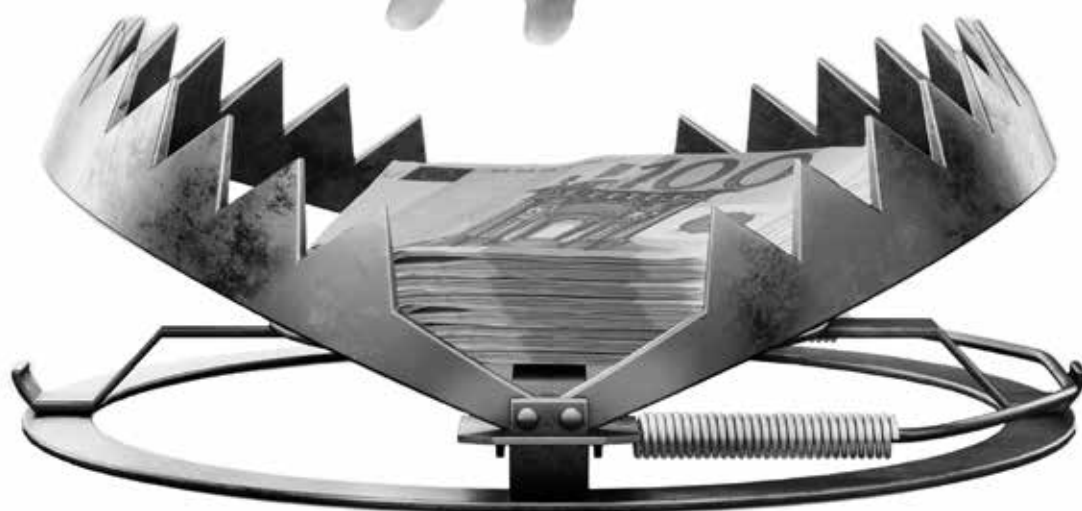


BREAKING THE ANTICORRUPTION DEADLOCK IN THE WESTERN BALKANS

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Trap**



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FROM SOFT POLITICS TO HARD ASSISTANCE: HOW TO RECALIBRATE EU ANTICORRUPTION ASSISTANCE

KEY POINTS

- ▶ A disrupted anticorruption agenda in the Western Balkans has been one of the casualties of the **geopolitical storm stirred up by Russia's invasion of Ukraine**. Through its political and economic support in these countries, China has underwritten a shadow infrastructure of state capture and malign influence.
- ▶ The **lack of political will and instruments to leverage and enforce its geopolitical weight in the region**, has rendered the EU a favourite target for domestic kleptocratic elites, which have sought to defer EU mandated reforms by seeking “no limit” partnerships with Beijing and Moscow.
- ▶ As a result, progress in reducing corruption in the public services has been uneven, with rates of involvement in petty bribery ranging from 10% in Montenegro to 40% in Albania. **Political corruption remains considerable**, perpetuating entrenched state capture networks.
- ▶ Regulatory activism continues but risk pushing through defective laws, including under the EU-flag. **Anticorruption strategies are either missing or constitute box-ticking lists with no impact indicators**.
- ▶ The **return on investment of EU assistance has been less than expected** because an overly technical approach failed to foster the political transformation needed to overcome state capture. In fact, ramping up support through the New Growth Plan while leaving state capture intact becomes counterproductive.
- ▶ **Anticorruption assistance must become more political**, above all by providing differential empowerment to the stakeholders of the rule of law. Specifically, anti-state capture safeguards should be mainstreamed in designing EU assistance programmes.



WESTERN BALKANS AND THE EU IN THE GEOPOLITICAL STORM

The increasingly fractious global geopolitical landscape has severely disrupted the EU integration reform agendas for good governance in the Western Balkans. Russia's dash for superpower status, culminating so far in its continuing brutal war on Ukraine, has pushed back against EU's model of democratic development, and has reignited old fissures within and between Western Balkan countries. China's support for Kremlin's aggression in Europe, has further emboldened anti-EU state capture networks in the Western Balkans, challenging the EU's geopolitical and normative power.¹ The lack of a unified European geopolitical will and instruments, has allowed Moscow and Beijing to build considerable inroads in the region, cementing state capture networks and emboldening autocrats and kleptocrats to foil anticorruption reforms.

Decoupling the region's economies from Russia has proven difficult, especially because illicit financial flows² and information manipulation underpin entrenched state capture oligarchic networks.³ This geopolitical storm requires **the EU and its member states to speed up and adapt their enlargement approach** towards more assertive strategic clarity and autonomy, and enforcement of rule of law and foreign policy conditionalities.

External standoffs have been reflected in deepened political divisions within countries and heightened risks of regional security in the Western Balkans and the Eastern Neighbourhood countries. Russia is stirring up volatility in Transnistria and Gagauzia in Moldova, secessionist risks in Republika Srpska, and tensions between Kosovo and Serbia. In 2024, Serbia (through widely disputed elections) and North Macedonia

elected governments which seem to be openly challenging the stated European paths of these countries and are more closely aligned through transactional diplomacy with Russia and China, thus seeking economic benefits from EU's political rivals, while trying to evade the EU's rule of law conditionality. Furthermore, similar developments have been visible also in neighbouring EU members, Hungary, Slovakia, and Bulgaria. These and other factors might be exploited by political opportunists to destabilise the countries, expand the assault on the EU's peaceful development model, and further justify autocratic state capture.

The vector of anticorruption progress in the Western Balkans is made up of two opposing forces, both domestic and international. Internally, reformist stakeholders have managed to mainstream anticorruption into the national agenda, to create a considerable body of expertise and advocate for the adoption of advanced regulatory standards. Their efforts, however, have been counteracted by state capture networks which have managed to **repurpose public institutions for private and partisan benefit**.

Externally, Western support – from the EU, the EEA, and the United States – has provided national reformers with guidance as well as material and technical resources. Yet, **weak political engagement with the region has left power vacuums, which the Kremlin and Beijing have used to disrupt the region's further European integration**. The Western Balkan countries have remained particularly vulnerable to Russia's malign economic and political influence. The Kremlin has used large scale strategic corruption projects, such as TurkStream, to engage local oligarchic networks. With the full-scale invasion of Ukraine, Russia declared war on Europe's model of democratic cooperation and unleashed an array of

- 1 Sabev, M., Georgiev, G., McLaren, R., *Securing the Foundations: Strengthening Civil Security in Bulgaria, Montenegro, North Macedonia and Serbia*, Sofia: Center for the Study of Democracy, 2024.
- 2 Georgiev, G., Petrova, V., and Tsabala, K., *Breaking the Code: Tackling the Interlocking Nexus of Russian and Chinese Disinformation and Illicit Financial Flows in Southeast Europe*, Sofia: Center for the Study of Democracy, 2023.
- 3 Center for the Study of Democracy, *Illicit Financial Flows and Disinformation in Southeast Europe*, Policy Brief No. 126, March 2023.
- 4 Georgiev, G., and Novossiolova, T., *Disinformation Storm: WMD Hybrid Threats in Bulgaria and Romania*, Sofia: Center for the Study of Democracy, 2023.

hybrid tools, with a particular focus on the weak-link countries in the Black Sea and the Balkans.⁴ In these countries, Beijing has underwritten the Kremlin's shadow infrastructure of influence to buy the services of politicians, magistrates, media managers, and businesses. This influence has been made possible by domestic governance deficits, such as lack of integrity and impartiality in politics and government, ineffective laws (on anticorruption, money laundering, political party financing, etc.), constrained media freedom, judicial incapacity, weak private sector, and others. An additional malign effect is evident in the spreading of polarising attitudes among societal groups, both offline and online, which both China and Russia have amplified, including through direct support for anti-systemic political parties. Anti-democratic actors tend to come to the fore during political crises, including elections, and contribute to a climate of hostility and political confusion, including through cross-border activities.⁵

The mid-term risk, therefore, is that domestic problems could fuse with complications in the international geopolitical environment to slow down or even reverse the process of improving the quality of public governance in the Western Balkans and the region's integration in the European Union. With Croatia's accession in 2013, the EU itself has grown weary towards enlargement, based also on its experience of ever less effective implementation of rule of law conditionalities by prospective candidates and the newest members from Central and Eastern Europe (CEE). The shock of Russia's invasion in Ukraine jolted the EU out its enlargement blues, and the European Commission has tried to speed up the accession process, including by opening the prospects of integration to Ukraine, Moldova and Georgia. Yet, it is unlikely that the EU would be ready to sacrifice geopolitical

expedience for less stringent governance standards. This makes internal drivers for reforms in the Western Balkans even more important.

