic Report No. 21: Spring 2022. Steering Through Crises*, Washington DC: The World Bank, 2022.

may set back efforts to raise the region's perennially low rates of labour force participation. Informal low-skill workers who lost their jobs might not have received much formal-sector government support and be at risk of poverty.

Short-term financial support schemes were made available in the six economies, largely to enterprises and workers operating in the declared economy prior to the lockdown.

Figure 26. GDP growth rates, 2019-2023 forecast, in %



Source: World Bank (*Global Economic Prospects January 2021*), WEO October 2020, national statistical offices, World Bank estimates. The effects of the war in Ukraine have not been taken into account.

CEE: Bulgaria, Croatia, Czech R., Hungary, Poland, and Romania.

Policy developments

Unlike corruption, informality is susceptible to change even as a result of minor policy changes. The governments of the Western Balkan countries have all undertaken measures aimed at tackling it, but not all of them have been comprehensive, consistent, nor fully efficient. There is a **fragmented and uncoordinated approach** across the government bodies responsible for tackling undeclared work and a limited involvement of social partners. According to a 2021 survey among labour inspectorates and tax authorities, given the multitude of government departments responsible for various aspects (e.g., tax authorities for tax compliance, labour inspectorates for labour law and social insurance bodies for social security compliance), 44% of enforcement authorities are discussing the adoption of joint or concerted operations as a strategic objective. The adoption of this strategic objective is underway among nearly all enforcement authorities surveyed in the Western Balkans. Over a quarter (30%) had fully adopted the objective of transforming undeclared work into declared work, 20% were pursuing pilot initiatives

in this regard, and 40% were discussing its adoption. However, self-reported **progress is greater in tax authorities than in labour inspectorates**.¹²²

Many of the Western Balkan countries **updated existing or adopted new strategies and programmes to tackle informality**. Among the most ambitious ones is the Economic Plan “Europe Now” in Montenegro, which foresees a reduction of costs for employers through lower tax burden on labour, progressive taxation, a non-taxable part of the salary of up to €700, etc.¹²³ The programme met with stormy reactions from political parties, which criticised it as a populist move. Kosovo adopted a Revised Strategy and Action Plan for combating the informal economy, money laundering, financing of terrorism and financial crime (2019-2023) in continuation to the earlier 2014-2018 document. The new plan focuses on simplifying regulations, enhancing monitoring and inspections,¹²⁴ improving communication between governmental offices, providing loans to businesses when they submit tax declarations, as well as lowering the costs of electronic payments.¹²⁵ North Macedonia adopted its Strategy for the Formalisation of the Informal Economy 2018-2022, and Action Plan 2020-2021. In Bosnia and Herzegovina, the Federal Development Strategy (2021-2027) planned to target informality, still awaits approval. In the meanwhile, its Joint Socio-Economic Program (2020-2022) aims to lower the tax burden and reform the scheme for unemployment benefits, as well as implement labour market adjustment based on labour cost subsidization. It especially strives to make the labour subsidies and the unemployment benefit scheme more inclusive.¹²⁶

Adapting tax legislation to technological developments can have the added effect of brining more economic activity into the open. Efforts to improve operational capacity of tax authorities, the **introduction of e-services** and computerisation of tax administrations have helped the fight against tax evasion and the informal economy in all Western Balkan countries.

Electronic invoices have become mandatory for cashless transactions between businesses and government in Albania since January 2021.¹²⁷ For the first time, the Fiscal Package 2020 introduced the automatic VAT declaration, whereby taxpayers now need only certify or make a correction if they have not declared correctly in the books of sale and purchase. In North Macedonia, the new excise module of the Customs Declaration and Excise Document Processing System replaced paper with digital procedures. The Public Revenue Office is facilitating voluntary compliance by issuing pre-filled annual tax returns through the electronic personal tax platform. Similarly, Montenegro adopted the Law on Fiscalisation in the Trade of Products and Services applicable from 1 June 2021.¹²⁸ The law allows taxable persons to issue electronic invoices and taxpayers to submit monthly VAT returns only electronically. Business, however, was sceptical: the Montenegrin Employers Federation claimed that those who operate legally will bear the burden of fiscalisation, while those who work in the grey zone will certainly remain out of the system.¹²⁹ The Kosovo Tax Administration has established a widespread use of e-filing and e-payment. Kosovo has also started to give businesses so called unique identifier numbers, which are used when dealing with public services such as business and fiscal registration, VAT office and customs.¹³⁰ In Serbia, there are plans to digitise government services and registration of businesses and employees.¹³¹

Still, there are **challenges related to tax collection**, low technical and human capacity for cross-institutional and cross-border exchange of tax information, needed updates of the legal base, and introduction of better risk management procedures. Overall, electronic payments under e-government services remain underdeveloped in the region.

¹²² Williams, C., *Towards a Holistic Approach for Tackling Undeclared Work in the Western Balkans: A Self-Assessment Survey*, Sarajevo: Regional Cooperation Council, Western Balkan Network Tackling Undeclared Work, 2021.

¹²³ Sutkovic, F., “*Montenegro: Montenegrin Government Proposes Ambitious Economic Plan ‘Europe Now’*”, Mondaq, 30 November 2021.

¹²⁴ Kikoni, E. and Armas Blanco, E., *Western Balkans Regular Economic Report No. 19 : Spring 2021. Subdued Recovery*, Washington DC: The World Bank, 2021.

¹²⁵ European Commission, *Commission Staff Working Document: Kosovo* 2020 Report*, 2020.

¹²⁶ Kikoni, E. and Armas Blanco, E., *Western Balkans Regular Economic Report No. 19 : Spring 2021. Subdued Recovery*, Washington DC: The World Bank, 2021.

¹²⁷ European Commission, *Commission Staff Working Document: Albania 2021 Report*, 2021.

¹²⁸ Kapor, G., “*Employers’ Union: Fiscalization will not suppress the grey economy*”, Vijesti online, 08 June 2021.

¹²⁹ Ibid.

¹³⁰ European Commission, *Commission Staff Working Document: Kosovo* 2021 Report*, 2021.

¹³¹ Kikoni, E. and Armas Blanco, E., *Western Balkans Regular Economic Report No. 19 : Spring 2021. Subdued Recovery*, Washington DC: The World Bank, 2021.

CIVIL SOCIETY IN ANTICORRUPTION



Ever since the anticorruption agenda came to the Western Balkans there have been efforts to make civil society organisations an integral part of this agenda. Yet, after all these years in most of the countries CSOs are little more than an appendage to the official anticorruption infrastructure. The reforms are still presided over and steered by that which is supposed to be under reform – the government. When involved, CSOs are often there as a **token of “inclusiveness”** rather than a desired stakeholder. There are, however, a number of critical elements of that infrastructure whose functioning can be ensured by CSOs only, such the monitoring of public service delivery and diagnostics of corrupt practices, independent analysis of policy and legislation, and a general advancement of the political culture in their countries by raising civic awareness and working at the grassroots. As noted in SELDI’s 2014 assessment report, “good governance is not a technical exercise but requires a **national climate of trust and civic and political responsibility** – precisely the issues where NGOs have most to contribute.”¹³²

CSOs, however, are vulnerable themselves. Their credibility, and hence their impact on strengthening genuine dialogue and sincere partnership with public institutions are hampered by **the capture of civic space** by politics. As a result, a gap opens between CSOs and citizens and CSOs prove incapable of securing citizens’ trust and support. An increasing number of CSOs promote transparency and good governance, but take few steps to lead by example. Political efforts to capture civil space can be seen in the emergence of a shadow civil society of organisations which serve the government or those in power, while seeking to imitate the purpose and actions of genuine civil society.

