

**GLOBAL
INITIATIVE**
AGAINST TRANSNATIONAL
ORGANIZED CRIME

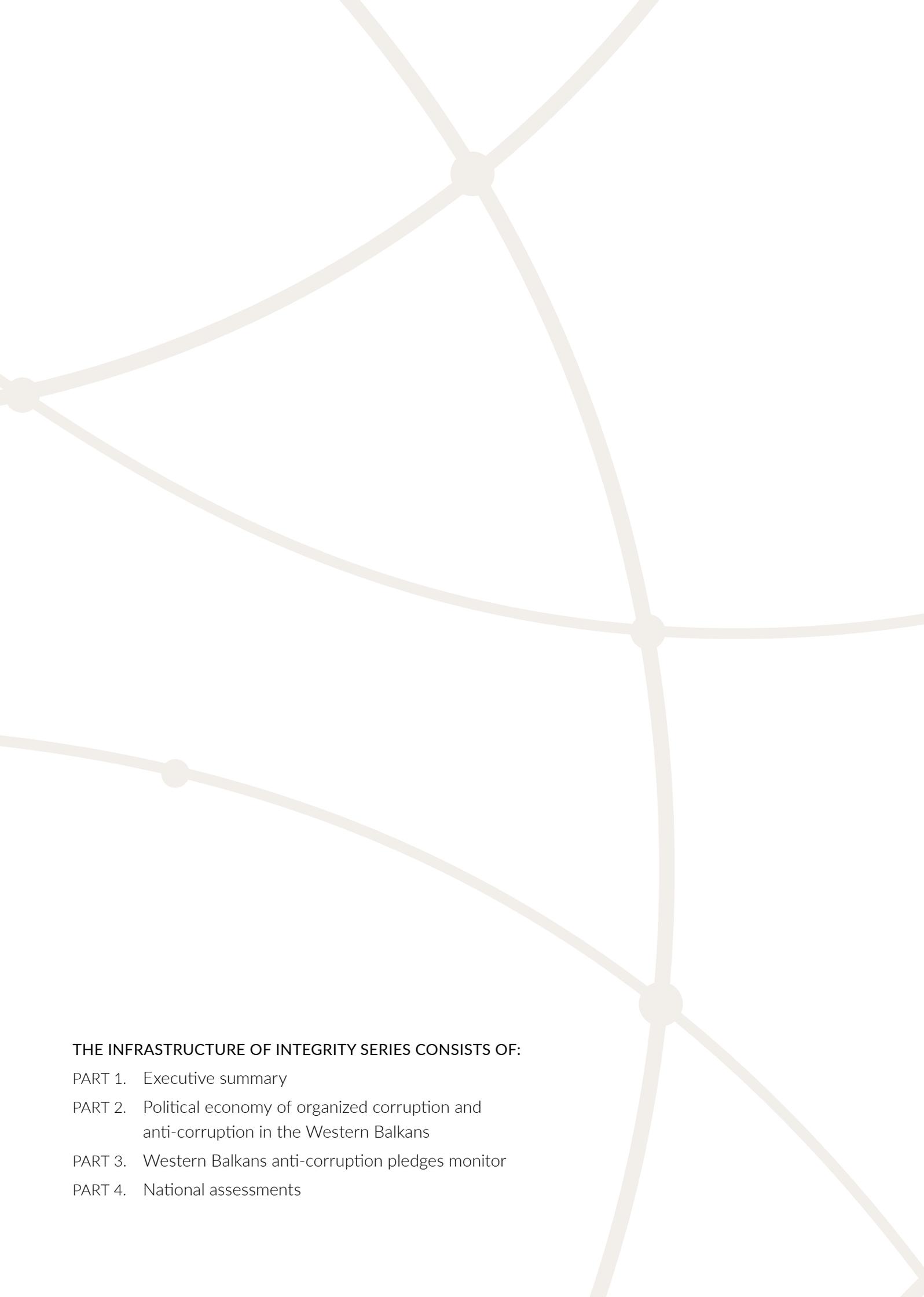
INFRASTRUCTURE OF INTEGRITY



**Western Balkans anti-corruption
pledges monitor**

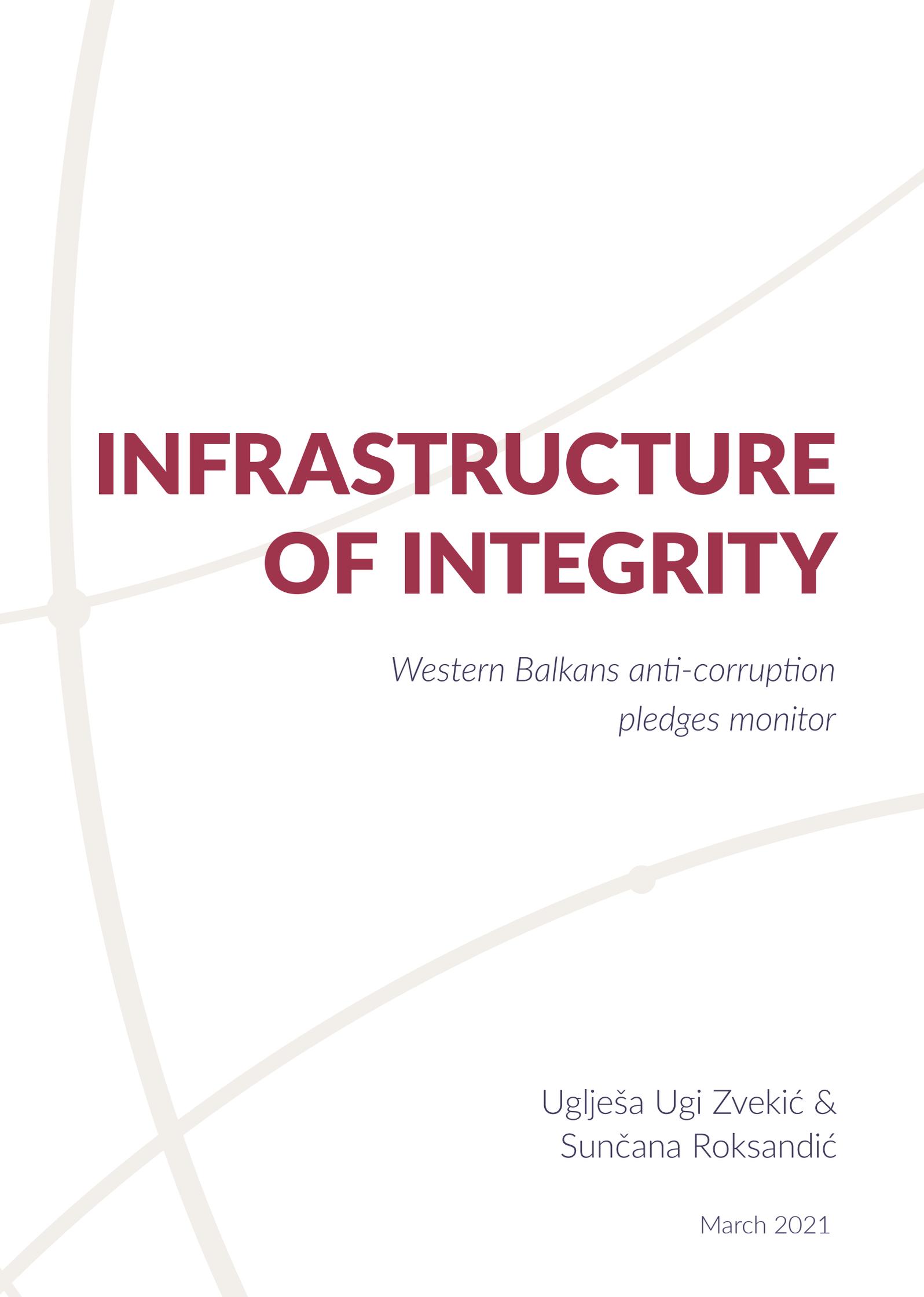
UGLJEŠA UGI ZVEKIĆ AND SUNČANA ROKSANDIĆ

MARCH 2021



THE INFRASTRUCTURE OF INTEGRITY SERIES CONSISTS OF:

- PART 1. Executive summary
- PART 2. Political economy of organized corruption and anti-corruption in the Western Balkans
- PART 3. Western Balkans anti-corruption pledges monitor
- PART 4. National assessments



INFRASTRUCTURE OF INTEGRITY

*Western Balkans anti-corruption
pledges monitor*

Uglješa Ugi Zvekić &
Sunčana Roksandić

March 2021

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FOREWORD

We are delighted to welcome this “Infrastructure of Integrity” series prepared independently by the Global Initiative Against Transnational Organized Crime’s Civil Society Observatory to Counter Organized Crime in South Eastern Europe. The reports provide an insight into the patterns of organized corruption and review progress made in implementing the anti-corruption pledges made by the six governments of the Western Balkans – Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia – at the London Summit in 2018 within the Berlin Process. These pledges cover public-private partnerships, public procurement, tax, whistleblowing, beneficial ownership, asset recovery and enforcement capabilities. Implementing these pledges is crucial in building resilience to corruption and organized crime, and in creating the conditions for prosperity across the region.

We welcome a growing focus on anti-corruption under the auspices of the Berlin Process and we hope that these reports will help inform delivery of ongoing and future anti-corruption initiatives, such as the Illicit Finance and Anti-Corruption Roadmap.

Of course, we find ourselves in extraordinary times. The coronavirus pandemic poses new challenges for us all in the fight against corruption, both in the immediate and longer term. It has reinforced the need to ensure integrity in our responses and to mobilize concerted international action.

Sadly, some organized-crime groups have quickly adapted to the pandemic and are exploiting the crisis for their own gain – for example, smuggling and selling counterfeit medical goods and increasing their use of cybercrime, such as online fraud. Unparalleled levels of government spending in response to the crisis provide further opportunities for the corrupt to exploit any weaknesses in our systems. Corruption undermines national security and prosperity, and corrodes trust in institutions. It diverts precious resources from where they are badly needed, like healthcare. Bribery, weak anti-corruption laws and the absence of effective law enforcement prevent businesses from competing on even terms in new markets – an issue of increasing concern given the expected global economic impact of the pandemic. As such, the reports highlight the important role that can be played by the private sector in the fight against corruption.

In the face of these challenges, civil society also has a crucial role to play in monitoring how governments are honouring their pledges. These reports provide a good basis for systematic monitoring of the implementation of anti-corruption pledges. We believe that cooperation between civil society and governments, as well as international cooperation, will strengthen our armour against corruption. Fighting corruption is an attitude and a culture – it must go beyond what is statutory and reach into civil society. Corruption is a transnational issue and we all have a role to play in tackling it.