DOMESTIC DEVELOPMENTS

The Western Balkans have introduced significant democratic reforms and made a considerable shift to a market economy over the last twenty years. The rise of reformist politicians, external support and an active civil society ensured that advanced democratic standards were adopted, at least nominally, in the works of government. Change has been uneven, and has happened through jolts and crises, yet it is clearly there.

However, evidence has been growing that the momentum towards better governance and economic prosperity has been wearing down.⁶ Reforms are encountering increasing headwinds, mostly in the form of **public institutions and political parties becoming ossified around state capture networks which subvert government decision making**. The substitution of genuine reforms with box-ticking has been tolerated because of the absence of strong conditionality mechanisms and recourse measures. In addition, there has been a trend towards weaponising anticorruption internally to weaken democratic checks and balances.⁷

Levels of corruption in the Western Balkan societies

Whatever anticorruption progress has been achieved in the Western Balkans, it has been with the help of an increased body of knowledge about the manifestations, underlying causes and incidence of corruption. SELDI's Corruption Monitoring System has been supplying data on the

5 For example, far-right groups from Bosnia's Serbian part, Republika Srpska, are in close association with groups in neighbouring Serbia, sharing ideologies and jointly attending events across the border. There is a lot of evidence that groups from Republika Srpska have been used by the regime in Belgrade to influence the local election results in the capital Belgrade in the latest elections.

6 Shentov, O., Stefanov, R., Todorov, B., eds., *Shadow Power: Assessment of Corruption and Hidden Economy in Southeast Europe*, Sofia: Center for the Study of Democracy / SELDI, 2016.

7 On the effect of political corruption on increasing authoritarian tendencies see SELDI (2016) *Shadow Power: Assessment of Corruption and Hidden Economy in Southeast Europe*, p.13

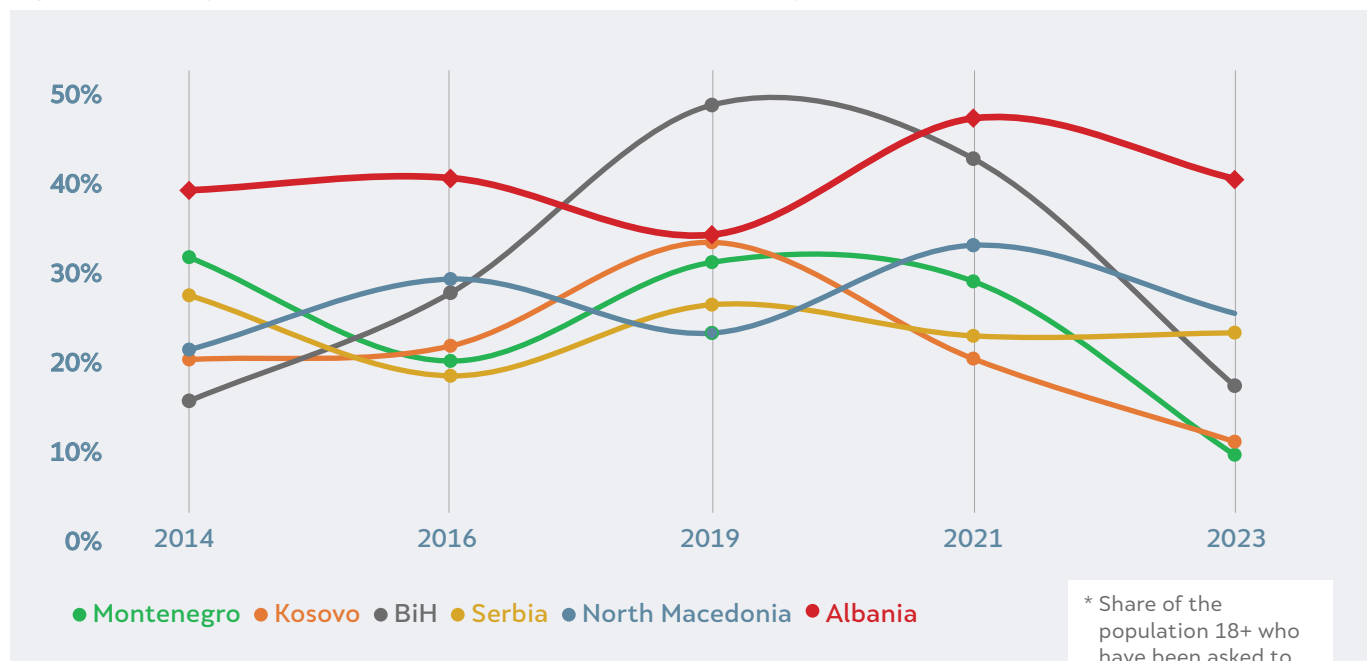
prevalence of bribery for over 20 years now and its latest findings show that achievements in the control of corruption have been disappointing.

For most of the countries, involvement in corruption has somewhat declined since the 2000s. This, however, is not a stable trend but is a series of short-term reductions of corruption followed by relapses. This indicates that **anticorruption policies in the region do not tend to produce a consistent effect**. In addition, state capture networks might be affecting administrative corruption levels by blocking the work of anticorruption institutions and playing together with or against different political actors. In

some cases, captors could even benefit from curbing administrative corruption by improving the political image of their political partners while at the same time keeping high-level corruption-related illicit financial streams flowing.

The data from SELDI CMS 2023/2024 shows that both self-reported involvement in bribing by individuals and the overall levels of pressure from officials remain unacceptably high – on average at 21% and 25%, respectively. Save for Kosovo and Montenegro, the share of individuals who report bribing public officials is roughly at the level of a decade ago (Figure 1.)

Figure 1. Bribery rates in the Western Balkan countries over the years*



Corruption pressure – the frequency of implicit or explicit rent-seeking by public officials in their dealings with members of the public – is the main factor that influences the level of involvement by the public in a statistically significant way. Most of the countries with high corruption involvement and pressure are also characterised by low

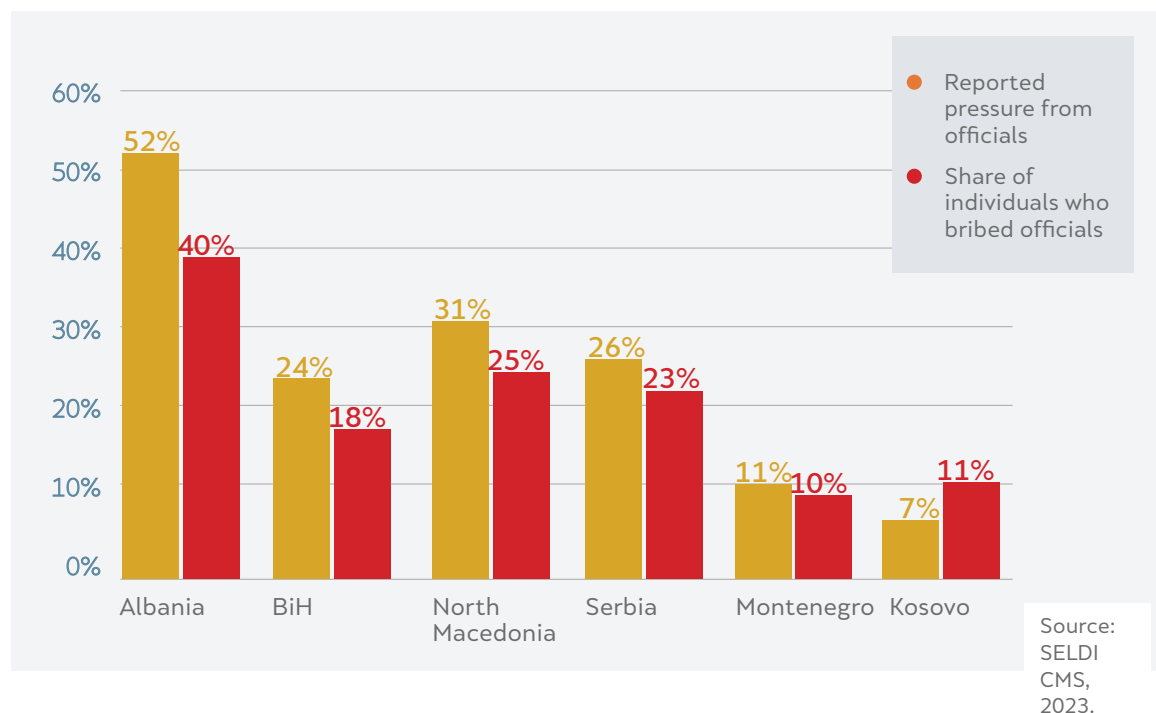
resilience to corruption pressure (most of the citizens who were asked for a bribe gave one).