CSO involvement in the anticorruption agenda

A decade ago, in its assessment of the CSOs’ role in anticorruption SELDI found that there had been “a lack of effectively established formal mechanisms for engaging civil society on the part of the national governments in the region, as well as a lack of administrative capacity and clear vision and understanding of the potential of CSOs in the field of anticorruption.”¹³³ Such **cooperation platforms** have been established in some of the countries, but they are still to become effective channels of civic

contribution to the formation of the governments’ anticorruption agenda. The most elaborate formal institutional mechanism of interaction between civil society and government has been established in North Macedonia (Figure 27), which has facilitated CSO contributions to policy-making in the field of lobbying, the preparation of the National Strategy for the Fight against Corruption, and the election of candidates to the Commission against Discrimination.

Figure 27 . North Macedonia’s government-CSO cooperation arrangement



Source: SELDI generated

In Montenegro, the government which came into office in late 2020 decided to establish a National Council for the Fight against High-level Corruption,¹³⁴ an advisory and monitoring body, which includes two representatives of CSOs. The Deputy Prime Minister announced that this Council should deal with the most complex and challenging cases in which there are indications of corrupt practices.¹³⁵ In 2021, as a result of changes to the Law on the State Prosecutor’s Office, which prescribed a new composition of the Prosecutorial Council, five eminent lawyers are to be elected and dismissed by the parliament, one of which would be a representative of CSOs that works in the area of rule of law.

¹³² SELDI, *Anticorruption Reloaded: Assessment of Southeast Europe*, 2014.

¹³³ SELDI, *Recent Developments and New Prospects: Major Corruption Challenges in Southeast Europe*, 2013.

¹³⁴ More information available at: Government of Montenegro, “3rd Session of the Government of Montenegro - 17.12.2020”, 18 December 2020.

¹³⁵ Popovic, T., “The government is forming the National Council for the Fight against Corruption, Abazović: There will be no untouchables”, Vijesti online, 14 December 2020.

Despite these advances, however, governments in the Western Balkans are far from accepting CSOs as true partners in anticorruption. The effects of state capture are visible in many instances of **marginalisation and even hostility towards CSO**. In North Macedonia, while the “de-Sorosization campaign” conducted against CSOs in the late 2010s has now been abandoned, it may have some lingering effects.¹³⁶ Such effects could re-ignite, in light of the war in Ukraine and Kremlin’s incitement of hate against CSOs. In Montenegro, there have been cases of confrontation between CSOs and Montenegrin authorities, which occur mainly when the former criticise public policies or officials. Although most CSOs operate without interference, those that investigate corruption or criticise the former DPS government have faced pressure.¹³⁷ In Serbia, the process of development of a Strategy for an Enabling Environment for Civil Society (adopted finally in February 2022) has been boycotted by CSOs because of an “the intolerant atmosphere towards civil society.”¹³⁸ This is evident in the government’s failure to address attacks on civil society members and independent media by members of parliament, and tabloid campaigns against the civil sector and independent journalists in the pro-regime media. In Albania, in recent years, there have been no cases of public denunciation or threats to CSOs due to their activity. Nevertheless, CSOs which are highly critical of the government, in particular in matters of corruption, face limited access to the media (especially national media),¹³⁹ low involvement in consultations

and meetings with public institutions, and limited funding opportunities.

Overall, a number of factors common to most Western Balkan countries could **undermine the effectiveness of CSOs’ anticorruption drive**:

- Public administration and senior politicians are in a state of conflict of interest and influence the way national funding to CSOs is allocated.
- Shell-CSOs are created not in the public interest but to divert funds.
- Lack of transparency on the part of some organisations and the political affiliations they have.
- Lack of sufficient financial resources, which could hinder CSO sustainability in the field of public interest for which they are created.

Financial support for civil society

This latter risk factor is a more fundamental challenge. As CSOs are non-profit making organisations, they depend mostly on grant funding for their work. In a field such as anticorruption, their function as both watchdogs and contributors to government policy-making places particular demands on the integrity and transparency of the process of funding.

Transparency of national financial support

While national public funding for anticorruption work is now available throughout the region, considerable **deficiencies remain in terms of the transparency of the procedures through which it is awarded**. In 2021, Albania’s Agency for the Support of Civil Society spent approximately 13% of its total budget on funding anticorruption activities. While the beneficiary organisations have been made public, the procedure and criteria for selecting the winners have not, a fact that has been criticised by other CSOs. Although, the Agency for the Support of Civil Society tries to follow the rules in the implementation of formal procedures, selections are often based on the political connections and personal preferences of the Board. Organisations receiving donations are either unknown or of low public reputation and with no real contribution to civil society. A similar risk applies to the State Agency for Strategic Planning and Assistance Coordination – a new body which is expected to coordinate foreign aid for development programmes and projects. This new agency has also been strongly criticised by the civil society in Albania as it is seen as an instrument for concentration of donor funds, which are then

¹³⁶ In a survey of 293 CSOs, 1% of the CSOs have claimed that they have faced governmental intrusion in their internal work, 1.7% have faced excessive audit by state authorities (excessive financial oversight), 2.4% reported unannounced inspections by state authorities, 2.4% reported harassment or restrictions on activities of moderators of online groups or their members, 5.1% have reported some other form of state interference in their work, and 5.5% have faced threats by government officials (“excessiveness” is self-reported and it is not clear how respondents understand it). See further: Trpovska, S. K. et al., *Monitoring Matrix on Enabling Environment for Civil Society Development. Country Report for North Macedonia 2021*, Skopje: Macedonian Center for International Cooperation, 2021.

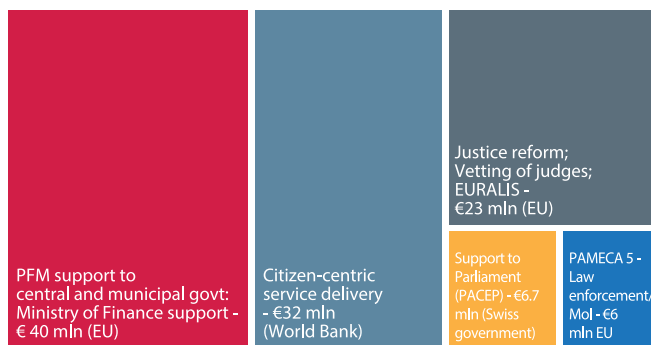
¹³⁷ Freedom House, *Montenegro 2021 Report*, 2021. One of the most prominent examples is related to the mayor of Podgorica who insulted MANS and their Deputy Director because of their research and criticism of the work of the municipal administration. See: Vijesti online, “*Vukovic: The motive for the attack on me and my associates is political, Milovac announces the most vulgar insults*”, 19 September 2020.