The UK will continue to stand with the Western Balkans and to uphold the principles of transparency and accountability. We hope you find these reports useful.

John Penrose MP
Prime Minister’s Anti-Corruption Champion
United Kingdom

and

Mark Shaw
Director of the Global Initiative Against Transnational Organized Crime

ACRONYMS AND ABBREVIATIONS

AML/CFT	Anti-Money Laundering and Countering Financing of Terrorism
ASK	Montenegrin Anti-Corruption Agency
BIRN	Balkan Investigative Reporting Network
CoE	Council of Europe
CPI	Corruption Perceptions Index
EC	European Commission
EITI	Extractive Industries Transparency Initiative
EU	European Union
FATF	Financial Action Task Force
FB&H	Federation of Bosnia and Herzegovina
FI	financial institution
GRECO	Group of States against Corruption
HIDAACI	High Inspectorate of Declaration and Audit of Assets and Conflicts of Interest
IRM	Independent Reporting Mechanism
LPC	Law on Prevention of Corruption
LPCCOI	Law on Prevention of Corruption and Conflicts of Interests
LPCI	Law on Prevention of Conflict of Interests
MP	Member of Parliament
NGO	non-governmental organization
PPC	Public Power Corporation
PP	public procurement
PPP	public-private partnership
RS	Republika Srpska
SAA	Stabilization and Association Agreement
SCPC	State Commission for the Prevention of Corruption
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
WB6	Western Balkans Six

ABOUT THE INFRASTRUCTURE OF INTEGRITY SERIES

This report is part of the Infrastructure of Integrity series that focuses on corruption and anti-corruption in the Western Balkans. It is an output of the civil society monitoring implementation of anti-corruption pledges made at the London Summit of the Berlin Process in 2018.

The Infrastructure of Integrity series was launched with the release of the executive summary in 2020. This first report looks at the political economy of organized crime and anti-corruption in the Western Balkans. It is followed by the Western Balkans anti-corruption pledges monitor, which tracks implementation of the pledges made at the 2018 summit, as well other commitments made to strengthen integrity, particularly in relation to the UN Convention against Corruption and the EU acquis. National case studies will also be published as part of the Infrastructure of Integrity series.

Our hope is that this series can contribute to the implementation of the anti-corruption pledges that have been made in the Berlin Process, as well as to wider efforts to fight corruption and strengthen integrity in the countries of the Western Balkans.

Summary

This report is the third in the Infrastructure of Integrity series, which looks at corruption and assesses anti-corruption efforts in the Western Balkan Six countries (WB6). This civil society-led report is based on analysis provided by anti-corruption experts from the WB6 who examined corruption and its impact on governance in each country of the region and reviewed anti-corruption frameworks as well as government efforts to tackle corruption.

The centrepiece of this section of the study is an anti-corruption pledges monitor that looks at how the governments of the six countries are implementing their anti-corruption pledges made in the context of the Berlin Process. To the best of our knowledge, this monitor is the only such tool that exists to comprehensively track how the anti-corruption pledges are being implemented.

Since the pledges are based on existing commitments made in other multilateral forums, and not all of these commitments are covered by the anti-corruption pledges

made in the context of the Berlin Process, the report also looks more broadly at anti-corruption commitments made by the WB6 governments and how they have been reported on by the European Commission, the Group of States against Corruption (the Council of Europe's anti-corruption monitoring body), the UN Office on Drugs and Crime, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, and Transparency International.

Because the Berlin Process is linked to the EU accession process, a short overview is provided of the EU approach towards the Western Balkans, particularly in the context of tackling corruption.

To facilitate analysis, the anti-corruption commitments (which are the basis of the pledges) are divided into three categories:

- Economic criteria (comprising public-private partnership, public procurement, tax, beneficial ownership information and extractive industries).
- Political criteria (whistle-blower protection, enforcement capabilities, media, institutional integrity, anti-corruption education and transparency initiatives).
- Compliance with EU legislation (asset-recovery legislation and the international system).

The WB6 are Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia and Kosovo. References to Kosovo are made without prejudice to positions on status, and are in line with UNSC Res 1244/1999 and the International Court of Justice Opinion on the Kosovo declaration of independence.

INTRODUCTION

As discussed in the second report in the Infrastructure of Integrity series, titled *The Political Economy of Organized Crime and Anti-Corruption in the Western Balkans*, corruption is one of the main challenges to the rule of law, life chances and people's livelihoods in the Western Balkans states. Corruption is both a cause and consequence of a criminal culture that permeates the region, and the way that corruption is linked to politics suggests a degree of organized, systemic corruption, and elements of state capture, in a number of countries in the region.

Despite the severity of the problem, society in the region seems to have become inured to the reality of high-level state corruption. There is a pervasive sense that this is 'the way things are', and that the system cannot be changed. This learned helplessness is perpetuated by a lack of independence or professional capacity within the institutions whose role it is to tackle corruption. There are few convictions in high-profile cases of what we have termed 'organized corruption' – and, meanwhile, draconian restrictions are imposed by the authorities across the region on the media, including threats and sanctions against those who speak out against corruption, especially large-scale corruption.

Despite this challenging context, the six countries of the Western Balkans have made pledges to prevent and fight corruption as part of the Berlin Process, an initiative aimed at stepping up regional cooperation in the Western Balkans and aiding the integration of these countries into the European Union. This report recalls the pledges made at the London Summit in 2018 and looks at how well governments are living up to their commitments through a monitor that assesses their anti-corruption pledges.

The report is written by anti-corruption experts from each of the WB6 countries. It stems from a process initiated by the Global Initiative Against Transnational Organized Crime (GI-TOC) in September 2019 to make a civil-society-led review of the anti-corruption pledges made by the WB6 in the Berlin Process. Between September 2019 and February 2021, national experts working in partnership with the GI-TOC Observatory of Illicit Economies in South Eastern Europe analyzed corruption and its impact on governance in each WB6 country. Interviews were conducted with a number of stakeholders, including representatives of the criminal-justice sector, civil society, academia and the media. The authors also made a comprehensive review of how the problem of corruption as well as the implementation of anti-corruption commitments have been reported on by the European Commission, the Council of Europe's anti-corruption monitoring body, known as the Group of States against Corruption, the UN Office on Drugs and Crime, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, and Transparency International.

In preparing this report, the authors discovered that there was little knowledge of the anti-corruption pledges, both among the general public and even within government agencies responsible for their implementation. It was also not always evident which government bodies were responsible or accountable for monitoring implementation of the pledges. This runs counter to the importance that leaders of the WB6 have attached to fighting corruption through the Berlin Process.

This report is designed to contribute constructively to the implementation and review process of the anti-corruption pledges made as part of the Berlin Process and highlight areas where further progress is needed. We believe that monitoring implementation is crucial if the countries in the region are to live up to the hopes and political commitment that have been invested in the Berlin Process, and more broadly anti-corruption commitments. Anti-corruption is a societal choice of all stakeholders. States will be judged by the promises that they keep, not just those that they make.

ANTI-CORRUPTION PLEDGES MONITOR

Albania

An ambitious set of commitments

At the London Conference 2018, Albania took on an ambitious set of commitments to prevent and tackle corruption, such as more effective public-private partnerships, more transparent public procurement (including the introduction of e-procurement procedures and implementation of the Open Contracting Data Standard), signing up to the Common Reporting Standard initiative, joining the Addis Tax Initiative and participating in the IMF Fiscal Transparency Evaluation process. The country also pledged to do more to protect whistle-blowers, create more transparency on beneficial ownership and to join the Extractive Industries Transparency Initiative. Undertakings to drive out the culture of corruption focused on taking steps to ensure that the media are able to report on corruption issues in an objective and independent manner, strengthening the integrity of public officials and institutions (through strengthening safeguards, tightening rules on conflicts of interest and publicly disclosing the contents of asset declarations of members of parliament), increasing training on ethics and integrity, and anti-corruption education. Albania also committed to full implementation of all recommendations by the Council of Europe's Group of States against Corruption. Although more limited, the commitments for punishing corrupt officials aim to ensure that anti-corruption bodies are independent and adequately resourced, and to strengthen asset-recovery legislation.

Significant steps forward

A number of significant steps have been taken to implement the anti-corruption commitments, mainly by adopting legislation acts and cooperation agreements. A memorandum of understanding was signed between the Public Procurement Commission and the Open Contracting Partnership on 5 October 2020 to facilitate the implementation of the principles of open contracting, specifically to promote the use of the Open Contracting Data Standard. On 29 July 2020, the Albanian parliament passed a law for establishing a registry for beneficial owners, which partially aligns the Albanian legislation with the EU requirements on the prevention of the use of the financial system for money laundering or terrorist financing. The registry should be functional in electronic form by 31 January 2021. In June 2019, Parliament adopted a new law on the administration of confiscated assets, which provides for the Agency for the Administration of Seized and Confiscated Assets to operate under the Ministry of Interior. In January 2020, the law 'On automatic exchange of information on financial accounts' was adopted, which, according to the 2020 EU Progress Report for Albania, aims at conforming to international reporting standards and provides for partial alignment with the relevant 2014 EU directive.¹ There have also been consultations with the IMF on reforming the tax system, and the country signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.

Steps have been taken to introduce codes of ethics with regard to conflicts of interest within the line ministries, with the Ministry of Infrastructure and Energy being the first to adopt a code aimed at detecting and preventing conflict of interest. Moreover, a code of conduct for parliamentarians has been adopted, along with guidelines for its implementation. Ethical and professional evaluation of prosecutors and judges has been ongoing, but with around 500 (of 800) officials still to undergo vetting before the current deadline (2020). The Special Prosecution Office is now fully operational, with 13 of 15 special prosecutors appointed.² Anti-corruption education efforts, such as training for judges and prosecutors, continue.

Further progress needed

Justice system reform to fight corruption has been affected by institutional deadlocks, substantial delays in appointments and other obstacles caused by the lack of available resources.³ Challenges include the new or reformed institutions being expected to deliver results shortly after inception, meeting high public expectations, daily challenges with recruitment, office infrastructure and finance, and issues with over-regulation, transparency and communication. However, progress is starting to be seen, for example with the appointment of a head of the National Bureau of Investigation in July 2020 and three new judges to the Supreme Court. After four years of inactivity, the court is starting to work again, dealing with a backlog of 34 300 cases.⁴ The main challenge will be to establish a solid track record with regard to investigations, prosecutions and convictions in the fight against corruption and organized crime.