Gaps in the anti-corruption institutional and policy set-up in Western Balkan countries are particularly evident in the fact that the majority of their citizens are still willing to take part in corruption transactions: either to accept a bribe, if they were in the position

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

Source: SELDI CMS, 2023.

Figure 2. Citizens' experience: bribing is mostly a function of pressure from officials



of a public official or to give one, if they were in a scenario where this could solve their problem. In 2023/2024, Albanians were the most vulnerable to corruption victimisation – 80% of the Albanian population is susceptible to accept or offer a bribe (Figure 3). The least vulnerable are people in Montenegro where only 48% are susceptible to corruption. However, there has been a slight decline in the propensity of the population in Western Balkan countries to either accept or offer a bribe compared to 2001, which can be regarded as a success of corruption awareness policies.

The share of the population who believe in the anticorruption efforts of their governments is a critical component for

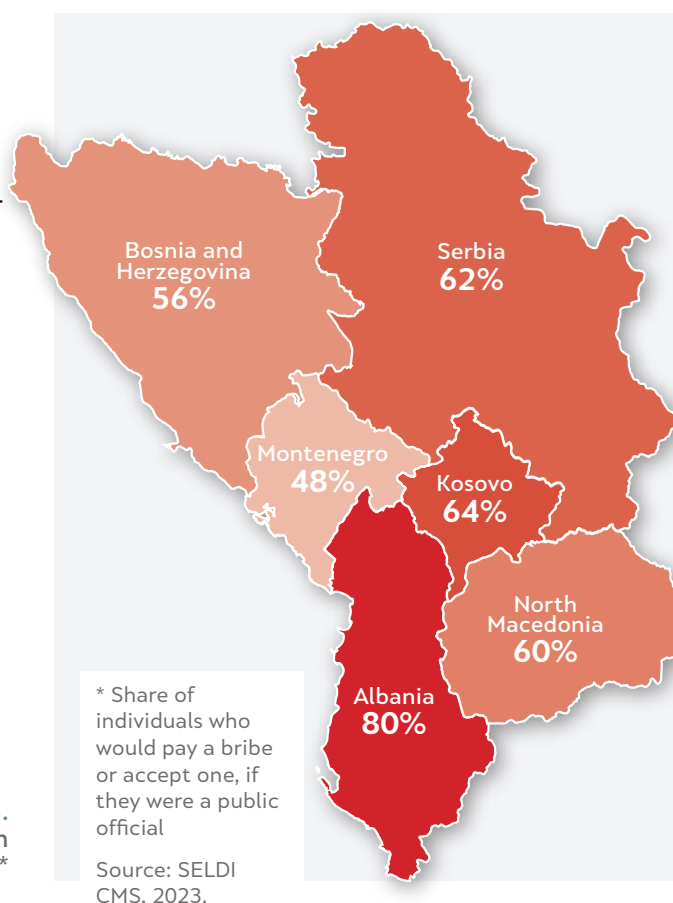
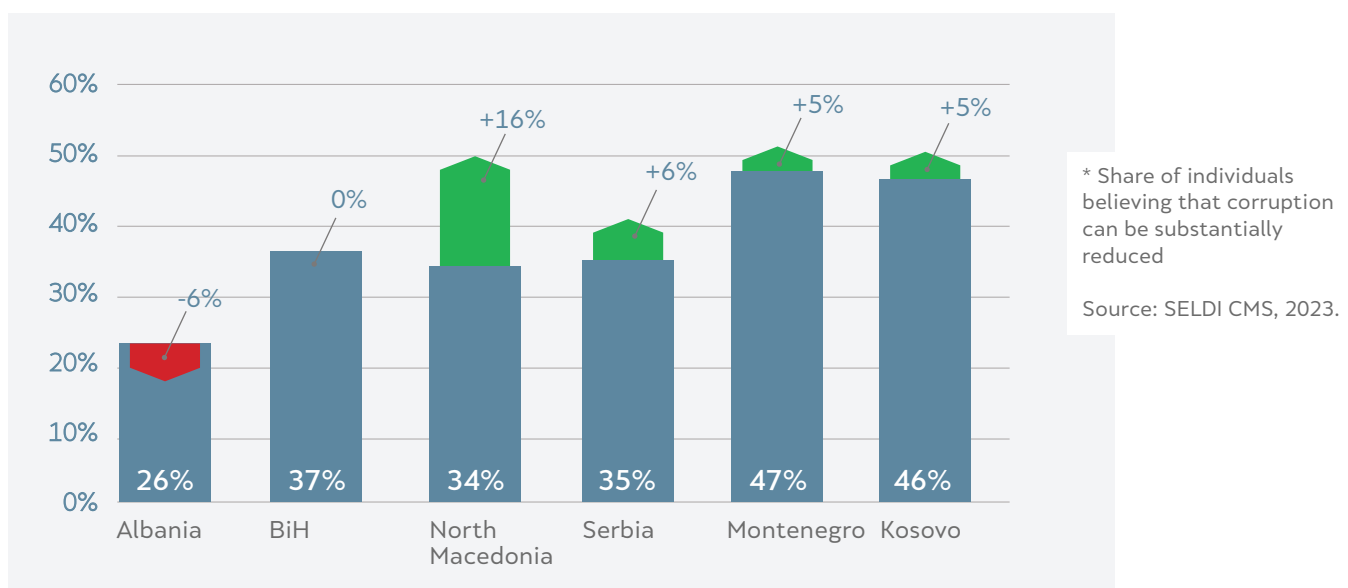


Figure 3.
The majority of the Western Balkan public are susceptible to corruption*

a successful policy. By that measure, the anticorruption policies of the Western Balkan governments seem to be “running on empty”

– in most of the countries public confidence has hardly improved over the past decade (Figure 4).

Figure 4. Anticorruption optimism has changed little over the past decade, except in North Macedonia*



The stagnation of anticorruption optimism contrasts with the formal developments which Western Balkan governments showcase – strategies, action plans, commissions, etc. The fact that **trust in the intention and capacity of governments to reduce corruption has plateaued shows that the effectiveness of these formal arrangements is still wanting.** Nevertheless, CMS findings indicate that there is a sizable constituency (40%-50%; the exception is Albania, where optimism has dropped to 20%) which should be mobilised for a broad-based social movement to sustain an anticorruption focus. This majority is typically sought around elections (e.g. most recently in North Macedonia⁸), during which political opponents unleash lavish campaigns against the corruption of incumbents, which then wane quickly when faced with the realities of captured institutions and the lack of enforcement capacity. In this respect, the role of the EU can be to help sustain and

leverage such social movements through added support to civil society and bolder political action. In fact, it can be claimed with a high degree of certainty that it seems **the EU has so far succeeded in this mission.** Adding, more direct political pressure though has been wanting, and has allowed relapse into state capture.