¹³⁸ Belgrade Centre for Human Rights, “*Still without conditions for CSO participation in the development of the Strategy for an Enabling Environment for Civil Society*”, 09 July 2021.

¹³⁹ See more in the next section for a context to this: the largest media operating at the national level are private and their owners are known for their political connections, which has undermined the credibility and neutrality of these media, while the public media are captured directly by the government. This situation is the reason for the low reporting and media coverage of corruption issues.

redistributed to those organisations and individuals closest to the government.

Figure 28. Foreign donor support for anticorruption, public financial management, justice and CSO, Albania (2019-2023)



Source: [International Aid Transparency initiative \(IATI\)](#)

Transparency issues in grant awarding are also present in BiH, where a typical practice by public institutions is to award funds not according to the requested budgets but as they deem fit for the respective purpose. In 2020, North Macedonia cancelled already announced budget funds for anticorruption, which were instead questionably distributed to CSOs for dealing with the pandemic. There were several critical issues in terms of the transparency of the process: very short deadline for application, evaluation of as many as 549 applications in just two days, large differences in the scores for the same application among evaluation committee members, etc.¹⁴⁰ In addition, in 2020, the majority of government institutions in North Macedonia that allocate funds to CSOs failed to provide adequate public information on the funding procedures and funded projects. In Serbia, the availability of information on public tenders for CSO financing is also insufficient to ensure transparency and evaluation of their results. In procedural terms, there is a lack of standardisation of the tender procedures, which would contribute to easier monitoring of tender results and greater transparency.¹⁴¹

Foreign vs national funding

In most Western Balkan countries, financial support for CSOs in the early stages of transition of these societies came from abroad. Today, the ratio of foreign to national funding continues to be in favour of the former, especially in BiH, Kosovo, and North Macedonia. In Bosnia and Herzegovina, foreign funds are usually much higher than those provided by local public institutions and cover CSO expenses related to salaries and office expenditures which are never covered by domestic public funds. The situation in Kosovo is similar: regardless of the strategic documents and the clear legal framework for cooperation and funding of CSO activities, much of the funding comes from foreign donors. Their support is mainly for capacity building, good governance, effectiveness and transparency as well as improving investigative and monitoring capacities.

In North Macedonia, a **draft model of a fund for institutional support of CSOs** and co-financing of EU funds aims to make domestic funding better targeted.¹⁴² While in 2020 a total amount of €5,504,893 was paid to CSOs from the state budget, this amounted to mere 5%¹⁴³ of the total amount of incomes of CSOs in that year (according to data from the Central Registry). Most Montenegrin CSOs also rely on international funding to carry out their activities. National public funding is regulated in the Law on Non-Governmental Organisations,¹⁴⁴ with this source of financing being important mostly for CSOs operating at the local level. The government identifies priority areas for project funding based on proposals from ministries, which then allocate those funds.

¹⁴⁰ Bosilkova-Antovska, A., *Monitoring Matrix on Enabling Environment for Civil Society Development. Regional Report: Western Balkans 2020*, Skopje: Balkan Civil Society Development Network, 2021.

¹⁴¹ BIRN Serbia, *Overview of public spending in the field of public information, culture, civil society and youth in the period 2019-2021*, 2021.

¹⁴² Mitevski, V. et al., *Analysis of the financial support of the associations and foundations from the budget of the Republic of North Macedonia (from 2017 to the first half of 2019) with a comparative analysis of the models for state financing from other countries and a proposed model of the Fund for support and development of the civil society and co-financing of the EU projects in RSM*, Skopje: Government of the Republic of North Macedonia, 2020.

¹⁴³ CSOs additionally can apply for funding from municipalities, but there is no available comprehensive data for this. The total funding may reach up to 10% from their total income, while the remaining amount comes from foreign donors.

¹⁴⁴ According to this law, the amount of at least 0.3% of the current annual budget is provided for financing projects and programs in areas of public interest, 0.1% in the field of protection of persons with disabilities and 0.1% for co-financing of NGO projects and programs supported by European Union funds.

Media

Effective rollback of state capture in the Western Balkans is only possible through popular demand. Demand, in turn, will be generated when the public appreciates the scale and effect of the institutionalisation of corruption. Such an understanding cannot happen without a healthy media environment. The media are a critical link in the anticorruption infrastructure: they investigate, provide platform for advocacy, inform and raise awareness.

Yet, **media capture** has continued to thrive in the Western Balkans in all its different forms. Media in the region are one of the weakest links in this infrastructure. The result is public disillusionment, which is mostly due to “low media freedom, low perceived efficiency of media because of overall system failure (‘nothing happens even if corrupt politicians are exposed in media’), distrust in media owners and its financing, overall distrust in society or finally due to conflicting world-views and values of readers/viewers and those prevailing in media.”¹⁴⁵

Coverage of (anti)corruption

Despite some increase in the pluralism in the media sector in the region, which has contributed to the exposure of suspected corrupt practices, *de facto* government censorship is still evident. While most of the sector is commercial, it is often used for partisan ends as a result of widespread political corruption and the dominant role of oligarchs in domestic markets. The media coverage of corruption, although generally improved, still fails to serve as a link between public demand for integrity and actual sentences or reforms.