According to the 2020 EU Progress Report for Albania, the country 'has some level of preparation, including in the areas of public procurement'.⁵ The report further notes that 'the impact of anti-corruption measures in particularly vulnerable areas (customs, tax administration, education, health, public procurement, PPP contracts etc.) remains limited'. High-risk areas relate mainly to procurement, revenue administration and management of natural resources, with a more definitive anti-corruption strategy from government, and more investment in information and communication technologies and transparency being needed. There are concerns about freedom of the media, including a number of registered incidents about threats to journalists.

Despite being hailed as one of the main anti-corruption laws, the 'Whistleblowing and the Protection of Whistleblowers' law has yet to produce the expected results four years after its adoption. Limited knowledge about the provisions of this law, mistrust of public institutions and fear of reprisal have stymied the implementation of this law.

In its EU accession path, Albania is adopting an advanced anti-corruption legislation framework, but both political will for its effective implementation and societal engagement to fight corruption remain low.

ALBANIA AT A GLANCE

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Public-private partnerships (PPPs)	<ul style="list-style-type: none"> Information sharing between public and private partners to prevent and disrupt money laundering linked to corruption. Information sharing between PPPs to enhance responses to international money laundering. Engagement with the Egmont Group of Financial Intelligence Units. 	<ul style="list-style-type: none"> Memorandum of understanding between Public Procurement Commission and the Open Contracting Partnership. New digital complaint-management system. Collaboration with the UNDP Regional Hub in Istanbul and the Open Contracting Partnership. Regular engagement of the General Directorate for the Prevention of Money Laundering with the Egmont Group. 	<ul style="list-style-type: none"> Political will and additional institutional capacity in fiscal risk assessment of PPPs. Proper public consultation with relevant target groups in adopting new legislation.
Public procurement and open contracting	<ul style="list-style-type: none"> Independence of public procurement procedures. Full implementation of the principles of the Open Contracting Data Standard. Use of e-procurement systems. Joining the Open Budgeting Partnership. 	<ul style="list-style-type: none"> Albania's score in the 2019 Open Budget Index: 55; up 5 points from 2017. Approval of the National Strategy on Public Procurement and its action plan for 2020-2023. Approval of the Electronic Register for Concessions and Public-Private Partnership. Approval of the law 'On procurements in the field of defence and security'. Adequate legislative oversight during the budget cycle. 	<ul style="list-style-type: none"> Ensuring effective implementation of public consultation legislation. Improving budget transparency and comprehensiveness of the 'Citizens Budget' and mid-year review. Engaging with the public during budget formulation and monitoring budget implementation.
Tax	<ul style="list-style-type: none"> Joining the Common Reporting Standard initiative. Joining the Addis Tax Initiative. Participating in the IMF Fiscal Transparency Evaluation process. 	<ul style="list-style-type: none"> Progress towards the implementation of the Common Reporting Standard. Adopting Law 4/2020: 'On automatic exchange of information on financial accounts'. Passing Law 93/2020: 'On the ratification of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting' (Addis Tax Initiative). 	<ul style="list-style-type: none"> Lack of technical capacity to facilitate efficient exchange of information. No integration with EU systems of the electronic tax-administration system.
Whistle-blowing	<ul style="list-style-type: none"> Encourage reporting of corruption. Protection of whistle-blowers. 	<ul style="list-style-type: none"> New law constituting the comprehensive effort to provide protection to whistle-blowers in the private and public sectors introduced in 2016. Engaging civil society in awareness campaigns. Delivering training in collaboration with the Albanian School of Public Administration. 	<ul style="list-style-type: none"> Lack of general trust in the reporting mechanism. Lack of information on what legal protection is provided. Adopting changes to the law to address poor results.
Beneficial ownership	<ul style="list-style-type: none"> Establishment of a central register of beneficial ownership information. Effective access to law enforcement agencies with regard to beneficial ownership information. Implementation of the FATF recommendation on transparency and beneficial ownership of legal persons. Implementation of the Beneficial Ownership Data Standard. 	<ul style="list-style-type: none"> New law for the establishment of a registry for beneficial owners passed, in compliance with EU requirements. Collaboration between the Ministry of Economy and Finance and the National Agency for Information Society to make a register available to public administration in 2021. 	<ul style="list-style-type: none"> Fully complying with Directive 2015/849/EU1 on money laundering by October 2021. Adopting and implementing the law on Central Register of bank accounts. Full implementation of the laws resulting from the governmental action plan to address the relevant recommendations by the Financial Action Task Force.

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Extractive Industries Transparency Initiative	<ul style="list-style-type: none"> ■ Creating a unified license register or cadastre system. ■ Creating a system for allocating a share of royalties to local government units. 	<ul style="list-style-type: none"> ■ EITI Albania's launch of the 'Study of transparency about the usage of rent income and donations of extractive industry companies in local government (CSR)'. 	<ul style="list-style-type: none"> ■ No tangible progress towards setting up an online mining cadastre system. ■ Municipalities not fully benefiting from the mining royalty (5%) to be transferred to local government units.
Enforcement capabilities	<ul style="list-style-type: none"> ■ Ensuring that all anti-corruption bodies are fully independent and adequately resourced. 	<ul style="list-style-type: none"> ■ Memorandum of understanding between the HCJ and USAID for creating a body to reduce backlog in the supreme court. ■ Progress towards regulating conflicts of interest in the judicial system. 	<ul style="list-style-type: none"> ■ Difficulties reported by several new or reformed institutions in the justice system during the inception phase, related mainly to recruitment, office infrastructure or finance, over-regulation, transparency and communication. ■ Filling vacancies in the justice system with professional and vetted new appointments to address shortages in human resources. ■ An excessive number of anti-corruption offices and bodies, both new and existing. ■ Poor efficiency of audits, internal inspections and systematic use of risk analysis. ■ Limited follow-up mechanisms for penal offences.
Asset recovery	<ul style="list-style-type: none"> ■ Strengthening asset recovery legislation, including confiscation power not related to convictions. ■ Cooperation with international partners. 	<ul style="list-style-type: none"> ■ New law on the administration of confiscated assets allows for the establishment of an asset recovery office and provides for the Agency for the Administration of Seized and Confiscated Assets to operate under the Ministry of Interior. ■ Memorandum of understanding signed between the prosecuting authority, the Ministry of Economy and Finance, and the Ministry of Interior to increase the effectiveness of investigations in the fight against money laundering and terrorism financing.⁶ ■ Assets to the value of €100 million originating from criminal activity sequestered in 2019. ■ Joint training initiatives and continued cooperation with international institutions such as EUROPOL, CEPOL, INTERPOL, CARIN, BAMIN, UNDC, OSCE. 	<ul style="list-style-type: none"> ■ Strengthening the overall capacity of the Albanian law enforcement agencies, especially with regard to financial investigations, seizure and return of property acquired through criminal activities. ■ Addressing the gap between high-and low-value sequestered assets. ■ Information exchange with international partners (INTERPOL, EUROPOL, Carin, etc.) on the target number of cases for 2020 (1293 compared with 1232 in 2019; increase of 5%).
Media	<ul style="list-style-type: none"> ■ Adoption of measures to enable the media to report on corruption. 	<ul style="list-style-type: none"> ■ No significant achievements in supporting an enabling environment for the media to report on corruption. 	<ul style="list-style-type: none"> ■ Alerting the media and relevant civil society stakeholders to governmental anti-corruption policies. ■ Amending the media law in line with the recommendations of the Venice Commission.

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Institutional integrity	<ul style="list-style-type: none"> ■ Introduction of rules for members of parliament. ■ Improvement of the legal framework and organizational mechanisms for detecting and preventing conflicts of interest. ■ Public disclosure of the contents of asset declarations. ■ Review of the effective implementation of the system of periodic evaluation of judges' performance. ■ Training for judges and prosecutors on code of ethics. ■ Implementation of digitalised inspection procedures with built-in GPS, standardized checklists. ■ Establishment of institutional partnerships. ■ Promotion of stronger capabilities in the defence and security sectors vulnerable to corruption. 	<ul style="list-style-type: none"> ■ Adoption of the code of conduct for parliamentarians. ■ Amendments to the Rules of Procedure of the Assembly, which clarify and strengthen the enforcement and sanction mechanisms in case of violations of the code of conduct. ■ New system put in place for providing counselling to parliamentarians in respect of ethical issues, either through the Speaker or the chairs of the parliamentary committees and groups. ■ Addressing integrity compliance aspects in the current national anti-corruption strategic framework as well as in the framework of the GRECO 5th evaluation. ■ Completion of a pilot project on integrity compliance by the Ministry of Energy and Infrastructure. ■ Inspection activities in relation to the introduced anti-COVID-19 measures in businesses (in health, food and service sectors and cross-border points). ■ Clear procedure for selecting the General Inspector. ■ Continued efforts to create a system for electronic submission of asset/private interests declarations. ■ Adoption of the code of ethics regulating the detection and prevention of conflicts of interest and updated rules of procedure by the Ministry of Energy and Infrastructure. 	<ul style="list-style-type: none"> ■ Human resources in HJC fulfilled at the level of 20% because of inadequate infrastructure. ■ Delays in budget operations at the HJC. ■ No disciplinary steps taken against inspectors issuing rescinded administrative decisions. ■ Need for more training for judges and prosecutors on code of ethics.
Anti-corruption education	<ul style="list-style-type: none"> ■ Implementation of anti-corruption education and outreach programmes, which include engaging organizations in the public and private sectors. ■ Strengthening the capacity of anti-corruption bodies, judges and prosecutors to undertake corruption investigations. 	<ul style="list-style-type: none"> ■ Of the 24 activities identified by the anti-corruption strategy of the Ministry of Justice, 7 were fully implemented and 14 partially implemented. ■ Albanian School of Public Administration designed as the central institution for organizing training courses for increasing the capacity of Albanian institutions. ■ 850 public employees trained in 2019. ■ 121 training sessions for judges and prosecutors expected to take place between October 2020 and July 2021. 	<ul style="list-style-type: none"> ■ Of the 24 activities identified by the anti-corruption strategy of the Ministry of Justice, 17 still need to be implemented in full. ■ Lack of in-depth qualitative assessment and analysis of the achievement of objectives and policy goals relating to prevention, punishment and awareness.
International system	<ul style="list-style-type: none"> ■ Support of international bodies, including the UN, European Commission, G20, FATF, World Bank, EBRD, IMF and OECD. ■ Full implementation of all GRECO's recommendations in a timely manner. 	<ul style="list-style-type: none"> ■ Positive collaboration approach with all the international organizations and guarantee of structured follow-up and public management responses. ■ Transparent process for appointment of High Court justices and timeous comment received from the judiciary. ■ Objective and transparent criteria for evaluating a judge's ethical conduct, with due regard to the principle of judicial independence. 	<ul style="list-style-type: none"> ■ No development policy framework for cooperation or aid, or an agency for development cooperation with non-EU countries. ■ Periodic evaluation of magistrates not conducted in a timely manner. ■ Appointment of High Court judges should be in accordance with the existing constitutional and legislative framework.