Anticorruption policies and institutions

The institutional and regulatory changes in the field of anticorruption in the Western Balkan countries have been very similar – the creation of special oversight and enforcement bodies, expansion of the range of incriminated practices, legislation on previously unregulated practices and the adoption of strategies and action plans, albeit with no impact indicators. This regulatory activism, however, has not been the result of a feedback mechanism

⁸ North Macedonia is an outlier in the region in terms of increased optimism, where trust in the government's capacity to tackle corruption grew by 16% over the past decade.

for the effectiveness of policies. In fact, such mechanisms were absent in all of them.

It is of little surprise, then, that in the past few years these countries have experienced a number of common developments:

Governments failed to consolidate reforms. The window of political opportunity opened by the progress in anticorruption in the mid-2010s was not used for more strategic advances. As a result, it became easier to imitate reforms, including through regulatory activism. In this respect, the experience of Montenegro is instructive. The 2020 parliamentary elections ushered in a coalition “expert” government after decades of one-party domination. There were strong expectations that this shift would bring systemic change in terms of strengthening of institutions of government and lowering of political influence over independent public bodies. However, the opposite occurred and the ruling majority started to abuse institutional powers, including meddling in the work of controlling institutions and the prosecution that should have strong independence in their work. The dashed hopes of this Montenegrin experience are a regrettable but typical example of the depth of entrenchment of state capture networks in the societies in the Western Balkans.

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.

Legislation. The rate of legislative amendments related to the integrity of government and quality of public services is still high in most Western Balkan countries. This is the result of domestic and international demand for reforms but also of governments trying to keep up with the shifting manifestations and forms of corruption and other malpractices while maintaining regulatory stability and avoiding overwhelming the judiciary with rapid changes of the applicable laws. The **inclusivity and transparency of the legislative process is, however, very low, with special interests enjoying privileged access while legitimate social stakeholders struggling to make an input.** The so-called EU flag procedure, designed to fast track legislation related to EU accession, is in danger of being used as an excuse for skipping public consultations. This activism, however, contrasts with weak, in fact, practically absent, parliamentary oversight over the executive, and especially over the regulatory and inspection institutions.

Anticorruption strategies. Enthusiasm for broad anticorruption strategies seems to be waning in the region – the Montenegrin and Serbian governments cannot even bring themselves to renew the ones that have expired (Box 1). Due to their **broad scope, lack of priorities and mostly generalised intentions, these strategies failed to establish measurable improvement goals** but rather provided exhaustive lists of relevant policy fields. Consequently, it is uncertain what progress has been definitively made and what additional actions are necessary. While civil servants drafted strategies and plans, there was no preceding or ensuing political debate regarding their substance. As a result, these documents served more as internal government management guides than as blueprints for reform. Targeting mainly public

administration, they neglected to engage other key stakeholders such as businesses, the economy, investors, and the wider civil society on an equal footing.

Conspicuously absent in the strategies is the political dimension of corruption and especially the risks of foreign subversion of government decision-making through corrupt means.

Box 1. Status of anticorruption strategies of the Western Balkan countries

ALBANIA An anticorruption strategy was adopted in 2015  with a five-year implementation period. In a pledge to the Human Rights 75 Initiative Albania has undertaken to adopt a new one for the period 2024-2030. At the end of 2023, the Ministry of Justice updated and published the Integrity Plan for the period of 2024-2027, although it deals only with issues of accountability and efficiency in the use of human, financial and communication resources. In addition, in January 2024, Albania established a new Ministry of State for Public Administration and Anti-Corruption. Thus, the anticorruption portfolio in the executive will be split between the new ministry and the Ministry of Justice as the National Coordinator Against Corruption, with the former focusing on the civil service while the latter overseeing the implementation of the anticorruption strategy.

BOSNIA AND HERZEGOVINA In January 2024, the  Strategy for Justice Sector Reform in Bosnia and Herzegovina, including its Action Plan and Indicator Overview for the 2023-2027 period, was submitted to the Council of Ministers of Bosnia and Herzegovina for assessment and endorsement by the Ministry of Justice. As of May 2024, the Anti-Corruption Strategy (2024-2028) and its Action Plan have been finalized by the Working Group and are on their way to the Council of Ministers for adoption.

KOSOVO Kosovo's Anti-Corruption Strategy 2019-2023⁹ has  already expired. A new strategy is being drafted as of May 2024. The draft is expected to be published online and undergo a public discussion in the frame of the year.

NORTH MACEDONIA According to the 2023 Annual Report  of the State Commission for Prevention of Corruption (SCPC) on the implementation of the current National Strategy (2021-2025), 54% of activities have not been

implemented, 33% are ongoing while the portion of fully implemented activities amounts to only 13%. Revisions to the strategy were drafted in 2023 but have not yet been approved by parliament. The government also has a Transparency Strategy 2023-2026.

MONTENEGRO After the previous one expired in 2015,  the government of Montenegro has not adopted a new anticorruption strategy. A 2016 "Operating document" is used to monitor activities in the areas exposed to special risk which had been covered before by the Strategy and the accompanying action plans. An intersectoral working Group set up by the Deputy Prime Minister for Anticorruption however prepared a draft strategy available for public consultations since 9 April 2024.¹⁰ The drafting of the document was largely related to Montenegro's EU accession aspirations and the push for receiving a positive assessment in European Commission's Interim Benchmark Assessment Report (IBAR) for the rule of law by June 2024.¹¹

SERBIA After the previous one expired in 2018, the  government of Serbia has not adopted a new anticorruption strategy, nor has there been any domestic public pressure for this to happen. A public-private working group started drafting a new one in early 2023, followed by a draft Anti-Corruption Strategy 2023-2028 and Action Plan for 2023-2024 which were put up for debate. The process was disrupted by the December 2023 parliamentary elections. While the previous strategy was adopted by parliament, the next one will be enacted by a decision of the executive.

9 Office of the Prime Minister, *Anti-Corruption Strategy 2019-2023*, 9 August 2019.

10 Government of Montenegro, *Draft strategy for the fight against corruption 2024-2028*, 9 April 2024., 9 August 2019.

11 Center for Monitoring and Research, Montenegro.

Anticorruption bodies. The high hopes associated with the specialised anticorruption institutions (commissions or agencies) are wearing off, especially in light of suspicions that they are being **repurposed by oligarchic circles for whitewashing corrupt schemes and persecuting opponents.** This is especially risky where these bodies have a robust enforcement mandate to initiate proceeding before competent bodies for dismissal or brings criminal charges against elected and appointed officials. Some countries have chosen not to establish one (Albania, where the Ministry of Justice is just a “coordinator against corruption”) or to have a monitoring and oversight body (Kosovo). Others, like Serbia, have gradually turned it into a whitewashing instrument, pushing out vocal opponents, which early on participated in the Anti-Corruption Council, and developing instruments for influence on civil society, like direct grant awards.

Judiciary. The separation of powers and the unbiased administration of justice continue to be hindered by the politicisation and undue influence over the judiciary. **The legislature, the executive branch and various private interests still exercise undue influence on the selection and promotion of judges and prosecutors.** Judicial governance structures in the Western Balkan countries have been the subject of numerous and continuing revamping with little in terms of increased effectiveness of anticorruption enforcement. The establishment of specialised prosecutorial bodies, for example, created the semblance of a determined anticorruption drive while simultaneously increasing the risk of bad faith prosecutions. The enforcement of the disciplinary accountability and of the codes of ethics for magistrates is still limited. Efforts need to continue focusing on actual enforcement through due process, to avoid the dual trap of box-ticking and the

weaponization of newly formed institutions for political purposes.¹²

Enforcement. Across the region, **the main deficiency remains the enforcement gap.** While it is glaring with respect to political corruption, CMS victimisation studies provide evidence for the under-enforcement with respect to corruption in public services as well. The size of the gap becomes clear when comparing the judiciary and police statistics on the number of registered, investigated, and adjudicated corruption cases against the share of the public reporting of involvement in corrupt transaction.¹³ It demonstrates a deterrence effect of law enforcement of well below 1%, which is much lower than in the case of other socially sensitive groups of crime.