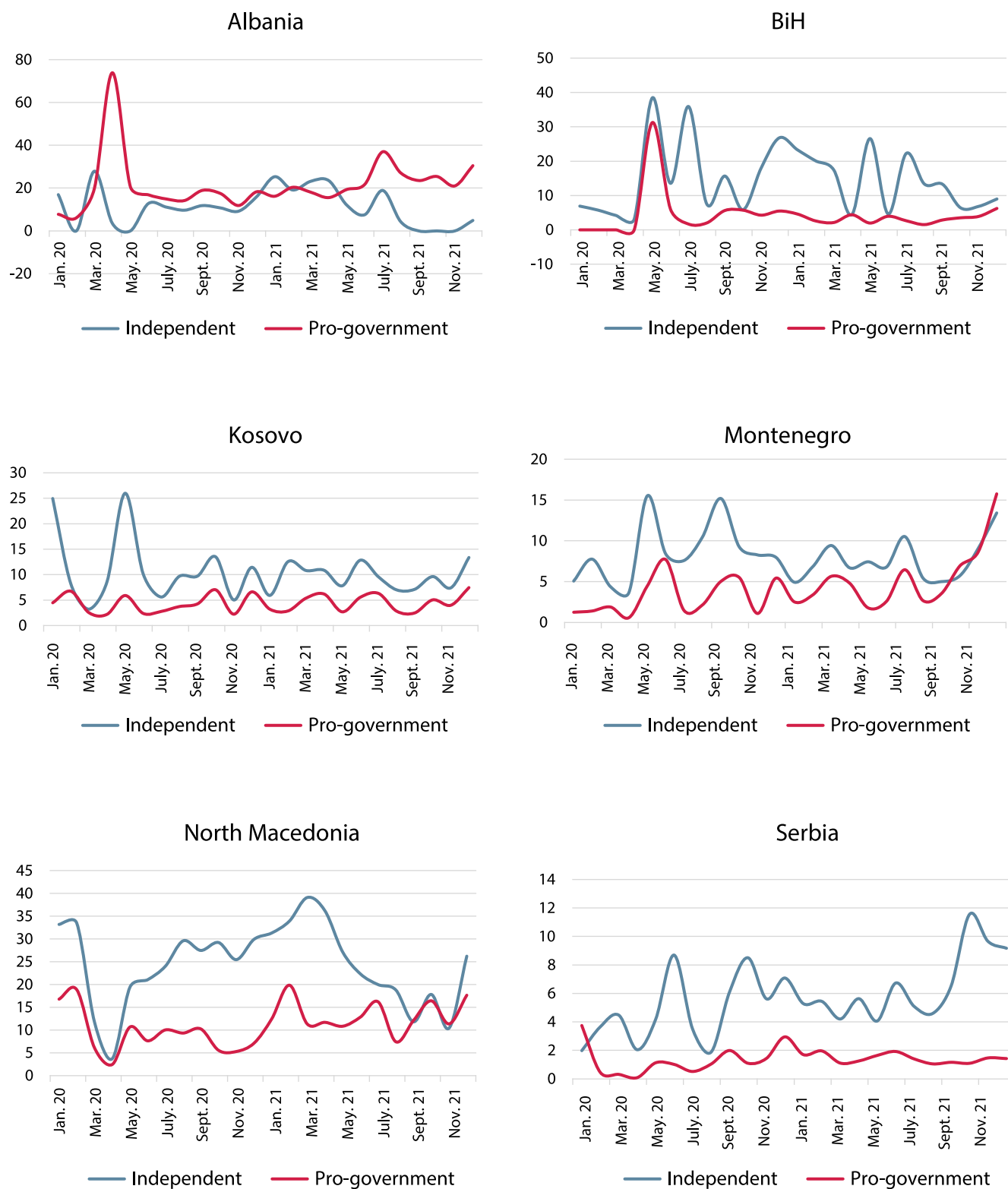
A survey¹⁴⁶ by SELDI of the coverage of corruption-related issues in the media of the six Western Balkan countries in 2020 and 2021 (Figure 29) shows that independent media, though still a minority, are typically more active in their reporting on corruption

than pro-government outlets. Yet, from the latter half of 2021, reporting on corruption in the pro-government outlets seems to mirror that of independent media (with the notable exception of Serbia), which among others, might be the result of the falling of corruption down the priority list of concern for the societies in the region. Still, coverage is mostly done in a simplified manner, along with current events; corruption is usually presented as news without any broader analyses or commentaries, where there is usually one source of information. There are even fewer editorial stances and pressure to expose and reduce corruption.

¹⁴⁵ Shentov, O., Stefanov, R., and Vladimirov, M., *The Russian Economic Grip on Central and Eastern Europe*, London: Routledge Contemporary Russia and Eastern Europe Series, 2019.

¹⁴⁶ The analysis covers 9 media outlets in each country. Sensika tool is used to search for the key phrases in over 3 million articles from the selected media outlets. Over 27,000 articles in the two-year period contained at least one of the key phrases. The average normalized frequency of occurrence (average number of occurrences per 1000 articles) of these articles for each of the three types of media outlets is plotted for each month on the figures. When interpreting the graphs, it should be noted that they represent only the number of media pieces on the topic, but do not measure “sentiment” (whether the text is positive or negative towards something). Neither do they measure how reliable and competent is the analysis, if it corresponds to the truth or is just used to discredit political opponents. For example, pro-government media might cover corruption in a way that deflects criticism away from the government.

Figure 29. Corruption coverage according to media bias*



* Average frequency per 1000 of articles containing at least one of the following words or phrases: state capture, bribe, nepotism, graft, conflict of interest, favouritism, clientelism, embezzlement between January 2020 and January 2022 in 54 online media in the six countries.

Source: SELDI

The coverage of corruption is often compromised by a disproportionate dependence on state budgets and politically connected entrepreneurs. This leads to a decline in editorial independence, the weakening of public service media and the inadequate accountability of media regulators.

Media capture in the Western Balkans takes place through a number of mechanisms. In Albania, the owners of the largest national private media – the ones with the largest audience – are among the largest entrepreneurs in the country and own many other businesses, which in many cases are dependent for their survival on public contracts from the government.

Box 3. Silencing critical media in Albania

One of the most typical cases of censorship on television is that of the closing in the middle of the TV season of the investigative show “The Unexposed” after an investigation made by this show about falsification of documents in a tender, which led to the cancellation of the tender.¹⁴⁷ This programme together with “A Show” by journalist Adi Krasta were closed simultaneously on the TV channel “News 24”. Both shows were critical of the government and aired on the same television station for a year. Journalist and host of the show “The Unexposed” Ylli Rakipi directly accused the government and Prime Minister Edi Rama of closing the show and breaking his contract with “News 24” television. The host of the programme said that the show was closed due to direct pressure from the government on the owner of the television, as he says that he had another year contract with the television, which did not give any reason for cancelling. He stated that there has always been pressure to close the show and that the Prime Minister himself has ordered that government representatives not come to the studio. The PM is suing the journalist for violation of dignity; Mr. Rakipi has filed a defence statement and a counterclaim.¹⁴⁸

In the Western Balkans, **media bias is correlated with political polarisation**. In Montenegro, media which have until recently been clearly supportive towards the opposition, after the change in government have continued to cover corruption and state capture to some extent by reporting on affairs of some ministers in the new government.¹⁴⁹ Once pro-government media are now highly critical towards the new government, although

their coverage is mostly related to the controversies between the Serbian and Montenegrin Orthodox churches. In Kosovo, there are cases when media is biased towards certain political parties or individual politicians. The most common practice of influencing the work and independence of the media by politicians is through individual journalists by publishing sponsored media articles. Overall, the media is free and does not get influenced or intimidated by external factors regardless of the topics or institutions being covered. In Serbia, the media whose editorial policy is already in favour of the ruling party report in a positive tone on the fight against corruption, while at the same time avoiding reporting on lawsuits and topics such as conflicts of interest when the ruling elite are involved. Often tabloids have been instrumentalised to deal with the opposition, reporting on alleged scandals by opposition representatives. Independent and investigative media point out systematic problems in the functioning of the judiciary and pressures or involvement of the top authorities in corrupt practices.¹⁵⁰ In North Macedonia, independent media cannot be said to favour a particular political party, as they are critical of both ruling or opposition parties when it comes to corruption. Certain media that are supportive of the opposition party tend to use more criticism when reporting on potential corruption cases linked to the ruling party. However, political parties’ statements, primarily those in opposition, are the most common source of the news for specific corruption acts – media coverage is usually based on their information/statements. Corruption is least covered by public service channels, while the number and length of articles covering corruption are highest on independent TV stations.