Bosnia and Herzegovina

Pledge priorities: effective institutions and greater transparency

In its pledge, Bosnia and Herzegovina committed to providing support to all institutions for the prevention of and fight against corruption and to ensure their independence and sufficient resourcing. Furthermore, the country undertook to review and modernize its legislation on political-party financing and to improve the transparency and integrity of public procurement processes and revenue collection. It also set out to improve information exchange to prevent and fight corruption, and to support the development of a more transparent, responsible and flexible public service.

Progress on adopting legislation and creating institutions

Adopting various national strategies and legislation pertinent to fighting corruption and organized crime, continuous improvements in criminal legislation, and establishing new structures and approaches to fight organized corruption across the public and private sectors have contributed to meeting international standards. IT-based solutions have improved indirect methods of tax collection.

A fractured response with limited implementation

The anti-corruption system in Bosnia and Herzegovina remains complex, highly decentralized and poorly coordinated, which complicates strategic, country-wide implementation of the anti-corruption pledges. Although this is partly due to various levels of government in the country (i.e. the entities of the Federation of Bosnia and Herzegovina and Republika Srpska, the Brčko District, and cantons, cities and municipalities), it is also a reflection of a lack of political will at many levels of government.

As a result, the implementation of several pledges remains incomplete, with no significant progress seen. For example, a new law on public procurement has yet to be adopted and there has been little progress on public administration reform or reform of financing political parties. The State Agency for Prevention of Corruption and Coordination of the Fight against Corruption is still awaiting amendments to its law, which would strengthen its independence and funding. Other anti-corruption bodies are not uniformly organized and are generally under-staffed while waiting for the relevant government bodies to appoint the necessary personnel. Implementation of pledges related to public-private partnerships, public procurement, enforcement capabilities and institutional integrity require particular attention.

Although society recognizes the serious and widespread effects of corruption, highlighted by vulnerabilities exposed in public procurement processes in the healthcare system and civil protection institutions as a result of COVID-19, corruption was not a dominant topic in local election campaigns in November 2020. Anti-corruption education and efforts to foster a culture free of corruption should be promoted, including at the community level.

BOSNIA AND HERZEGOVINA AT A GLANCE

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Public-private partnership	<ul style="list-style-type: none"> Ensure and improve information exchange between anti-corruption bodies and other public institutions. Commit to share the information collected by the responsible institutions in a more systematic and transparent way. 	<ul style="list-style-type: none"> Introduction of innovative approaches for exchange of information, e.g. software, database and other IT tools. Delivery of trainings on new technologies and methods of information exchange. Development of a framework action plan for the prevention of corruption during the COVID-19 pandemic at some levels of government (i.e. cantons). Development of the application 'Covid 19', for the exchange of documents related to urgent actions in the field of corruption prevention. Regular anti-corruption forums between the Agency for the Prevention of Corruption and Coordination of the fight Against Corruption and anti-corruption bodies from relevant administrative levels. Involvement of the business sector and the Foreign Trade Chamber in the creation of legal proposals to combat corruption, particularly in the field of public procurement. 	<ul style="list-style-type: none"> Although national-level legislation provides an umbrella for the establishment of anti-corruption bodies at all levels of government, their legal status, capacities and duties are far from harmonized. Weak and inefficient horizontal and vertical communication between anti-corruption bodies. No development of established IT-based communication methods in anti-corruption bodies. No follow-up/evaluation measures for anti-corruption procedures. Lack of resources, especially IT experts, auditors and similar staff in anti-corruption bodies.
Public procurement and open contracting	<ul style="list-style-type: none"> Improve the processes and standards to reduce risk of corruption and fraud in public procurement. Increase the number of companies with which contracts are concluded and increase the share of small and medium-sized companies in public-procurement processes. 	<ul style="list-style-type: none"> Established practices of publishing public procurement in e-procurement IT system. Proactive communication with end users, including surveys on satisfaction of services. Proactive communication and cooperation of the agency with civil society, professional community, judiciary and different subjects in public-procurement procedures. Conducted preparatory actions to align draft amendments to Law on Public Procurement with EU standards and other relevant recommendations, and feedback from public consultations. Efforts to increase capacities of the agency through organization of training and participation in local and regional meetings. 	<ul style="list-style-type: none"> Constant delays in adoption of new Law on Public Procurement, which would contain robust anti-corruption provisions. Lack of transparent and effective public system in the current Law on Public Procurement. Missing approval of the regulation on electronic system of public procurement, which would allow for a gradual introduction of an electronic filing system in public-procurement procedures. General lack of resources and staff.
Tax	<ul style="list-style-type: none"> Improve the transparency of revenue collection through indirect taxation. Support the Indirect Taxation Authority in the implementation of new methodologies for VAT collection. 	<ul style="list-style-type: none"> Adoption and implementation of strategic documents in order to introduce a new concept of tax collection. Proactive approach and communication with taxpayers in the catering and hospitality sector, undertaken in 2019 with a significant growth in the field of VAT submissions of approximately 20% or tax revenue of approximately 30%. Establishment of electronic submission of VAT and excise tax system since 2019. Introduction of the system for electronic records of deliveries and procurement, and electronic application for issuance of certificates of settlement of indirect tax liabilities. 	<ul style="list-style-type: none"> Ongoing exposure to the risk of systemic corruption and the presence of corrupt practices in Indirect Taxation Authority's work. Need for systematic measures for equal treatment of all taxpayers based on research findings and constant monitoring of service satisfaction.
Whistle-blowing	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> Lack of law on protection of whistle-blowers in Federation of BiH and Brčko District. Lack of guidance for whistle-blowers. General lack of trust in institutions' ability to implement rules.
Beneficial ownership	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> No implementation of minimum requirements emerging from MONEYVAL 2015 Report. General lack of transparency in the beneficial ownership of legal persons.

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Extractive Industries Transparency Initiative	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> No pledge made on this topic
Enforcement capabilities	<ul style="list-style-type: none"> Provide full support to all institutions responsible for the prevention of corruption; oppose corruption at all levels of government. Support the development of a more transparent, responsible and flexible public service. Support the work on establishing the standards described in the European Principles for Public Administration (SIGMA). 	<ul style="list-style-type: none"> Establishment of anti-corruption bodies responsible for prevention of corruption and coordination at majority of relevant administrative levels (entities, district, cantons, etc). Special law in Brčko District establishing the Office for Prevention of Corruption and Coordination of Activities. Establishment of Public Administration Reform Coordinator's Office as autonomous resource centre for public administration reform according to EU standards. 	<ul style="list-style-type: none"> Lack of political will supporting public administration reform. Need for amendments to the law regulating the Agency for the Prevention of Corruption and Coordination of the fight Against Corruption. Lack of integrity in anti-corruption bodies. Lack of authority of Public Administration Reform Coordinator's Office to manage reform processes. Insufficient harmonization of strategic and operational activities between different administrative levels. Lack of implementation of proactive transparency policies. Poorly developed institutional culture of transparency, especially in segments related to finance and procurement. Disciplinary procedures for public servants yet to be reformed and improved in line with the SIGMA recommendations.
Asset recovery	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> Establishment of the Federal Agency for the Management of Seized Assets of the Federation of Bosnia and Herzegovina and the Asset Recovery Office and the Asset Management Agency of Republika Srpska as specialized and independent institutions. 	<ul style="list-style-type: none"> Lack of mechanisms in place to ensure domestic inter-agency coordination between the implementation bodies within the criminal-justice system and other regulatory bodies.
Media	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> Political pressure. Intimidation of journalists – both verbally and physically.
Institutional integrity	<ul style="list-style-type: none"> Perform a detailed analysis of the provisions of the relevant laws on political party financing. 	<ul style="list-style-type: none"> Creation of an inter-ministerial working group to prepare draft amendments to the law on party financing. Establishment of practices of publishing financial reports of political parties on the website of the Central Election Commission, containing information on sources of funding, campaign costs and more. Engagement and involvement of civil society, especially Transparency International, in analyzing the shortcomings of the existing law and proposing concrete solutions for improving the legal framework. 	<ul style="list-style-type: none"> Lack of follow-up on recommendations by GRECO, ODIHR-OSCE and TI on political party financing. Long period of inactivity of the inter-ministerial working group. Limited capacity of Central Election Commission, and general lack of resources and staff responsible for audit of financial reports. Lack of harmonization of BiH state-level law on financing political parties with other relevant legislation in entities.
Anti-corruption education	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> Lack of resources for research. Lack of training and guidance on integrity.
International system	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> No pledge made on this topic 	<ul style="list-style-type: none"> Need to reform institutions so they can participate effectively in EU decision-making processes.

Kosovo

Pledge priorities: exposing corruption and strengthening integrity

In its pledge, Kosovo put a strong emphasis on exposing corruption, for example, by enhancing the flow of information between public and private partners to prevent, detect and combat money laundering deriving from corruption activities.

Furthermore, Kosovo pledged to modernize the public procurement system; strengthen the professional and investigative capabilities of the country's tax administration; strengthen the protection of whistle-blowers; and ensure access to information for competent authorities investigating beneficial ownership.

A strong focus was also put on 'driving out the culture of corruption'. This could have been reached by way of improving anti-corruption education; enhancing transparency in political party financing and the assets of public high officials; developing and implementing legislation allowing for the re-evaluation of judges, prosecutors, legal advisors and law-enforcement officials; ensuring full implementation of the National Anti-Corruption Strategy and Action Plan; strengthening the role of the Anti-Corruption Agency; and promoting stronger capabilities in the defence and security sectors, which are vulnerable to corruption. Less emphasis was placed on punishing the corrupt, for example through a commitment to ensure that all anti-corruption bodies are fully independent and adequately resourced, and by improving and strengthening legislation around asset and property recovery.

Good legislation and a brief flurry of anti-corruption initiatives

There is a solid legal framework in Kosovo to prevent and fight corruption, which has been adopted in line with EU requirements and is derived especially from the action plan of the Stabilization and Association Agreement. However, implementation of existing legislation is generally limited. Hopes for a stronger anti-corruption agenda under the government of Albin Kurti were short-lived with the collapse of his coalition in May 2020 after just 50 days. Among the steps taken in that short period of time were an initiative by the Ministry of Justice to establish an independent Experts Group to commence a vetting process for criminal-justice officials; revoking of the Pristina-Gjilan highway contract, which was allegedly costing Kosovo's budget €120 million; the initiation of an evaluation process into the appointment and performance of key senior officials suspected of corruption; evaluation of the performance of public boards whose members were considered to have been politically appointed and which, as a result of their decisions, have allegedly caused Kosovo's budget to lose millions of euros; and imposing stricter controls on the spending of public funds. However, many of these initiatives were blocked, even by the new coalition government.