FROM SOFT POLITICS TO HARD ASSISTANCE: HOW TO RECALIBRATE EU ANTICORRUPTION ASSISTANCE

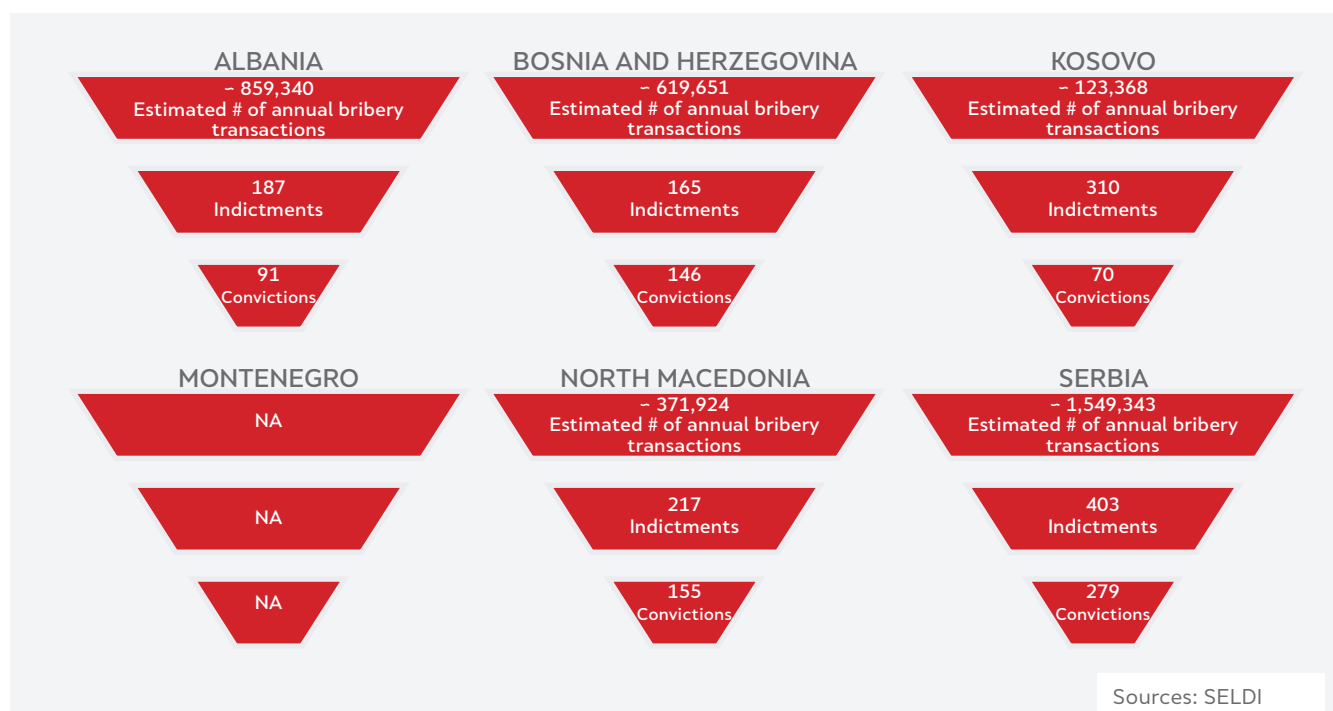
Importing integrity

Anticorruption reforms in the Western Balkans are over two decades old now. Keeping them on the political agenda has required sustained sources of social energy, both domestic and international. **The external enabling framework for these efforts has been provided by the region's Western allies,** chief among which has been the European Union. EU's role spans the whole range of the reform process – from funding to framing anticorruption in the context of future membership for these countries. Today, a Western Balkan government rarely pronounces any movement on anticorruption without somehow referencing the EU. “Required for accession” is a consideration that expedites any law through parliament – in Serbia, even the amendments to the constitution were

12 Given that corruption, unlike most other types of crime, has a very high degree of latency (i.e., leaves no immediately visible damage or victim), the only way to put the effectiveness of anti-corruption law enforcement in context is to use an extrapolation from the share of self-reported involvement by the public. It is also likely to understate the actual gap in enforcement, as reporting corruption is self-incriminating under Bulgarian laws, and can be expected to preclude people from reporting their actual level of victimisation.

13 Albania: *General Prosecutor's Office, Annual Report, 2022*, Bosnia and Herzegovina: *Report on the work of the BiH Prosecutor's Office, 2022*, Kosovo Prosecutorial Council, *Work report, 2023* and Kosovo Law Institute (KLI), *Prosecution and Trial of Corruption, January-September 2023*, North Macedonia: *Report on the work of the Public Prosecution Offices of the Republic of North Macedonia, 2022*, Serbia: *Prosecutor's Office, Annual Report, 2022*.

Figure 5. Anticorruption under-enforcement

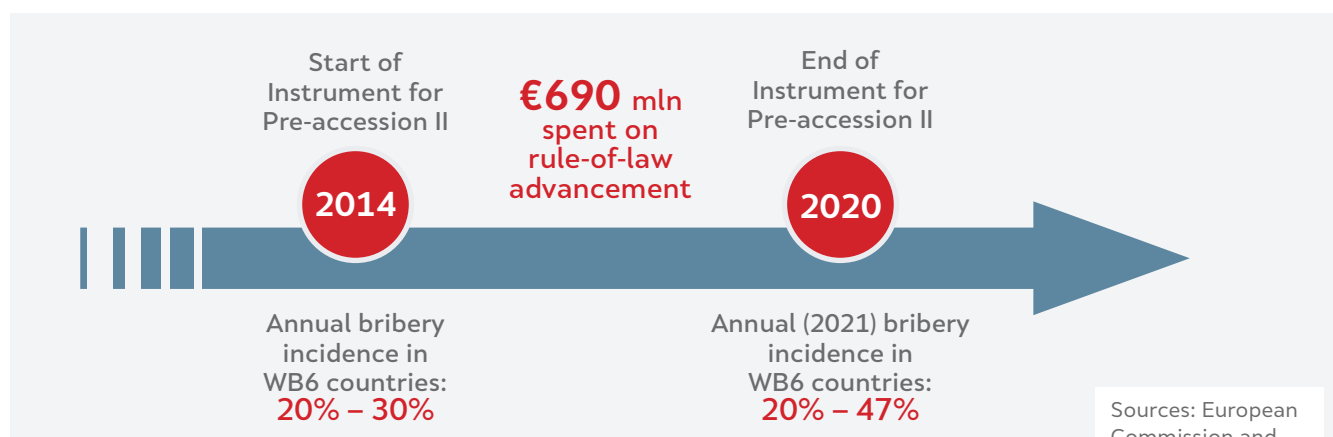


linked to the EU; in North Macedonia, an ambitious government agenda was titled *Europe at Home*.

Yet, the **political return on investment has been less than expected**. EU's considerable financial assistance to the Western Balkans may be underperforming as far as its effects on anticorruption, and more broadly on

the rule of law, are concerned. The twin tools of influence – the political prospect of membership and readily available funding – do not seem to have been applied as effectively as possible. The transformational leverage which the EU has in the Western Balkans has been expected to be much bigger given the size and scope of its investments.