Media laws are another area of concern in the region. In Montenegro, a group of CSOs submitted to the Ministry of Public Administration draft amendments to the Law on Free Access to Information, with the aim of enabling citizens, the media and the NGO sector to play a more active role in fighting corruption and monitoring the work of the government.¹⁵¹ However, as of February 2022, this law has not been adopted, although it was planned for the third quarter of 2021.¹⁵²

Editorial independence is most compromised in **public broadcasting**. In June and December 2021, the management of RTCG, the public service broadcaster in Montenegro, was changed, but progress in covering

¹⁴⁷ Karaj, V., “*The closure of critical broadcasts raises new concerns about media freedom in Albania*”, Reporter.al, 28 August 2019.

¹⁴⁸ Exit.al, “*Ylli Rakipi sues Rama – Seeks to close the show ‘The Unexposed’*”, 09 April 2019.

¹⁴⁹ Milićević, L., “*A reconnaissance has been launched in the case of the illegal construction of Minister Mitrović*”, Vijesti online, 23 August 2021.

¹⁵⁰ Šovanec, S., *Justice in the mirror of the public. Media coverage of organized crime and corruption court proceedings*, Belgrade: Project “All Eyes on Justice”, 2020.

¹⁵¹ Institute Alternative, “*First Anti-Corruption Law Proposed to the New Government*”, 09 December 2020.

¹⁵² Government of Montenegro, *Work Program of the Government of Montenegro 2021*, 2021.

corruption is yet to be seen.¹⁵³ In Albania, the Prime Minister has his own online television station, ERTV (Edi Rama Television), where he broadcasts government activities, carefully curated by his communications team. There is a lack of information regarding the staff employed in it, and officially the Prime Minister has declared that they work voluntarily at no cost. As this channel is given privileged access to the Prime Minister and the government, other journalists are forced to simply re-broadcast the information and images provided by the channel.¹⁵⁴ The Albanian Prime Minister and the Mayor of Tirana do not hold press conferences, do not allow independent media to ask questions in public, and ignore requests for information or comments. In North Macedonia, it cannot be said that the Macedonian Radio Television (MRT) or the journalists in its newsrooms have been under direct influence of the government in the past few years. However, an indirect form of pressure has been exerted through funding: the budget allocated to the public service was reduced to about 0.5% of the state budget, although the funds necessary for its efficient operation are estimated at about 1%. This undermines both the stability and the editorial independence of MRT from the government.¹⁵⁵

An additional factor in the low anticorruption effectiveness of the media in the region is the **low level of media literacy** among the general public. In North Macedonia, although corruption is present largely in media reports, it is presented mostly in a simplified way, along with current events with a neutral tone dominating the reporting. Corruption is usually presented as “news” without any broader analyses or commentaries, where there is usually one source of information.

Media intimidation

A high rate of intimidation of journalists covering corruption is indicative of both the senior political level at which corruption happens and its impunity.

Political pressure, verbal and physical attacks against the media are not uncommon in all the countries of the Western Balkans. In Albania, independent media are frequently exposed to intimidation, legal

actions and attacks.¹⁵⁶ Prime Minister Edi Rama often called out journalists regarding their work probably to divert public attention from scandals and cases involving the Prime Minister or his political party.¹⁵⁷ Despite some small improvements related to media transparency legislation¹⁵⁸ and exposure of significant corrupt cases, investigative media in Bosnia and Herzegovina experience political pressure, assaults and discrimination,¹⁵⁹ especially involving partisan entity-level broadcasters.¹⁶⁰ Kosovo’s media had also been frequently targeted by physical and verbal attacks, intimidations, threats and insults.¹⁶¹ The political influence over the media is strong in Kosovo,¹⁶² increasing the tense situation and separation between ethnic groups, thus reflecting on media accessibility, pressure and self-censorship.¹⁶³ A new “soft” pressure on media is taking place in Kosovo, such as the cyber-attacks to discredit local independent media by publishing disinformation and fake news.¹⁶⁴ Montenegrin medias are also subjected to political and commercial influences, with private media hardly competing against public agencies.¹⁶⁵ Independent and investigative media have been frequently threatened, attacked and intimidated also by law enforcement agencies and public medias.¹⁶⁶ With the lowest score on the Media Sustainability Index and a worsening media situation since 2018,¹⁶⁷ Serbian journalists are continuously suffering from physical and verbal attacks, intimidations and insults from both state officials and pro-government media.¹⁶⁸ In North Macedonia, harassment seems to be getting worse: in 2020, the number of attacks on journalists in drastically increased, i.e., three times more attacks on journalists were registered compared to 2019. Another form of intimidation is pressure from management, although it is rarely reported by journalists, probably because it often takes the form of subtle rather than direct threats. Still, journalists do sue editors and media owners when

¹⁵⁶ Freedom House, *Albania 2021 Report*, 2021.

¹⁵⁷ Mali, T., “*Clueless and ranting: the press according to Edi Rama*”, Centro per la Cooperazione Internazionale, 09 November 2017.

¹⁵⁸ IREX, *Media Sustainability Index 2019 Bosnia & Herzegovina*, 2019.

¹⁵⁹ Reporters sans frontières, *Bosnia-Herzegovina*, 2021.

¹⁶⁰ Freedom House, *Bosnia and Herzegovina 2021 Report*, 2021.

¹⁶¹ IREX, *Media Sustainability Index 2019 Kosovo*, 2019.

¹⁶² Freedom House, *Kosovo 2021 Report*, 2021.

¹⁶³ Reporters sans frontières, *Kosovo*, 2021.

¹⁶⁴ Reporters sans frontières, “*Ugly Twins: a novel type of attacks on local independent media in Serbia*”, 29 July 2021.

¹⁶⁵ IREX, *Media Sustainability Index 2019 Montenegro*, 2019.

¹⁶⁶ Freedom House, *Montenegro Report*, 2021.

¹⁶⁷ IREX, *Media Sustainability Index 2019 Serbia*, 2019.

¹⁶⁸ Reporters sans frontières, *Serbia*, 2021.

¹⁵³ Prior to these changes, the public broadcaster had been accused of direct political influence from the previous government and biased reporting on corruption in Montenegro.

¹⁵⁴ Picari, M., “*Information at risk, news offices producing and distributing news*”, Voice of America, 14 January 2020.