Fighting corruption was approached with less enthusiasm by the subsequent government led by Avdullah Hoti of the LDK party, which came to power in June 2020. Nevertheless, a highlight of the existing government was a major police raid to dismantle criminal activities in a buffer zone between Kosovo and Serbia. In September 2020, in the village of Karaqeva, Kosovo's police conducted an operation targeting illegal gambling activities, human trafficking, exploitation of prostitution and

smuggling of goods from Serbia. The raid resulted in the arrest of 36 people, including police officers suspected of corruption and involvement in organized crime. Critics note that the number of assets seized was relatively negligible – although it was one of the country’s largest police raids to date.

Serious backsliding

The Hoti administration has not pursued most of the anti-corruption initiatives it had announced – in fact, it may have even regressed in implementing the anti-corruption pledges.

For example, in July 2020 the Minister of Justice decided to change the composition of the Experts Group engaged in the vetting process by adding representatives of the prosecution and judicial council to the team. This was seen by some members of the experts team, as well as external observers, as an attempt to sabotage the process since sitting criminal-justice officials are supposed to be the subjects of the review rather than those carrying it out. Furthermore, instead of depoliticizing public institutions, most of the officials who had been appointed by the previous government were removed and replaced with officials sympathetic to the existing government.

In October, the Prime Minister disbanded the Anti-Corruption Task Force (which was established in 2010) without prior public consultation or even the consent of the Minister of Justice, who is supposed to initiate such a process. This move was heavily criticized by both civil society and the international community, causing Hoti to reverse his decision. But the very next day, he took another surprise decision by dismissing the director of the police service and the heads of the tax administration and customs service without warning and without following the due procedures.

There was also backsliding in terms of the government’s commitment to punish the corrupt. A case was revealed on 20 October 2020 in which more than €2 million was stolen from the accounts of the Ministry of Finance through a sophisticated cybercrime. Not only are there suspicions of collusion among insiders, but the crime was only noticed ten days after the money had been illegally transferred. This gave the perpetrators time to move the stolen funds in ways that are hard to trace. One day later, a strongbox containing recovered assets and important documents was stolen from a location that is protected 24/7 by the police. These incidents suggest that pledges relating to enhancing enforcement capabilities and institutional integrity need greater attention. The existing mechanisms are fragile and easily prone to fraud.

KOSOVO AT A GLANCE

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Public-private partnership	<ul style="list-style-type: none"> Enhance information flow between the financial sector and the Financial Intelligence Unit (FIU). Ensure continuous public-private information-sharing partnerships to prevent and combat money laundering linked to corruption. Work with regional and other countries to exchange information to ensure the most effective response to international money laundering. Collaborate with and participate in initiatives led by the Egmont Group of Financial Intelligence Units. 	<ul style="list-style-type: none"> Regular meetings between the FIU and the Kosovar Insurance Association. Information sharing between private and public sector, and between rule-of-law and governmental institutions. Significant progress in bilateral cooperation with Albanian FIUs, some cooperation with other WB countries. Active membership of Kosovo's FIU in the Egmont Network (since 2017). 	<ul style="list-style-type: none"> Limited capacities to provide relevant and timely information to the private sector. Lack of institutional willingness to follow up on corruption and money-laundering cases. Lack of collaboration between the Special Prosecutor, Kosovo Police and the FIU on money-laundering cases. Regional cooperation continues to be undermined bilaterally and multilaterally by Serbia and Bosnia and Herzegovina's political stance towards Kosovo's statehood. COVID-19 has hindered cooperation between Kosovo's FIU and counterparts in the region.
Public procurement and open contracting	<ul style="list-style-type: none"> Implement legal provisions of the Public Procurement Law and its by-laws. Improve the implementation of the Auditor General's recommendations. Implement the electronic public procurement system. 	<ul style="list-style-type: none"> Introduction and implementation of e-procurement systems. 	<ul style="list-style-type: none"> Ongoing political interference and corruption in the specification of terms of reference for tendering. Monitoring of the public contracts during the Hoti government remain very weak, undoing the progress made during the short administration of his predecessor. High number of unaddressed recommendations provided by Kosovo's Auditor General.
Tax	<ul style="list-style-type: none"> Strengthen the professional standards and investigation capabilities of the Kosovo Tax Administration. 	<ul style="list-style-type: none"> Depoliticization processes in the Kosovo Tax Administration, such as internal declaration of assets and new regulations on conflict of interest. 	<ul style="list-style-type: none"> Lack of transparency and due diligence in the management of the Tax Administration office of Kosovo.
Whistle-blowing	<ul style="list-style-type: none"> Enforce legislation on the protection of whistle-blowers for the protection of information received by public and private sector. 	<ul style="list-style-type: none"> New law introduced on protection of whistle-blowers (since December 2018). 	<ul style="list-style-type: none"> Lack of commitment to pass secondary legislation implementing the Law on Protection of Whistle-blowers. Lack of resources and knowledge for follow up by the Anti-Corruption Agency. Limited knowledge on the rights of whistle-blowers.
Beneficial ownership	<ul style="list-style-type: none"> Ensure investigators can rely on full and effective access to information on beneficial ownership. 	<ul style="list-style-type: none"> Insufficient attention devoted to this topic by Kosovo's institutions. 	<ul style="list-style-type: none"> No follow-up to the draft Law on Declaration of Assets, which is supposed to oblige all public officials to declare their beneficial ownership.
Extractive industries transparency initiative	<ul style="list-style-type: none"> No pledge made on this topic. 		
Enforcement capabilities	<ul style="list-style-type: none"> Ensure that all anti-corruption bodies are fully independent, capable and adequately resourced, and receive the full support and cooperation of all branches of government and law enforcement. 	<ul style="list-style-type: none"> Despite some changes in anti-corruption bodies, they are still criticized for lack of full independence. 	<ul style="list-style-type: none"> Lack of political willingness to strengthen justice and rule of law in institutions. Unsuccessful efforts to investigate, prosecute, imprison and confiscate the assets of corrupt individuals. Renewed attempts to extend the politicization of key senior positions, including those related to law enforcement.

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Asset recovery	<ul style="list-style-type: none"> Improve and strengthen asset and property-recovery legislation. 	<ul style="list-style-type: none"> Increase in the number of criminal offences by the new Law on Extended Competences for Confiscation of Assets. 	<ul style="list-style-type: none"> Confiscation of illegally obtained assets still extremely low. Lack of timely return of assets recovered.
Media	<ul style="list-style-type: none"> No pledge made on this topic. 		
Institutional integrity	<ul style="list-style-type: none"> Implement legislation relating to the integrity of persons exercising public functions. Improve the transparency of political party financing with functioning mechanisms of control and audit systems. Improve the legal framework and organizational mechanisms of detecting and preventing conflict of interest in relation to public officials. Support the initiative for signing the International Treaty on Exchange of Data for the Verification of Asset Declarations of public high officials and conflict of interest. Ensure meritocratic, independent and transparent appointments of staff in the civil service. Development of legislation allowing for the re-evaluation of judges, prosecutors, legal advisors and law-enforcement officials. Ensure full implementation of the National Anti-Corruption Strategy and its action plan. Strengthen the role of the ACA. Promote stronger capabilities in the defence and security sectors that are vulnerable to the threat of corruption. 	<ul style="list-style-type: none"> New and relatively more comprehensive Law on Prevention of the Conflict of the Interest. Centralization of the recruitment process in public sector thanks to the new Law on Public Officials. New EU-law-compliant anti-corruption package in the making. Gradual progress made by the Kosovo Anti-Corruption Agency (ACA) as an independent body. Integrity building in the security and defence sector carried out institutionally as part of the Norwegian bilateral support done through the Centre for Integrity in the Defence Sector. Set of trainings for Kosovo security and defence officials provided by the UK Building Integrity Centre. 	<ul style="list-style-type: none"> Lack of integrity plans in institutions. No developments regarding the drafting of new Law on Financing of the Political Parties after the failure of the first attempt – consequently, no positive developments regarding the transparency in parties' financial situation. No follow-up on regulations and/or bylaws on new legislation on integrity matters. Poor description and definition of objectives in anti-corruption plans. Limited progress of Kosovo ACA due to its vague mandate. During the reporting period, Kosovo's institutions failed to adopt the anti-corruption strategy meaning that the country has been without a strategy since 2017. No recent developments on drafting the new Law on Anti-Corruption Agency.
Anti-corruption education	<ul style="list-style-type: none"> Implement anti-corruption education and programmes that include engaging organizations in the public and private sectors. 	<ul style="list-style-type: none"> Since 2018, the ACA organizes an annual anti-corruption week at the beginning of December. 	<ul style="list-style-type: none"> Besides anti-corruption week, there are very few initiatives to promote anti-corruption education either at the national or local levels.
International system	<ul style="list-style-type: none"> Achieve memberships in international and regional organizations missioned to prevent and combat corruption. 	<ul style="list-style-type: none"> In June 2020, a working arrangement was signed between law enforcement authorities and the EU Agency for Law Enforcement Cooperation, which enables direct cooperation with EUROPOL (which had previously only been possible via EULEX). An agreement signed between Kosovo and Serbia in Washington committing both parties to the dialogue that will eventually lead to a final settlement resulting in mutual recognition and that would pave the way for Kosovo to uninterruptedly become a member of key international and regional organizations and forums. As part of this agreement, Serbian government committed to temporarily suspend all its diplomatic efforts for derecognition of Kosovo for a period of 12 months. 	<ul style="list-style-type: none"> With the Washington agreement, Kosovo's government committed to temporarily suspend any attempts to join international organizations in the next 12 months. Memberships in international and regional organizations continue to be challenged by countries that still do not recognize Kosovo's statehood.