Figure 6. Funding for integrity in the Western Balkans

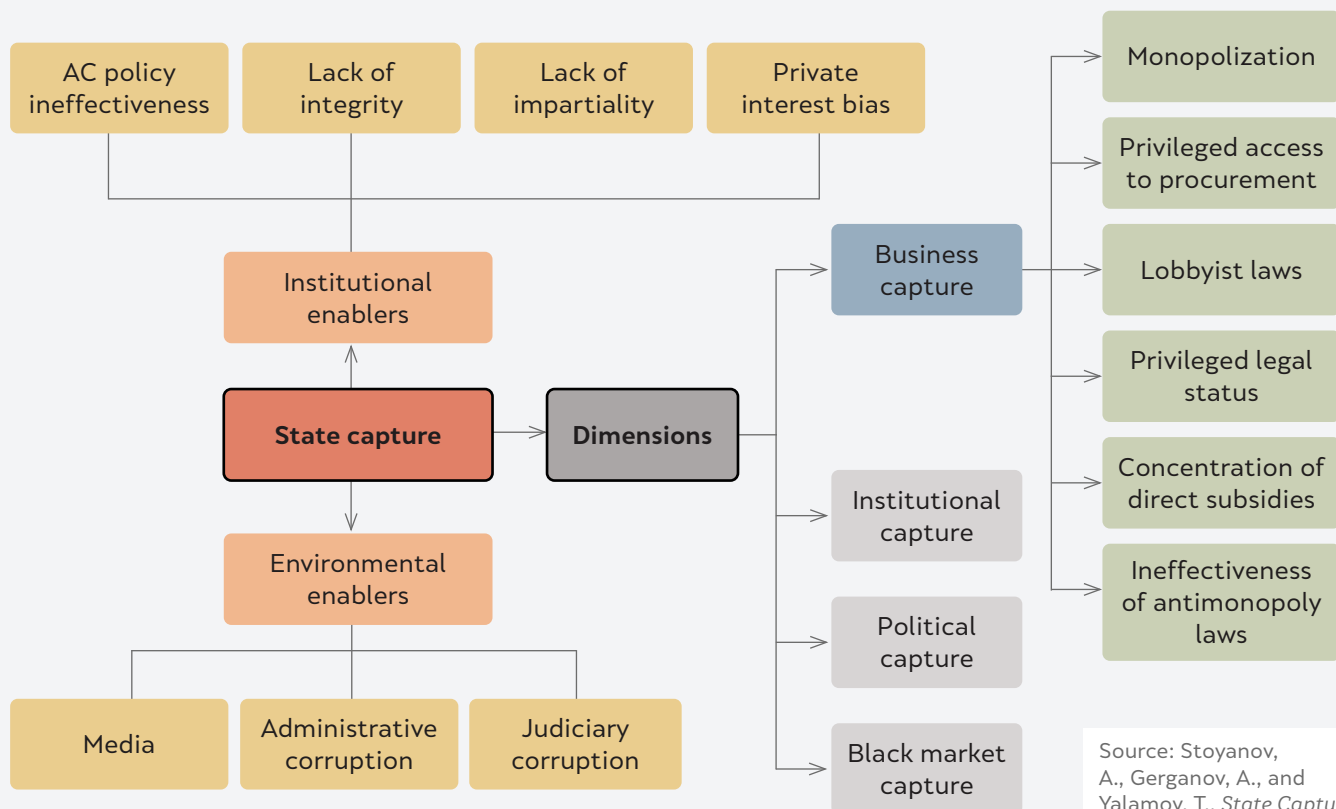


Despite the multiple practical benefits delivered by this support, improvement in the integrity standards of governments has stalled because these sectoral advances could not be consolidated under a general rule-based regime of governance. While the Western Balkan countries have had some success throughout the 1990s and 2000s in introducing representative government, they seem to be struggling with making that government clean and accountable. This has been the result of the failed attempts of local and European political elites to **combine formal commitment to democracy and European integration with the informal politics of clientelism**.

The elephant in the governance room

The diminishing returns on anticorruption interventions in the Western Balkans are caused by, among others, **conceptual inertia about the nature of corruption in these countries**. A breakthrough can only come from a recognition of the fact that the problem has gone beyond a simple deviation in the functioning of public services and morphed into state capture. The latter 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

Figure 7. The mechanism of state capture



Source: Stoyanov, A., Gerganov, A., and Yalamov, T., *State Capture Assessment Diagnostics*, Sofia: Center for the Study of Democracy, 2019, p. 35

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.”¹⁴

Progress reporting by the European Commission routinely laments the “lack of political will,” yet assistance programmes do not envisage measures to address it. There is, in fact, a *presence* of a significant political will to stall reforms and imitate anticorruption policies. **External assistance can only hope to become effective if it proceeds from an assumption of state capture in these countries, which is then factored in the design of support provided by the EU.**

Yet, obvious as its presence might be state capture still struggles to find its way as a problem into official assistance policies. Not only is it not acknowledged in the national anticorruption strategies but even the European Commission, which brought it up as an issue a few years ago, now seems to shy away from it – if at all, it is now mentioned only *en passant* in its assessments. Progress reporting by the Commission on democracy and rule of law reforms is overly focused on technical issues with only cursory judgment on substantive political developments. A welcome development is the recognition by the Euronest Parliamentary Assembly, a joint body between the European Parliament and the national parliaments of Ukraine, Moldova, Armenia, Azerbaijan and Georgia, that “the fight against corruption and state capture must be made a priority.”¹⁵ This form of **bold normative statements must return to the EU’s communication with the Western Balkans**, unless the EU hopes to compete in the region on China and Russia’s terms of engagement.

Rule of law or of geopolitics?

This downplaying of the political dimension of corruption could be the result of the geopolitical developments of this past decade, which may be eclipsing rule-of-law promotion objectives. Since the late 2010s, it has become almost *de rigueur* to charge the EU with promoting “stabilitocracy”, i.e. prioritising, albeit inadvertently, stability over democratic accountability in the governments in the Western Balkans and thus legitimising incumbents whose accountability is, to put it mildly, questionable.¹⁶ This charge fails to acknowledge that in a region as volatile as the Balkans preventing turmoil, both domestic and regional (since they feed off each other), is of considerable importance. More importantly, however, stability and governance are not opposed – pursuing democratic and liberal goals internally and internationally is not mutually exclusive, quite the contrary. **State-building and anticorruption are intricately linked.**

This linkage should be obvious when considering the role of Russia. It is exactly through compromising the integrity of governments that the Kremlin manages to undermine both stability and democracy in the Western Balkans. The region can only be pacified and aligned with the West if Russia-led strategic corruption – which supports a shadow infrastructure of influence over politicians, magistrates, media managers, and businesses – is countered. China’s underwriting of Russia’s belligerent behaviour vis-à-vis Europe and its open economic coercion against EU member states underlines the urgency of this consideration.

Precisely because geopolitics affects the rule of law and vice versa, **providing assistance – especially of the EU kind**

14 Shentov, O., Stefanov, R., Todorov, B., eds., *Geopolitics, State Capture and Peak Corruption: What Is Next for Anticorruption in the Western Balkans?*, Sofia: Center for the Study of Democracy / SELDI, 2022, p.25.

15 Euronest Parliamentary Assembly, *Resolution on promoting governance in public institutions on the basis of political dialogue and institutional cooperation in order to increase efficiency and administrative capacity 2023/C 229/01*, 29 June 2023.

16 Or as that famous adage of realist politics has it, considering the degree of government more important than the form of government.

which addresses key social and economic issues – while leaving state capture intact is counterproductive. A corrupt government cannot be reliably aligned with liberal democracy values, neither domestically nor internationally. Any compromise with the standards of good governance in the candidate countries should be explicitly tactical because it carries a number of risks:

- Turning a blind eye on political clientelism, which has the effect of strengthening the incumbents' grip on power, in exchange for an alignment with the Union's foreign policy objectives, risks geopolitical "leakage" elsewhere, e.g. in organised crime, money laundering or migration.
- A lenient approach to the assessment of particular government's performance on anticorruption might be seen as a motivational gesture. It risks, however, demotivating the national stakeholders who fight for the promotion of integrity and thus undermine the Union's credibility even among typical EU supporters in that country.
- Such an approach risks making relations between the EU and the candidate countries purely transactional, which would be contrary to the very values of European project which the integration process aims to promote.

Progress reporting by the European Commission on the candidate countries assesses their geopolitical alignment with the Union by the percentage of concurring statements or votes on Common Foreign and Security Policy. Such an accounting approach cannot reveal the extent to which foreign autocracies, such as Russia or China,¹⁷ are able to influence patronage networks in domestic politics. A qualitative assessment is required to expose the linkages between domestic and international corruption and

thus counteract malign foreign influence in the region. This is especially relevant for Ukraine, Moldova and Georgia, which have been on the receiving end of various forms of Russian aggression. The integrity of public institutions and the resilience of the civic spirit are the foundation of security, rather than the reverse. **The geopolitics-merit dilemma is simply false.**

Elevate the political dimension of EU aid

EU assistance for anticorruption, and the advancement of the rule of law more generally, has been of three types: financial, technical, and political, but the latter has been the weakest. The predominantly technical modality in which the EU engages the Western Balkans cannot be expected to bring about the radical shift towards the rule of law that is needed. **This approach alleviates the consequences of the failures of governances without targeting the failures themselves.** It risks absolving domestic politicians from blame for the consequences of their misgovernance. Cohesion objectives can be pursued successfully only under conditions of negligible political corruption in the recipient country. To expect that incentive-driven compliance by the executive branches of government in these countries would muster the political momentum needed to roll back the advanced state of private capture of governance is, at the very least, unrealistic.