¹⁵⁵ Spirovski, M. and Todorovska-Kostovska, V., *North Macedonia Indicators on the level of media freedom and journalists’ safety in 2020*, Association of Journalists of Macedonia, 2021.

their rights are violated.¹⁶⁹

Box 4. Media intimidation cases

Albania:

- In July 2021, News24 journalist Ergys Gjencaj was violently apprehended, had his phone confiscated, and was detained for more than one hour by police. He had been near the scene of an anti-drugs bust and was attempting to film what was happening.¹⁷⁰

BiH:

- In May 2021, Milorad Dodik, at the time BiH State Presidency Chairman attacked and threatened the journalist and political analyst Tanja Topić after she had publicly expressed attitudes in opposition to Dodik and his party.¹⁷¹

Kosovo:

- In February 2021, Visar Duriqi, a journalist at online news portal Insajderi, who frequently covered corruption and radical groups cases, was assaulted and beaten by three masked.¹⁷²

Montenegro:

- In October 2020, investigative journalist Jovo Martinovic was found guilty of participating in drug trafficking, despite the lack of evidence,¹⁷³ while in March 2021 Monitor editor-in-chief Esad Kocan was verbally and physically attacked.¹⁷⁴

Serbia:

- In April 2020, Journalist Ana Lalic was arrested for reporting on inadequate hospital facilities for coronavirus.¹⁷⁵

Journalists and media professionals are also increasingly subject to threats and harassment on social networks, some of which were serious threats to the physical safety of journalists working to investigate corruption. There are examples of hate speech and labelling of journalists and media workers by politicians and other public officials. Against the background of these frequent incidents of harassment, the impunity of perpetrators is still a serious problem. Investigations of such cases are slow and rarely lead to indictments.

¹⁶⁹ Spirovski, M. and Todorovska-Kostovska, V., *North Macedonia Indicators on the level of media freedom and journalists' safety in 2020*, Association of Journalists of Macedonia, 2021. The political situation in 2020 was very tense, especially due to corruption scandals involving high-ranking public officials and the early parliamentary elections held in July. Tensions between political parties continued after the elections and were clearly reflected in the polarisation of much of the media. The implementation of systemic reforms in the media sector, despite the newly formed parliamentary composition, was still blocked in parliament.

¹⁷⁰ Taylor, A., "*Reporters without borders condemn police attack on journalist in Albania*", Exit.al, 28 July 2021.

¹⁷¹ European Federation of Journalists, "*Bosnia-Herzegovina: Politician Milorad Dodik attacks yet another journalist*", 27 May 2021.

¹⁷² European Federation of Journalists, "*Kosovo: Investigative journalist brutally assaulted*", 26 February 2021.

¹⁷³ Balkan Insight, "*Montenegro jail sentence for investigative journalist condemned as 'Kafkaesque'*", 08 October 2020.

¹⁷⁴ Safe Journalists, "*Attack on journalists, Esad Kocan, Podgorica 27.03.2021*", 27 March 2021.

¹⁷⁵ Article 19, "*Serbia: Journalist Ana Lalic arrested for reporting on inadequate hospital facilities for coronavirus*", 02 April 2020.

THE INTERNATIONAL DIMENSION



One clear sign of progress is that the involvement of international organisations or foreign partner countries in the domestic anticorruption agendas is increasingly appreciated among most stakeholders in the Western Balkans. There was a time two decades ago when any such involvement was seen as tarnishing the country's image with all its perceived negative consequences – diminished investor interest, international peer monitoring, etc. Today, a Western Balkan government rarely pronounces any movement on anticorruption without somehow referencing the EU: in Serbia, the amendments of the constitution were linked to EU hopes; in North Macedonia, the latest reform agenda is titled *Europe at Home*. The EU role spans the whole range of the reform process – from funding to framing anticorruption in a broader political context.

On the face of it, making the success of reforms contingent on such an extraneous influence may cause doubt as to their sustainability. However, if EU membership is a realistic goal, then the indispensability of the EU for domestic good governance is not a factor but an objective. The ambiguity of this perspective, however, could undermine the standing of the EU as a driver of rule of law reforms.

Box 5. A predicament for the EU

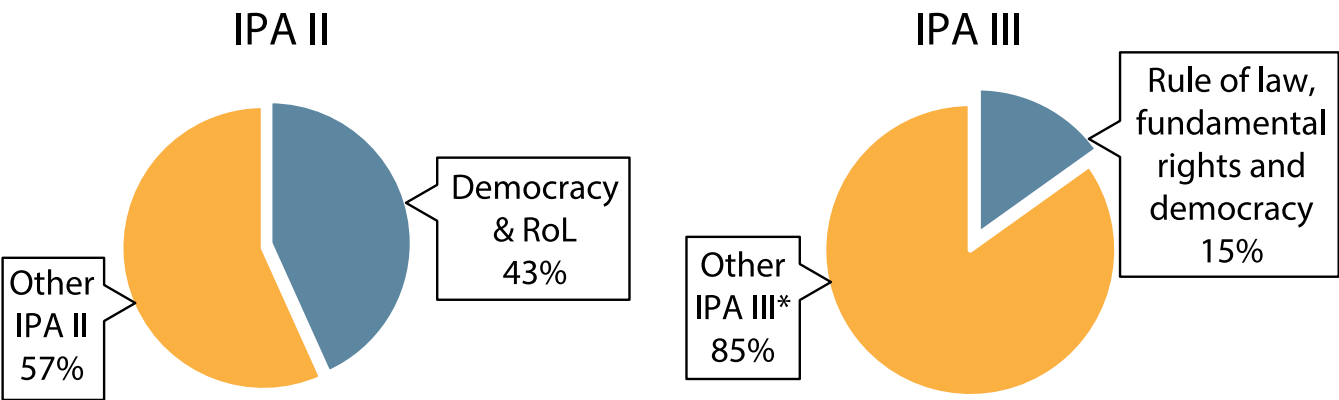
In 2018, the European Commission for the first time used its now widely quoted “clear elements of state capture” determination with respect to the Western Balkans. Such a conclusion might have meant that the assessment of the state of governance in these countries is becoming unequivocal and is addressing the core of the problem; in other words, that it is becoming political. Yet, the opposite seems to be happening – instead of becoming the focus of attention state capture has all but disappeared from the Commission's reports; in 2021, it is mentioned *en passant* only with respect to Bosnia and Herzegovina.

In fact, state capture puts the so-called **EU conditionality** – making certain benefits (of membership) contingent on the fulfilment of certain governance standards – in a bind. The problem is that the political and business elites in the Western Balkan who engage in state capture face high adoption costs – because they risk losing the rent they extract by virtue of having made the machinery of government work for their private benefit – if they genuinely implement the rule of law and democratisation reforms. This is now even more so after the EU court ruling linking rule of law standards with the disbursement of funds from the Union budget.¹⁷⁶ Thus, conditionality as a strategy of reinforcing commitment to the rule of law depends on the calculus of incentives and disincentives. Corrupt elites in the Western Balkans have everything to lose from joining an open, rules-based community but only a lot to gain from accessing its generous subsidies. If, therefore, the EU is to have any transformative role in the governance of Western Balkan countries it is the problem of state capture that needs to become its primary consideration when deciding how to calibrate the incentives of accession.

The beneficial impact of international assistance is evident in a number of other developments. For one, there has been a **broadening of the domestic interlocutors** engaged with foreign partners. While in the early days international institutions worked exclusively with the executive branch of government, the range of public bodies participating in this cooperation has expanded and even non-governmental organisations are increasingly involved, albeit in fairly superficial matters. Still, business, media, trade unions, academic institutions and other private sector stakeholders are not sufficiently involved. Also, the list of issues which international assistance addresses is becoming increasingly sophisticated: from integrity vetting of magistrates to local democracy, from improving parliamentary oversight to capacity building for law enforcement.