Montenegro

Pledge priorities: exposing corruption and strengthening integrity

In its pledge, Montenegro put a strong focus on exposing corruption. This included committing itself to adopt a set of laws regulating public-private partnerships; reviewing public-procurement procedures to increase transparency and introducing e-procurement; implementing the Open Contracting Data Standard; and signing up to the Common Reporting Standard initiative on taxation, to protect whistle-blowers and to establish a secure network for law-enforcement agencies to have an overview of company beneficial ownership. On punishing the corrupt, Montenegro pledged to ensure that the anti-corruption body reaches a 'solid and steady track record in the oversight of the implementation of all preventive anti-corruption institutes'. In terms of driving out the culture of corruption, Montenegro committed itself to strengthen institutional integrity and anti-corruption education (like implementing legislation and codes of conduct relating to the integrity of public officials); said that it would continue to implement measures to ensure the media are able to report on corruption in an objective and independent manner; and pledged to ensure the implementation of all relevant international anti-corruption commitments.

Progress on adopting legislation and creating institutions

A number of significant measures have been taken towards meeting international standards by adopting various national strategies, legislation pertinent to fighting corruption and organized crime, and continuous improvements in criminal legislation – as well as establishing new structures and approaches to fight organized corruption in both the public and private sectors. There has been some progress in implementing GRECO recommendations: out of 11 recommendations, eight are considered to be satisfactorily implemented and one partially implemented. Two recommendations (both concerning the judiciary) have not been implemented, especially those related to strengthening the Judicial Council's independence against undue political influence.

Backsliding on a number of commitments

After adoption of the law on public-private partnership, the government of Montenegro established a National Investment Agency to replace the Secretariat for development projects. However, the bylaws are still to be adopted, which is hampering the implementation of the law. The same applies for the law on public procurement where bylaws still need to be developed.

There has been little progress in increasing transparency of the public-procurement process and reducing corruption. Indeed, there is public concern about backsliding in this area due to opaque processes for goods and services to fight COVID-19. Furthermore, Montenegro has still not joined the Open Budget Partnership Initiative. There is still only a limited amount of information on procurement proactively published by state institutions, therefore not contributing to the transparency of this process.

Despite its pledge, Montenegro has still not signed the Addis Tax Initiative, there is still no Ultimate Beneficial Ownership Register, and the coming into force of the law on electronic fiscalization has been postponed until January 2021. There has also been backsliding in relation to protecting the media: in July 2020, Montenegro's parliament adopted an amended law on media that obliges journalists to disclose their sources upon request from the Prosecutor's Office in cases that are 'necessary for the protection of national security, territorial integrity and health'. There are concerns that this could hamper investigative journalism and freedom of speech in the country. Furthermore, the Agency for Preventing Corruption is still considered weak. During the latest parliamentary elections held in August 2020, the agency, which was responsible for overseeing the financing of political parties and campaigns, showed

a lack of political will to process violations and commitment to the rule of law. One of the few bright spots was that in 2020 it continued anti-corruption education workshops, for example in the health and education sectors.

The formation of a new government in December 2020 created hope that there would be a new commitment to fighting corruption, greater transparency and integrity, and going after 'untouchables'. The National Council for the Fight Against Grand Corruption was established in February 2021. The new government has committed to change key anti-corruption laws including the Law on Free Access to Information, the Law on Anti-Corruption and has taken steps to regulate the illicit enrichment of public officials. Other anti-corruption initiatives are foreseen.

MONTENEGRO AT A GLANCE

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Public-private partnership	<ul style="list-style-type: none"> Adoption of laws in line with EU standards: law on public-private partnership, law on concession and law on public procurement. Enhancement of information flows between the financial institutions and designated non-financial business and professions (DNFBPs) to detect and disrupt money laundering. Deployment of public-private information-sharing partnerships to detect, prevent and disrupt money laundering linked to corruption. 	<ul style="list-style-type: none"> Establishment of the National Investment Agency to replace the Secretariat for development projects. Adoption of a new law on public-private partnership. 	<ul style="list-style-type: none"> Main challenges relate to PPPs in relation to highway construction and the management of completed construction projects due to low institutional capacities to run such schemes and to protect the public interest.
Public procurement and open contracting	<ul style="list-style-type: none"> Join the Open Budgeting Partnership. Implement the Open Contracting Data Standard as part of new e-government procurement work and working with the Open Contracting Partnership. Reviewing public-procurement procedures to increase transparency. 	<ul style="list-style-type: none"> Majority of procurement information available in electronic form via paid portal. New law on public procurement defining procedures for inspection control in cases of suspicious public procurements. 	<ul style="list-style-type: none"> Lack of transparency in relation to procurement of goods and services for fighting COVID-19. Irregularities in the procurement of works in international tenders funded through the Western Balkans Investment Framework. No engagement in the Open Budget Partnership initiative. Information about implementation of the procurement contract not easily accessible. Most of bidders' complaints not fully investigated by the State Commission for Control of Public.
Tax	<ul style="list-style-type: none"> Signature of the Common Reporting Standard initiative. Participation into the Addis Tax Initiative. 	<ul style="list-style-type: none"> Signature of a multilateral convention on mutual administrative support in tax affairs. 	<ul style="list-style-type: none"> No participation into the Addis Tax Initiative.

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Whistle-blowing	<ul style="list-style-type: none"> Encouragement of citizens and employees to report corruption. Protection of whistle-blowers from retaliation. 	<ul style="list-style-type: none"> Increasing number of registered cases of wrongdoings exposed by whistle-blowers. Increasing number of workshops and trainings for public servants on the topic of whistle-blowing protection. 	<ul style="list-style-type: none"> Still examples of retaliation and lack of protection in both the public and the private sector.
Beneficial ownership	<ul style="list-style-type: none"> Establish a secure network for connecting to public central register of company beneficial ownership information. Implementing bilateral arrangements in this area. 	<ul style="list-style-type: none"> No progress made. 	<ul style="list-style-type: none"> No establishment of UBO Register by the Montenegrin Tax Administration. No implementation of bilateral agreements on the disclosure and exchange of information on real ownership of companies by the police administration.
Extractive Industries Transparency Initiative	<ul style="list-style-type: none"> No pledge made on this topic. 		
Enforcement capabilities	<ul style="list-style-type: none"> Ensure that the anti-corruption body reaches solid and steady track record in the oversight of the implementation of all preventive anti-corruption institutes. 	<ul style="list-style-type: none"> 98 per cent of institutions have adopted integrity plans. 60 decisions issued by The Agency for the Prevention of Corruption (68 per cent related to breaking the law on prevention of corruption from the public officials) resulting in 77 resignations by public officials. Fines and petitions issued by the Agency for the Prevention of Corruption for the violation of the law provisions relating to conflict of interest. 	<ul style="list-style-type: none"> General weak contribution of the Agency for the Prevention of Corruption (decline in processed cases if compared to 2019) and no contribution to a more fair, transparent and corruption-free election process. Anti-corruption measures only as an administrative procedure. Agency for the Prevention of Corruption perceived as biased and loyal to the ruling political party.
Asset recovery	<ul style="list-style-type: none"> No pledge made on this topic. 		
Media	<ul style="list-style-type: none"> Ensure that the media are able to report on corruption issues in an objective and independent manner. 	<ul style="list-style-type: none"> The new government has promised better protection of journalists and greater media progress, but there is little progress to report. 	<ul style="list-style-type: none"> Adoption of an amended law on media with provisions discouraging investigative journalism. The Law on Media adopted in 2020 that requires journalists to reveal their sources is still in force. Police and Prosecutors Office retaliation against editors of online portals and citizens for investigative contents. Drop in media freedom in the latest Freedom in the World report on Montenegro. Major concern on freedom of the media by Reporters without Borders.

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Institutional integrity	<ul style="list-style-type: none"> Continue implementing legislation and codes of ethics relating to the integrity of persons exercising public functions, holders of judicial functions and civil servants. Improving organizational mechanisms of detecting and preventing conflict of interest and conducting regular risk assessments. Create possibilities to endorse the Regional Anti-Corruption Initiative's International Treaty on Data Exchange on Asset Disclosure and Conflict of Interest. Implementing anti-corruption education and outreach programs. Promoting and raising awareness of ethical standards by members of parliament (GRECO). 	<ul style="list-style-type: none"> Development of a national methodology for assessing legal compliance to corruption, with help of the Regional Anti-Corruption Initiative (RAI). Implementation of workshops for representatives of local self-government and line ministries on the topic 'Assessing the risk of corruption in legislation – methodology and practical examples'. Adoption of the report about the negotiations on the RAI's International Treaty on Data Exchange on Asset Disclosure and Conflict of Interest. Adoption of a new code of ethics for MPs in compliance with GRECO recommendations. 	<ul style="list-style-type: none"> No signature of the International Treaty on Data Exchange on Asset Disclosure and Conflict of Interest.
Anti-corruption education	<ul style="list-style-type: none"> Implementing anti-corruption education and outreach programs including dialogues with the public and private sectors on preventive measures. 	<ul style="list-style-type: none"> A decision was taken to establish a National Council for the Fight Against Grand Corruption. Other anti-corruption initiatives are foreseen. 	<ul style="list-style-type: none"> Need to tackle corruption across all relevant ministries.
International system	<ul style="list-style-type: none"> Support of international bodies, including the UN, the European Commission, the G20, the FATF, the World Bank, the EBRD, the IMF and the OECD. Full implementation of all GRECO recommendations in a timely manner. 	<ul style="list-style-type: none"> Eight out of 11 GRECO recommendations on ethics and integrity of MPs, judges and prosecutors considered satisfactorily implemented. Progress observed on judges and prosecutors' guidance and counselling on the application of the Judicial Code of Ethics and conflicts of interest. 	<ul style="list-style-type: none"> Two out of 11 GRECO recommendations on ethics and integrity of the judiciary not implemented, especially those related to strengthening the Judicial Council's independence against undue political influence.

North Macedonia

Pledges focus on increased transparency

North Macedonia pledged to enhance the flow of information between the financial sector and the financial intelligence unit to provide law enforcement with intelligence needed to detect and disrupt money laundering linked to corruption. It committed itself to establish an independent and adequately resourced anti-corruption body and to strengthen asset-recovery legislation. It also pledged to ensure that the media are able to report on corruption issues in an objective and independent manner, in particular through publicizing the public accounts and assets of public officials. North Macedonia pledged to ensure full implementation of the GRECO recommendations in a timely manner, including through ensuring compliance of parliamentarians with a code of conduct on ethical behavior; introducing rules for parliamentarians on how to interact with lobbyists;

strengthening the independence of the judiciary (for example by reconsidering the role of the Judicial Council); streamlining arrangements for investigation and enforcement of the rules on political financing; increasing the resources of the anti-corruption body; and enhancing verification and scrutiny of statements of interest and asset declarations by members of parliament, judges and prosecutors.