To be sure, the European Commission seems to be aware of the significance of the political dimension of engagement: the "political nature of the accession process requires a stronger political steer and engagement at the highest levels."¹⁸ However, enhancing the political aspect of anticorruption assistance is not just about the "levels," which typically means higher

17 Other third parties, such as the Gulf states, are also seeking to exercise influence which is not necessarily in concert with that of the EU.

18 European Commission, *"A more credible, dynamic, predictable and political EU accession process - Commission lays out its proposals," Press Release, 5 February 2020.*

rhetoric and higher profile diplomatic exchanges (Friends of Western Balkans, Berlin process, etc.). Instead, it requires **actions which would tip the domestic balance of power in favour of reformists in the countries themselves.**

A relevant point of reference in this regard is European and American support for the democratic transition of the former communist countries in the early 1990s. Technical and financial assistance were effective because they were accompanied by championing those social forces which advanced political pluralism and human rights. This support included public backing for individual politicians, political parties, civil society groups, media, even businesses.

The need for an elevated political dimension of anticorruption assistance is justified by the fact that the countervailing influence of Russia is first and foremost political. From support for secessionism in Republika Srpska through stoking of tensions between Serbia and Kosovo to the corruption of politicians the Kremlin is aiming for an *immediate* impact on the political process in the Western Balkans. Russian leverage is exercised mostly through informal means and thus it directly affects informal channels of decision-making. The EU's formal influence capacity should be able to neutralise that.

This influence should be able to bridge the gulf between European expectations and help for governance reforms, which have been supported by sections of Western Balkan societies internally, and state captured elites, who manipulate the public in order to relieve pressure from the outside and thus prevent opportunities for anticorruption political change. These elites have dovetailed their efforts with Russian and Chinese propaganda which portrays external anticorruption aid as Brussels "diktat". The region is particularly

vulnerable to the Kremlin's disinformation due to longstanding historical ties to Russia, low levels of information literacy, and the presence of various ethnic, national, and religious tensions, which themselves breed emotional politics that is conducive to information interference and manipulation.¹⁹

While the "bandwidth" of the region's engagement with the EU – and thereby its overall dependence on the Union – is by orders of magnitude larger than anything Russia has to offer, the positive attitudes it generates among the public are disproportionately smaller.²⁰ A particular bias in the targeting of EU rule-of-law subventions towards the executive branch is making assistance ineffective. Programmes for support and cooperation in the fight against corruption often have as partners government agencies mostly.²¹ In this way, corruption in the public administration is counteracted by means of that same administration.

Abandoning the formula "if government is the problem, government should be the solution" would allow external assistance to engage equally all national agents of change. 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.

Consequently, **assistance design should proceed from a premise that has become exceedingly obvious – the biggest, although admittedly not the**

19 See further Georgiev, G., Petrova, V., and Tsabala, K., *Breaking the Code: Tackling the Interlocking Nexus of Russian and Chinese Disinformation and Illicit Financial Flows in Southeast Europe*, Sofia: Center for the Study of Democracy, 2023.

20 See for example Demostat, "Guranje pod tepih značaja EU" [Pushing the importance of the EU under the rug], 6 April 2024., Sofia: Center for the Study of Democracy, 2023.

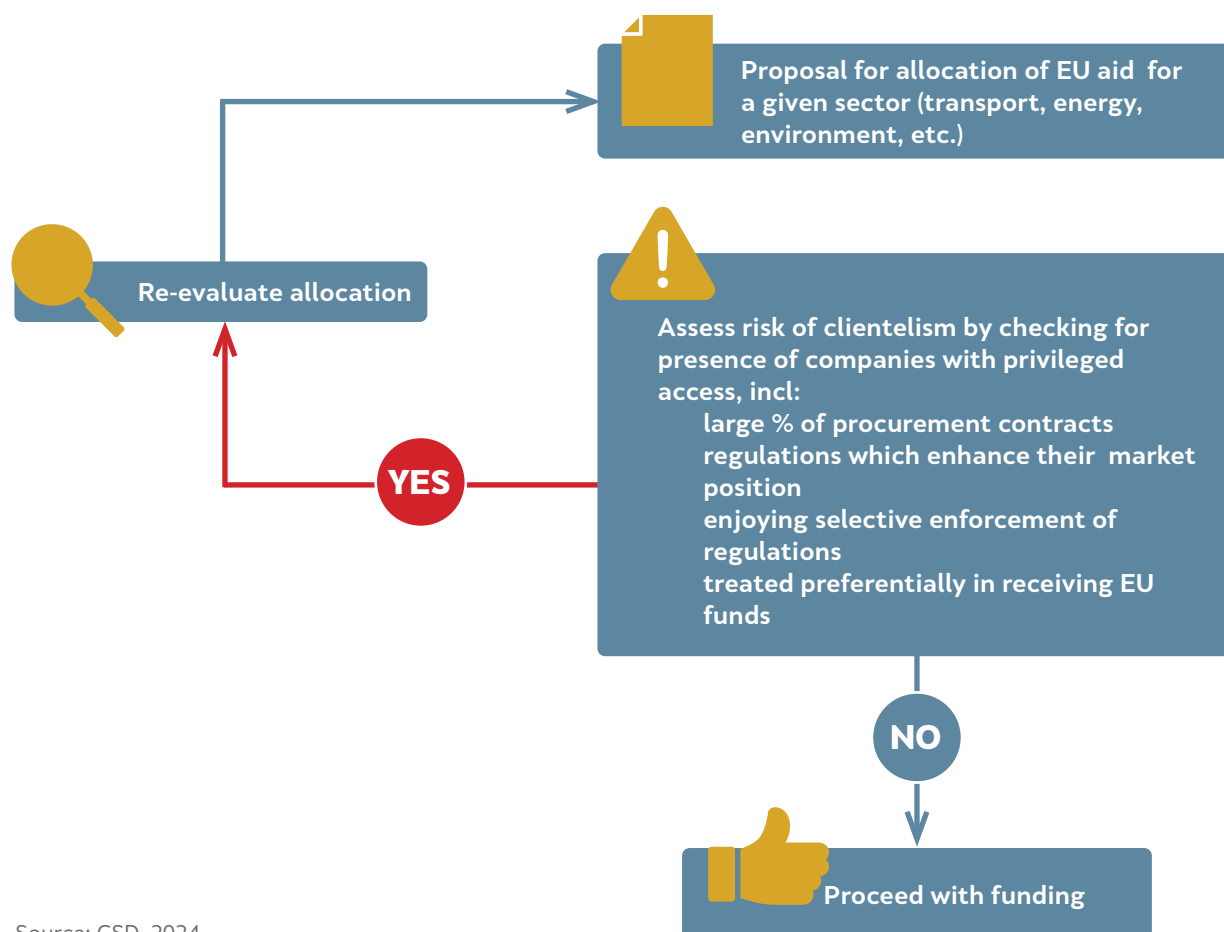
21 A 2022 report by the Court of Auditors found EU support for civil society action on the rule of law to be insufficient: European Court of Auditors, *Special Report EU support for the rule of law in the Western Balkans: despite efforts, fundamental problems persist*, 2022.

only, obstacle to the development of these countries is state capture. The very notion of “assistance” assumes the presence of a driving agent, who is provided with additional help and resources. These should not be anonymous and should be empowered differentially. Thus, the “trickle down” approach which has been at the core of assistance whereby governments are the main delivery channels should be complemented with a trickle up mechanism. This would entail **inverting the current pyramid of assistance by prioritising the economic and political empowerment of individuals, small businesses, civic groups and independent media rather than**

enhance the power of public officials to channel EU support to their clientelistic circles.