¹⁷⁶ Court of Justice of the European Union, Press Release No 28/22, Luxembourg, 16 February 2022.

Figure 30. The share of governance-related assistance to the Western Balkans in IPA III is almost a third of that in IPA II



** IPA III also a thematic priority which includes support for good governance (covering important RoL-related aspects such as public administration reform and local government) but it is bundled together with other issues (such as EU acquis alignment, reconciliation, public awareness, etc.) making 16.6% of overall assistance. In absolute terms, the volume of rule of law (including anticorruption) assistance has increased only marginally – from €1,825 million to €2,089 million.*

Source: [Overview - Instrument for Pre-accession Assistance](#)

Given the considerable amounts invested by foreign bilateral and multilateral partners in root-and-branch governance reforms in the Western Balkans, it is imperative that the impact of that assistance be evaluated. While its overall effect may be glimpsed in various aggregate indicators, the imprint of individual programmes is more difficult to assess. One reason is that the conceptual framework of foreign governance assistance has evolved, as evidenced by the difference between EU’s IPA II and IPA III (Figure 30).

The evolution of the conceptual terms under which assistance is provided is not simply a semantic issue but affects the prioritisation of specific reform areas over others. In Albania, one of the priority sub-sectors that has received increased EU funding is “democracy and governance,” covering areas such as democratic institutions; civil service reform and public service delivery, economic governance, public financial management, as well as civil society. At the same time, “rule of law and fundamental rights” refers to reforms in the judicial system and the police, fight against corruption, implementation of human rights conventions. These two areas constitute half of the total amount allocated by the European Union in the last three years (21% democracy and governance and 30% rule of law and fundamental rights).

Figure 31. Volume of foreign grants by donor country, field "Government & Civil Society-General, (€ million)*

* Grants > €1 million; Includes assistance provided in the period 2000-2022

Source: [International Aid Transparency Initiative](#)

That the role of the international community in the fight against corruption goes beyond mere assistance is evident in Bosnia and Herzegovina. In addition to financial and technical support, political pressure is being exerted and it is becoming more direct. Nevertheless, while overall there is growing awareness that without foreign assistance there will be no anticorruption progress in the country, in Republika Srpska cooperation with the international community has been called into question.

Box 6. An audit of EU rule of law support to the Western Balkans

EU's considerable financial assistance for the rule of law in the Western Balkans – €700 million over the 2014-2020 period – may be **underperforming** as far as its effects on good governance are concerned. A European Court of Auditors (ECA) report finds that “corruption remains a cause of concern in all countries in the region.” EU support has made a difference mostly in technical and operational areas, but “has had little overall impact on fundamental rule of law reforms in the region.” A key reason for this is the insufficient domestic political will to drive the necessary reforms.

While the disappointing results are attributed to the “lack of political will”, the EU is found not to have exercised its leverage effectively. Specifically, it seems to have **shied from applying recourse measures** against funding beneficiaries who had not shown commitment to reforms. EU delegations, for example, “have also rarely exploited the possibility of suspending IPA financial support if reforms are not progressing satisfactorily.”

EU support for civil society action on the rule of law is also found to be insufficient in meeting the needs of the sector. ECA emphasises that financial support for CSO work in the field of rule of law should be explicitly earmarked in IPAI and provided for the long-term “in a way that is not exclusively based on project funding.” A **regrettable change** from IPAI in IPAI is that “the Commission has dropped the IPAI indicator for monitoring civil society participation in the reform process and therefore does not report progress in this area.”

Source: European Court of Auditors, [Special Report EU support for the rule of law in the Western Balkans: despite efforts, fundamental problems persist](#), 2022.

The role of foreign funding for anticorruption efforts could also be seen in the case of North Macedonia, where, according to an internal catalogue of the State Commission for Prevention of Corruption, there have been eleven larger anticorruption projects with foreign support; seven out of those had state or local institutions as direct beneficiaries.¹⁷⁷ The bulk of the

international cooperation is used for development of key anticorruption institutions working on prevention, freedom of information and transparency.

In Montenegro, however, there is a lack of systematic approach – both from the Montenegrin side and on the part of donors – to the foreign technical and financial assistance in all areas, including the fight against corruption. While the EU had allocated €490 million to Montenegro in the period between 2007 and 2020,¹⁷⁸ there are no publicly available detailed reports – allowing for independent evaluation – on the IPA funding expenditure and on the implementation of the specific projects funded within it. Only very basic information is being shared with the public, through press conferences and short press releases, mostly stating the fact that the government has signed a contract with the EU Delegation, contract value, timeline and some main activities. The results of monitoring and evaluation of the contract implementation mechanisms remain largely unknown.¹⁷⁹

¹⁷⁸ European Commission, [Evaluation of the European Union's Cooperation with Montenegro 2012-2019](#).

¹⁷⁹ The IPAI-funded project “[Implementation of the e-procurement system in Montenegro](#)” is a case in point. Institute Alternative (IA), a SELDI partner organisation, submitted an FoI request to the Ministry of Finance about the project contract and reports on its implementation. The request was denied on the grounds that “the Law on Free Access to Information does not apply to the classified documents and information owned by the international organisations or other states, as well as to the classified information owned by the public authorities which are compiled or exchanged within the cooperation with international organisations or other states” (Decision of the Ministry of Finance, No. 01-6-274/2, December 27, 2019). Even after referring to the Delegation of the European Union on this issue, access to all the requested documents but the contract (with the personal data protection rules applied) was denied, due to the “protection of the commercial interests of a natural or legal person, including intellectual property” (Ref GestDem 2020/0782).

¹⁷⁷ Internal catalogue of SCPC updated by their Department for International Cooperation.

TURNING THE TIDE: HOW TO REGAIN THE ANTICORRUPTION MOMENTUM



Momentum in physics consists of mass and velocity – the bulkier an object is and the quicker it moves, the more momentum it has. This notion has long been applied to governance reforms as well – a significant impulse is needed to change entrenched institutions and practices. The **momentum of anticorruption reforms** in the Western Balkans seems to have stalled, as the mass (and energy) of its stakeholders has been eroded and the rate at which changes are introduced has slowed down.

Yet, the current moment is one of opportunity since it shows like never before how much democracy depends on the integrity of government. While the war in Ukraine complicates democratic transition and EU integration, it provides **impetus for a decisive stand** towards democratisation and a new push towards a tipping point in anticorruption efforts across all countries in the region. These decisive actions must focus on further democratisation and rule of law and should come in 2022 within the French and Czech presidencies of the EU. The resilience of the Ukrainian state – likely also due to strong anticorruption reforms in the country in the years since the annexation of Crimea – can and should be used as an argument to advocate for further reforms in the Western Balkans. **State-building and anticorruption are intricately linked.** Geopolitical arguments should be used to unlock the accession process immediately but not as an argument to turn a blind eye to corruption and state capture vulnerabilities in the Western Balkans.