Progress on beneficial ownership, and more resources for anti-corruption and asset recovery

North Macedonia has made significant progress in implementing a number of its anti-corruption pledges and several important steps are pending. For example, software has been tested to register beneficial ownership of companies and its relevant bylaw and

methodology have been adopted by the government. Amendments to the law on money laundering and terrorist financing, adopted by Parliament and published on the last day of 2020, will enable the Beneficial Ownership Register to be published. As of 27 January 2021, the Central Registry opened 90 days free of charge registration on its website.⁷ This registry will be connected to the list of politically exposed persons. In

another significant development, the government has provided additional resources to the State Commission for the Prevention of Corruption. The creation of an 'Open finances' online platform has created greater transparency on state finances. Furthermore, as asset-recovery office has been established in the Office of the Higher Prosecution.

NORTH MACEDONIA AT A GLANCE

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Public-private partnership	<ul style="list-style-type: none"> Information sharing between the FIU and the financial sector to detect and disrupt money laundering. 	<ul style="list-style-type: none"> Improved cooperation in financial investigations by the FIU, Mol, and the Public Prosecution Office. 	<ul style="list-style-type: none"> Need for better interoperability with the FIU and increased capacity of other institutions.
Public procurement and open contracting	<ul style="list-style-type: none"> No pledge made on this topic. 		
Tax	<ul style="list-style-type: none"> No pledge made on this topic. 		
Whistle-blowing	<ul style="list-style-type: none"> No pledge made on this topic. 		
Beneficial ownership	<ul style="list-style-type: none"> No pledge made on this topic. 	<ul style="list-style-type: none"> New regulation on Beneficial Owners introduced in the Law on Prevention of Money Laundering and Financing of Terrorism. Beneficial Ownership Register made available to the public. FIU following the Egmont group's new methodology for the Strategic Analysis resulting in the sanctioning of two big commercial banks. Games and gambling above €1 000 winnings reported on a daily basis. Improvement of FIU's software with support of the GIZ. Elaboration of a software for terrorism and proliferation identification based on the FATF definition. Adoption of a bylaw on the methodology for the registration of beneficial ownership. New registry to be connected with the list of politically exposed persons. 	<ul style="list-style-type: none"> Registration of all companies and verification of the beneficial owners.

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Extractive Industries Transparency Initiative	<ul style="list-style-type: none"> No pledge made on this topic. 		
Enforcement capabilities	<ul style="list-style-type: none"> Ensuring the establishment of an anti-corruption body that is fully independent and adequately resourced. Adopt a balanced approach in the areas of conflict of interest, lobbying and asset declaration. 	<ul style="list-style-type: none"> Substantial increase of SCPC budget and personnel. Possibility for the SCPC to access more than 16 databases and to perform the check of asset declarations, conflict of interest, financing of political parties and campaigns. 	<ul style="list-style-type: none"> Need to further provide adequate resources for the full-fledged functioning of the SCPC.
Asset recovery	<ul style="list-style-type: none"> Strengthening asset-recovery legislation. Work with international partners. 	<ul style="list-style-type: none"> Asset Recovery Office established in the Office of the Higher Prosecution. 	<ul style="list-style-type: none"> No new legislation on asset-recovery matters.
Media	<ul style="list-style-type: none"> Adoption of measures to enable the media to report on corruption through making public accounts and assets of public officials available to the public as part of the Open Government Agenda. 	<ul style="list-style-type: none"> Launch of the online platform 'Open finances', enabling citizens to check on state-budget matters as well as budget transactions of the Treasury of the Ministry of Finance. Adoption of the GRNM Transparency Strategy 2019–2021 referring to both passive and active transparency. Adoption of an action plan to promote transparency in institutions in anticipation of the country's integration into the EU and NATO. 	<ul style="list-style-type: none"> Obstacles to accessing information on the central-registry website (no access to freelancers and investigative journalists).
Institutional integrity	<ul style="list-style-type: none"> Ensure MPs' compliance with the code of ethics. Introduce rules for MPs on interaction with lobbyists. Strengthen the independence of the judiciary. Reconsider the concept of the Judicial Council. Clearly define disciplinary infringements applicable to judges and prosecutors. Increase transparency and in-depth scrutiny of interests and assets by MPs, judges and prosecutors. Increase efficiency and enforcement of rules on financing of political parties. 	<ul style="list-style-type: none"> Adoption of a new Law for the Prevention of Corruption that provides transparency in the selection process of new members and the President of the State Commission for the Prevention of Corruption (SCPC). Interests and assets of the MPs, judges and prosecutors are public. With the new law, the SCPC has access to 16 databases to check interests and assets. With the new law, the SCPC is the central body for enforcement rules on political financing. 	<ul style="list-style-type: none"> Law on lobbying is being drafted. SCPC's premises were not appropriate for the instalment of the equipment for electronic databases.
Anti-corruption education	<ul style="list-style-type: none"> No pledge made on this topic. 		
International system	<ul style="list-style-type: none"> Support of international bodies, including the UN, the European Commission, the G20, the FATF, the World Bank, the EBRD, the IMF and the OECD. Full implementation of all GRECO recommendations in a timely manner. Participation in UK-supported Building Integrity Centre to promote stronger capabilities in the defence and security sectors that are vulnerable to corruption. 	<ul style="list-style-type: none"> In monitoring the implementation of the standards, the GRECO noted significant progress in fulfilling the recommendations of the fourth round of evaluation. The current assessment of compliance with GRECO recommendations, which was 'generally unsatisfactory', has risen to 'satisfactory'. 	<ul style="list-style-type: none"> The main challenge is for the government to live up to expectations in terms of tackling corruption, inter alia in the process of EU accession.

Serbia

Commitments to strengthen anti-corruption legislation and bodies

In 2019, Serbia pledged to improve the flow of information between financial institutions and designated non-financial businesses and professions to provide law-enforcement agencies with the intelligence they need to detect and combat money laundering related to corruption. It also pledged to develop public-private partnerships to this end. It committed itself to strengthen the capacity of anti-corruption bodies, judges and prosecutors; to adopt a new national anti-corruption strategy; and create a national coordination body with effective mechanisms to monitor implementation of all preventive anti-corruption measures. Serbia also pledged to strengthen legislation for the confiscation of the proceeds of crime. It said that it would act swiftly on adopting a new anti-corruption law and code of conduct for members of parliament and promote effective implementation of the newly adopted lobby law. It also committed itself to enhance transparency of the legislative process and to avoid the use of emergency procedures when passing laws, except in exceptional circumstances.

One step forward

In 2020, there was little progress on implementation of the anti-corruption pledges in Serbia, due in part to political wrangling and elections boycotted by the opposition as well as a state of emergency and lockdowns because of COVID-19. That said, the new Law on Prevention of Corruption came into force on 1 September 2020 and a new law on public procurement came into force on 1 July 2020, which further harmonizes legislation with the EU acquis.⁸ A code of conduct for MPs was adopted on 24 December 2020. The Agency for Prevention of Corruption is in the process of establishing a new Steering Body. It also carried out a few trainings on lobbying and adopted a training programme on prevention of corruption and public integrity, and the guidance for training delivery for public administration. Training is a prerequisite for lobbyists to be formally registered. A high-profile whistle-blower who had been dismissed was reinstated in the local administration of the municipality of Rača by a court decision.

Two steps back

Serbia's anti-corruption efforts continue to be hampered by the lack of a national anti-corruption strategy: the previous one expired in 2018. There is still no national coordination body. Meanwhile, members of the Anti-Corruption Council as well as some sections of the media reporting on corruption have come under pressure, as have leading civil-society organizations that have been investigated for suspicion of money laundering. There have been criticisms about a lack of transparency concerning COVID-19-related procurement processes.

SERBIA AT A GLANCE

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Public-private partnership	<ul style="list-style-type: none"> Improve the flow of information between financial institutions and designated non-financial businesses and professions. Exchange of information between judicial, law-enforcement, regulatory and financial sectors. 	<ul style="list-style-type: none"> 30+ workshops with around 1 200 participants to facilitate dialogue between different agencies and institutions. 	<ul style="list-style-type: none"> Misuse of power by the Administration for Prevention of Money Laundering (APML) to intimidate civil-society organizations, investigative journalists, human rights defenders and activists. No information sharing following up on official order by the Commissioner for Information of Public Importance and Personal Data Protection.
Public procurement and open contracting	<ul style="list-style-type: none"> No pledge made on this topic. 	<ul style="list-style-type: none"> New Law on Public Procurement (adopted in 2019) goes into force in July 2020 bringing further alignment with EU legislation. 	<ul style="list-style-type: none"> Extremely low competition with about 50 per cent of all public procurements conducted with only one bid. Lack of compliance with legal procurement procedure during the COVID-19 pandemic for the purchase of goods such as ventilators and other medical equipment and materials. Law on special procedures allowing for bidding exemption of infrastructure projects of 'special importance'. Inter-governmental agreements not in line with the principles of equal treatment, non-discrimination, transparency and competition.
Tax	<ul style="list-style-type: none"> No pledge made on this topic. 		
Whistle-blowing	<ul style="list-style-type: none"> No pledge made on this topic. 	<ul style="list-style-type: none"> Strong legislation on the protection of whistle-blowers. Whistle-blower Veljković in Rača successfully reinstated to his position in the local administration. 	<ul style="list-style-type: none"> Case of Vulin, who could not explain the source of funds for purchase of an apartment, appointed as Minister of Interior in the new Serbian Government. General lack of implementation of protection mechanisms.
Beneficial ownership	<ul style="list-style-type: none"> No pledge made on this topic. 		
Extractive Industries Transparency Initiative	<ul style="list-style-type: none"> No pledge made on this topic. 		

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Enforcement capabilities	<ul style="list-style-type: none"> Strengthening the capacity of anti-corruption bodies, judges and prosecutors. 	<ul style="list-style-type: none"> Special anti-corruption departments set up in four Higher Public Prosecutors' Offices and in four Higher Courts. Anti-corruption department established within the Criminal Police Directorate, with specific sections set up in nine cities. Development of a network made up of at least two employees from each of the 13 relevant authorities and organizations (including the Anti-Corruption Agency, the Public Procurement Administration, the Customs Administration, the Administration for Prevention of Money Laundering, the State Audit Institution and the Tax Administration) for liaison purposes. Creation of special anti-corruption and anti-organized crime task forces. Four of them have successfully completed their tasks which led to indicting 98 natural and two legal persons. Two task forces are still active. Establishment of financial forensic services at the disposal of prosecutors. Trainings, workshops and round tables for judges, prosecutors and police officers. 	<ul style="list-style-type: none"> Weak compliance of APML's actions with FATF recommendations. Generally tough conditions for media and civil society in public-accountability procedures.
Asset recovery	<ul style="list-style-type: none"> Compliance of legislation for the confiscation of proceeds of crime with EU acquis. International cooperation with other countries to confiscate illegally acquired property. 	<ul style="list-style-type: none"> Signature of 25 memoranda and protocols on cooperation with competent foreign judicial authorities by the Public Prosecutor's Office. MoU on regional cooperation against organized crime to facilitate the implementation of international conventions and treaties and increase efficiency of international legal assistance procedures. Participation of the Public Prosecutor's Office in eight Joint Investigation Teams as a form of direct international cooperation. Engagement in the project 'Strengthening the fight against corruption in South East Europe through the improvement of foreclosure measures', funded by the government of the UK. 	<ul style="list-style-type: none"> There have been very few investigations, prosecutions and final convictions in serious organized crime cases that have resulted in the confiscation and recovery of assets.
Media	<ul style="list-style-type: none"> No pledge made on this topic. 		<ul style="list-style-type: none"> Restriction on freedom to report on cases of corruption involving public officials. General lack of freedom of the media highlighted by the ODIHR.