Making anticorruption assistance more political requires granular knowledge of the interests and positions of the various social, economic, political constituencies – who wins and who loses from more accountable government, and respectively who wins/loses from EU membership. “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

Figure 8. An algorithm for assessing the risk of capture of EU assistance



is the problem of state capture that needs to become its primary consideration when deciding how to calibrate the incentives of accession”.²²

Assistance programmes, therefore, need to change the calculus of power groups.

They should be designed as to incentivise constituencies supporting the rule of law and disincentivise state capture networks. Under the current system of reinforcement by reward, the EU provides external incentives for a candidate country as a whole. However, when key public institutions are usurped by corrupt agents the interests of decision makers and the public are misaligned. (Figure 8)

Based on the lessons learned from the previous accession of countries with similar corruption levels,²³ the ample EU funding targeting anticorruption policies and institutions should be delivered only in combination with political pressure for reforms and unwavering conditionalities – failure to meet rule-of-law milestones should affect money flows for *all* areas.

To become more effective **EU’s funding approach should change from conditional assistance to an investment logic.** This would entail the exercise of political due diligence whereby risks are evaluated *ex ante* and checks are performed for the decision-making powers of politically exposed persons in the various funding streams. The assessment of the risk of capture of EU aid by domestic and foreign (Russian or Chinese) clientelistic circles in the candidate countries should mirror the economic security effect the EU seeks to achieve through its screening framework for investments from countries, which have openly opposed the EU’s rule-of-law based political system.²⁴

The European Commission has announced plans to “frontload” some of the “benefits” of membership to the candidate countries.

If this is done for access to single payments area of the euro, for example, it could benefit individuals and businesses without the risk of being appropriated by clientelistic circles. On the other hand, raising per capita aid intensity to 90% of the current cohesion and structural funds without addressing state capture bears the risk of achieving the opposite effect – empowering those who “dole out the portions”.²⁵ **Without clear evidence that fundamental conditionalities are met, simply providing access to more funds would not break the enlargement impasse but deepen it.**

With respect to the candidate countries, the European Commission believes that once it puts “all the tools at their disposal to catch up faster and integrate them into the markets, this should trigger their accession”.²⁶ As multiple historic occasions have shown (in a tragic way in the case of Russia, for example), the *doux commerce* principle does not work in a straightforward way – good governance is not simply the collateral benefit of increased trade and material assistance.

Admittedly, switching from an assistance to an investment logic would require for the EU to assume a role of a different nature. While the foundational principle of the Community is one of harmonisation, the root-and-branch reform which the Western Balkan governments need to overcome their state of capture calls for a transformational involvement from the EU. The much-discussed conditionality approach derives from a logic of harmonisation, i.e. when applicant reaches a certain standard they are admitted. The assumption is of an overwhelming interest by the applicant, which only requires “assistance”.

In its 2020 Economic and Investment Plan for the Western Balkans the European Commission defines its approach as “performance-based and reform oriented”

22 Shentov, O., Stefanov, R., Todorov, B., eds., *Geopolitics, State Capture and Peak Corruption: What Is Next for Anticorruption in the Western Balkans?*, Sofia: Center for the Study of Democracy / SELDI, 2022, p.67.

23 See further: Center for the Study of Democracy, *The State of Capture in Bulgaria: The Elusive Quest for Anti-Corruption Results*, Policy Brief No. 144, April 2024.

24 See further: Petrova, V., and Stefanov, R., *Open Gates, Guarded Walls: The Balancing Act between Openness and Security in European Investment Policies*, Sofia: Center for the Study of Democracy, 2024.

25 A notorious phrase of a Bulgarian politician.

26 The European Conservative, “It’s not a good idea to create a race between the Western Balkans and Ukraine”: An Interview with EU Enlargement Commissioner Olivér Várhegyi”, 9 February 2024.

and the May 2024 approval by the Council of the EU of the Reform and Growth Facility for the Western Balkans refers to the alignment with EU's values and rules as "goals" of the facility, while laying down respect for the rule of law as a precondition for EU support. It should be obvious, however, that **improved rule of law cannot be both an objective and a condition of assistance**. Conditionality can only serve the purpose of upgrading the quality of governance in the candidate countries if it factors in the calculus of incentives and disincentives of the various stakeholders. This would allow it to **solve the paradox whether accountable government, fair laws and impartial justice are conditions for being supplied with assistance or an objective of that assistance**.

Only a public-private coalition involving both EU institutions and actors and local public and private institutions and individuals would be able to ensure the scaffolding of positive anticorruption developments, i.e., their irreversibility. Current assistance vehicles, however, are siloed and not designed to reinforce each other. What is needed is a "force integration" approach, which would produce a strategic effect by ensuring that tactical advances towards improved governance in the Western Balkan countries are consolidated through enhanced credibility as well as financial support and expert resources.

Beyond conditionality: the 2024-2029 transformation brief

A number of internal and external factors are converging to make the next few years a critical juncture for the countries in the Western Balkans. In the mid-term, domestic problems could fuse with geopolitical complications to cause the reform process to run aground. This is the background against which the next European Commission will be delivering EU's policy in the region.

The Commission should continue to encourage **policy innovation and the exploration of new instruments** when helping the candidate countries meet the accession criteria. A hopeful sign is the inclusion of enlargement as an issue in the Strategic Agenda for 2024-2029, unlike in its 2019-2024 version. A clear sign of commitment to a European future for the Western Balkans on the part of the European Commission would be to **elevate the enlargement portfolio by, for example, separating it from the neighbourhood remit and promoting it to a vice commissionership**.

The priorities of the 2024-2029 mandate of EU's executive should reflect an awareness of the size of the stake Europe has in seeing to it that in these countries the law, not oligarchs, rules. The Western Balkans may be geographically peripheral but a deteriorating situation there caused by failures of governance would impact the continent's core agendas. Most importantly, it would signal the EU has run against the boundaries of its transformation potential and would encourage further encroachment of the authoritarian model of development that Russia and China peddle internationally.

In order for EU assistance to achieve a scaffolding effect in democratic institution building, the European Commission should:

- design and deliver effective instruments for **countering Russian and Chinese influence** in the region;
- make the achievement of **practical results against state capture** the weightiest criterion when assessing the candidates' readiness for membership and a decisive consideration in the design of assistance programmes;
- expand its stakeholder engagement approach by making **all reformist constituencies** part of the process.

Strategically, the 2024-2029 Commission needs to ensure that the European Union remains the paramount source of beneficial political and economic influence in the Western Balkans. Above all, this should mean that its instruments of assistance feed into a sustainable public demand for progress on the rule of law rather than help perpetuate the hold on power by incumbent elites.

Each future assistance vehicle, therefore, should be subject to **scrutiny as to any risk of capture by special interests and its capacity to empower reformist social groups**.

There is a possibility that the pursuit EU's geopolitical objectives in the Western Balkans may come into conflict with the promotion of rigorous anticorruption standards in the national governments. The risks inherent in any tactical compromise should be explicitly factored in the decision in such cases. Stability and foreign policy alignment with the rest of Europe bought at the expense of a deal with an autocrat should only be considered as a temporary solution. Peace, stability, and prosperity in the Western Balkans in the long term will only come as a result of democratic and economic advancement, themselves the result of rules-based governance. Investment in well governed societies is investment in peace.



The project is implemented by: **Macedonian Center for International Cooperation (MCIC)**, North Macedonia in cooperation with:

Center for the Study of Democracy (CSD), Bulgaria,
Albanian Center for Economic Research (ACER), Albania,
Centers for Civic Initiatives (CCI), Bosnia and Herzegovina,
Centre for Contemporary Politics (CCP), Serbia,
Center for Monitoring and Research (CeMI), Montenegro and
Organisation for Democracy, Anti-corruption and Dignity – ÇOHU, Kosovo.



This policy brief was funded by the European Union within the project “Civil Society for Good Governance and Anti-Corruption in Southeast Europe: Capacity Building for Evidence-Based Advocacy, Policy Impact and Citizen Engagement (SELDI.net)”. Its contents are the sole responsibility of SELDI.NET and do not necessarily reflect the views of the European Union.

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