Regaining momentum is still possible, provided **two radical shifts** are instituted in the approach to anticorruption in the region:

Prioritise the dismantling of state capture. The EU accession process with its focus on democratic and market institutions' fundamentals and rule of law is an outstanding framework for progress. It requires willingness and ability on the part of both sides – the candidate countries and the European Commission. Anything short of placing this issue at the heart of the agenda means that anticorruption is simply going through the motions. A proper understanding of the problem of state capture in the Western Balkans requires abandoning the formula "if government is the problem, government should be the solution". Policies hoping to upset entrenched special interests cannot be delivered through traditional bureaucracies alone. Loosening, therefore, the tight grip of private interest on the levers of government can only be achieved through a rethinking of the structure of anticorruption stakeholders and their cooperation

dynamics. Non-governmental organisations, business associations, trade unions, academia, media and other civic actors need to become an integral part of the whole anticorruption cycle – from designing policies to monitoring their implementation, supported through an independent local funding mechanism. For this to happen, civil society in the Western Balkans needs to be integrated in European professional and civic networks. Current European financing schemes, however, do not promote such integration (this is especially important as CSOs rely disproportionately on European public funding). Joint Western Balkans-EU platforms would facilitate the transfer of expertise and create a network effect for anticorruption advocacy.

Measure effect, not intentions. Currently, both national governments and international monitors base their assessment of anticorruption progress on targets that are, in effect, administrative. They mostly look into input indicators (regulations, procedures, resources), rather than outputs, i.e., actual impact. A genuine anticorruption drive should be based on evidence-driven anticorruption policies. The evidence that would inform these policies should be gathered through the following data generation mechanisms that the SELDI network has piloted in the Western Balkans:

- State Capture Assessment Diagnostics. Here, big data analysis can reveal patterns of collusion, including in linking clientelism in public procurement with company ownership.¹⁸⁰
- Studies of corruption victimisation of the general public. SELDI's Corruption Monitoring System is a tool for both measuring corruption levels and understanding public attitudes.¹⁸¹
- A mechanism for the assessment of the anticorruption performance and resilience of individual public institutions and identifying policy implementation gaps. Such an assessment should be performed by national administrations in cooperation with CSOs in a broader, EU supported, platform for engaging CSOs public-private anticorruption partnerships.¹⁸²

¹⁸⁰ For further details about this instrument see: Stoyanov, A. et al., *State Capture Assessment Diagnostics*, Sofia: Center for the Study of Democracy, 2019.

¹⁸¹ For the methodology of this instrument see: SELDI, *Western Balkans 2020: State Capture Risks and Policy Reforms*, 2020.

¹⁸² For further details about this instrument see: Stoyanov, A. et al., *Monitoring Anti-Corruption Policy Implementation (MACPI). Bridging Policy Evaluation and Corruption Measurement*, Sofia: Center for the Study of Democracy, 2015.

The broader enabling framework for the national reform efforts in the Western Balkans is provided by the EU accession prospects. This makes the task of the Union one of **delicate balance** between assertiveness against political foot-dragging by national governments and maintaining the credibility of membership. The EU needs to test its newly found geopolitical prowess to get the accession process with its conditionalities move forward. In particular, it needs to find European solutions to the continuing crisis in BiH and to the bilateral disagreements between Bulgaria and North Macedonia, which stall the start of EU negotiations with the next two Western Balkan countries. But most importantly, the EU needs to convince its citizens that enlargement is a win-win solution. It can use the current momentum, provided by the shock of the war in Ukraine, but its effects will invariably wear with time. Hence, in the end of the day, the EU, member states, Western Balkan governments and civil society need to move forward, creating local demand and will for continuous anticorruption reforms.

The European framework of the anticorruption drive in the region should focus in particular on several sets of measures that can help bring the region on a **successful tipping point** in this domain:

- **Political engagement**, in which the EU needs to push much more forcefully for reforms on the ground in each of the countries and regionally. This entails a much better coordination between EU delegations and member states' embassies throughout the region, as well as a better alignment between the European External Action Service and the Directorate General for Neighbourhood and Enlargement Negotiations. The European institutions need to continue and enhance their direct cooperation with civil society and the business community in the region.
- The **role of parliaments** in providing checks for the judiciary and the executive needs to be strengthened. Parliaments, and in particular their anticorruption committees need to be empowered to finance and work with civil society in the country and in the region to bring up continuously emerging state capture and corruption issues.
- **Focus on critical governance areas for sustained impact.** One such area is the judiciary and its capacity to ensure rule of law in economic governance areas prone to corruption, such as public procurement, concessions, licensing, privatisation, and real estate. No quick judicial wins can be expected on complex crimes of state capture and political corruption without sustained focus on capacity building and narrowing down the attention of judicial anticorruption task forces on exemplary cases. Such task forces need to be trained to the highest international standards of investigation and should be supported by professional anticorruption peers from member states. These need to be aided with strong focus on delivering performance to international standards in public procurement and the management of state-owned enterprises, through data transparency, risk assessment and effective sanctioning before the cases get into the judiciary.
- **Support for the economic recovery.** Given the strong correlation between economic development and anticorruption, EU's Economic and Investment Plan for the region needs to establish a stronger linkage to anticorruption. At the very least, this applies to the integrity of the process of procurement involving EU funds. More importantly, economic support should include anti-state capture considerations, i.e., investing in a way which enhances competition, boosts local professionalism, integrates local producers and service providers in European supply chains, reduces informality, promotes corporate governance standards, etc.
- Continuous monitoring of the **hidden economy** should aim to identify trends with respect to undeclared work and the practice of hiding revenues in the excise goods and services sectors. Effective policies against informality would combine incentives for employers and employees to transition from the informal to the formal sector and the introduction of flexible labour contracts with the use of awareness campaigns. A reform of inspection policies would move away from numerous intrusive inspections towards targeted inspections at key risk companies, sectors and locations. Progress in the introduction of e-government solutions and electronic payments should be consolidated.
- The EU and international finance institutions should work with the Western Balkan governments to insulate the region and its emerging market democracies from **the corrosive effects of illicit financial flows**, in particular such linked to foreign autocratic players, such as Russia and China. Building resilience in this respect would require serious capacity upgrade, from investment screening to asset tracing, and anti-money laundering (including through the process of establishing the EU Anti-Money Laundering Authority).
- **Countering media capture**, in all its dimensions, and extricating the region from ruthless Kremlin **disinformation** and its infrastructure is critical to regaining trust and strengthening anticorruption support in societies. A necessary first step is the

building up and opening up of trade registries and ensuring corporate ownership transparency of final beneficial owners, in particular in relation to media holdings. Social media platforms' moderation in local languages need to be brought in line with upgraded EU standards under the EU Democracy Action Plan.

Corruption in the Western Balkans may have peaked at a time of international political and economic turmoil. This provides the countries in the region and their foreign partners in Europe and North America with the opportunity to make this a tipping point towards, in a manner of speaking, alternative sources of governance energy. Success would depend on maintaining the alliance of reformist stakeholders and fostering domestic demand for clean government.

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