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Institutional integrity	<ul style="list-style-type: none"> ■ Implementing a new National Anti-Corruption Strategy and establishing a new national coordination body with effective monitoring mechanisms. ■ Adopting the Code of Conduct for Members of Parliament and providing clear guidelines for avoiding and resolving conflicts of interest. ■ Enhancing transparency in the legislative process by providing adequate timeframes and discussions on draft laws. ■ Effective implementation of the newly adopted lobbying law. ■ Passing laws on the procedure of election, promotion, evaluation of the performance and integrity of judges and public prosecutors ■ Acting swiftly on the adoption of the new Anti-Corruption Law in accordance with GRECO expertise. 	<ul style="list-style-type: none"> ■ Conducting of three rounds of trainings for lobbyists by the Anti-Corruption Agency. ■ Adoption of a new law on lobbying and the register of lobbyists. ■ Conducting of workshops on lobbying and on capacity building of local self-government units. ■ Cooperation with the Serbian chapter of Transparency International and the OSCE mission to Serbia through trainings in five local self-government units for approximately 112 participants. ■ Adoption of a new law on corruption prevention. ■ Code of Conduct for MPs was adopted. ■ Amendments to article 77 of the Law on State Administration introducing legislative improvements to rules pertaining to public participation during and throughout the preparatory stage of draft laws, other regulations and legal acts (compliance with GRECO recommendation). ■ Adoption of a new Law on Planning System of the Republic of Serbia, aiming to include the general public in shaping public policy based on prescribed principles of public-policy management. ■ Creation of four working groups by the MoI on: <ul style="list-style-type: none"> ■ Law on Amendments to: (1) the Law on Judges, (2) the Law on the Organization of Courts and (3) the Law on High Judicial Council. ■ Law on Amendments to the Law on Judicial Academy. ■ Law on Amendments to: (1) the Law on Public Prosecution and (2) the Law on the High Prosecutorial Council (please note the projected name change of the State Prosecutorial Council). ■ 'Normative demarcation' regarding the current division of competencies and budgetary jurisdiction between the two Judicial Councils and the Ministry of Justice. 	<ul style="list-style-type: none"> ■ Adoption of a new anti-corruption strategy still pending. ■ No establishment of an anti-corruption coordination body.

	INDICATORS	ACHIEVEMENTS	CHALLENGES
Anti-corruption education	<ul style="list-style-type: none"> Education/dialogue and fieldwork programmes to involve organizations in the public and private sectors in discussions on preventive measures. 	<ul style="list-style-type: none"> Adoption of the training programme on prevention of corruption and public integrity, and guidance for the training delivery for public administration. Training courses for more than 4 000 participants in the fields of ethics and integrity; national strategy for the fight against corruption and accompanying action plan; control of assets; conflicts of interest; and control of financing of political activities. Twinning project 'Prevention and Fight against Corruption'. Trainings on the importance of professional ethics in preventing and fighting corruption by the Judicial Academy and the project 'Prevention and Fight against Corruption'. Training series 'Effective Detection of Corruption' attended by internal auditors and organized by the project 'Prevention and Fight against Corruption' and the Central Unit for Harmonization of the Ministry of Finance. Trainings against corruption at local level for representatives of local self-governments and civil-society organizations. The project 'Prevention and Fight against Corruption' and the Anti-Corruption Agency launched new seminars in September 2019 on the prevention of conflicts of interest for officials, and obligations under the Law on Lobbying and Registries were maintained by the Anti-Corruption Agency. Meetings between the Anti-Corruption Agency, Transparency Serbia and high-school students. 	<ul style="list-style-type: none"> Mechanism needed to measure impact of trainings.
International system	<ul style="list-style-type: none"> Follow-up on recommendations by international bodies including the UN, the European Commission, the G20, MoneyVal, the FATF, the World Bank, the European Bank for Reconstruction and Development, the IMF and the OECD. 	<ul style="list-style-type: none"> Active engagement in MoneyVal. APML member of the Egmont Group of financial-intelligence units. Observer status of APML in the work of the Eurasian Group on Combating Money Laundering and Terrorist Financing (EAG). 	<ul style="list-style-type: none"> The Administration for the Prevention of Money Laundering and the Financing or Terrorism misused its powers by investigating 57 organizations and individuals from media and civil society without adequate legal grounds in the case named 'The List'.

THE EU APPROACH TOWARDS THE WESTERN BALKANS

The main objective of this report is to assess the anti-corruption pledges of the Western Balkan countries. To that end, this section provides an overview of anti-corruption efforts in the region during the last five years (2015–2020).

The analysis relies mostly on reports, such as those produced by Transparency International (TI), the European Commission (EC), the United Nations Office on Drugs and Crime (UNODC), GRECO and MONEYVAL. The views of the European Commission and the EU approach are particularly relevant since the Berlin Process is an initiative aimed at stepping up regional cooperation in the Western Balkans and aiding the integration of these countries into the EU.

Transitional justice policies¹ towards Western Balkan countries have a strong rule-of-law emphasis, taking into account justice and security issues. A number of policies and statements issued by different bodies of the EU identify corruption as a shared challenge for Western Balkan countries, and list improved anti-corruption measures as a major precondition for accession to the EU.² The latest EU approach, the 2020 Communication on EU enlargement policy (hereafter the ‘2020 Communication’) from October 2020, is no exception to this rule.³ The 2020 Communication is a part of the 2020 Enlargement Package that contains country reports in which the Commission presents an annual assessment of each WB country with information on what has been achieved over the past year. It also provides recommendations and guidance on the reform priorities.⁴ Annex 2 of the 2020 Communication covers ‘Implementation of the Western Balkan Strategy and the Sofia Priority Agenda: enhanced EU engagement’ and contains six flagship initiatives: strengthening support to the rule of law;⁵ reinforcing engagement on security and migration; supporting socio-economic development; increasing connectivity; and a digital agenda for the Western Balkans.

Former EU president Jean-Claude Juncker announced in his 2017 State of the Union Address that the EU Commission was adopting a strategy for ‘a credible enlargement perspective for the enhanced EU engagement with the Western Balkans’⁶ (along with an Annex containing an action plan⁷). Juncker emphasized that the ‘[accession] candidates must give the rule of law, justice and fundamental rights the utmost priority’.⁸

A Communication from the EC, the Council, the European Economic and Social Committee and the Committee of the Regions, dated 6 February 2018 (hereafter the ‘Communication’)⁹ lists priority areas and areas of joint reinforced cooperation. It addresses the specific challenges faced by the Western Balkans, in particular the need for fundamental reforms and good neighbourly relations. It also underscores how a visibly empowered and independent judiciary, and accountable governments and administrations are essential for bringing about lasting societal change.¹⁰ The Communication makes it clear that a credible enlargement perspective requires sustained efforts and irreversible reforms.

The EU also emphasizes that countries in the region must put in place strong frameworks for the prevention of corruption. They should substantially increase transparency, competitiveness and fairness of public procurement (PP) tenders, limit the use of confidential procedures and introduce safeguards to exclude political influence on bidders in the form of a publicly accessible e-procurement system. Instilling managerial accountability and an internal control culture in public institutions are also given weight.

Organized crime’s foothold in the region remains strong, whether in terms of trafficking in human beings, drugs and weapons or the risk of criminal infiltration of the political and economic systems.¹¹ The Communication warns that economic development is hampered by an entrenched grey economy. It observes that state involvement and undue political interference in the economy remain high, while competition and other flanking policies are still too weak. It says that privatization processes must be advanced in full transparency, state-owned enterprises reformed as a priority and corruption addressed.¹²

In addition, trial monitoring in the field of serious corruption and organized crime should be introduced, and indicators of reform implementation should be developed for all Western Balkan states.¹³

On 5 February 2020, the EC came up with a new Communication, ‘Enhancing the accession process: A credible EU perspective for the Western Balkans’.¹⁴ Alongside it, special reports for each Western Balkan country and Turkey were published.¹⁵ The Communication proposes changes to reinvigorate the process based on four principles: more credibility; a stronger political focus; a more dynamic process; and greater predictability.¹⁶ It stresses that the accession process needs to rest on solid trust, mutual confidence and clear commitments by the EU and the Western Balkans.¹⁷ Credibility should be reinforced through an even stronger focus on fundamental reforms, starting with the rule of law, anti-corruption, the functioning of institutions and public administration as well as the economy of the candidate countries.¹⁸ When

partner countries meet the objective criteria, member states shall move forward to the next stage of the process, respecting the merits-based approach.¹⁹

Fighting corruption is clearly a priority: the 2020 Communication mentions the word 'corruption' 88 times. The EC's general conclusion is that the WB countries 'continue to show widespread corruption'.²⁰ Progress in fighting high- and medium-level corruption is uneven, with most countries far from meeting the required standards for membership.²¹ As the 2020 Communication notes, 'robust results in the fight against corruption are needed to mitigate the real threats to democratic structures and for a stable and transparent business environment'.²² Countries must decisively combat high-level and political corruption. Particular attention should be given to strengthening control mechanisms and ensuring transparency in public procurement processes, which remain especially vulnerable to corruption.²³

The agreement by Albania, Bosnia and Herzegovina, Kosovo, Montenegro and North Macedonia to participate in the Sofia priority action on trial monitoring for high-level corruption and organized crime cases is an encouraging development. Another positive sign is that the EC assesses—for the first time—the overall balance in the accession negotiations with Montenegro and Serbia and proposes a way forward.²⁴

According to the 2020 TI report on Examining State Capture, in the WB region,²⁵ while state capture in the region has been documented in the EC's enlargement country reports, 'its underpinnings and motivations are not sufficiently addressed in the reforms promoted in the region'.²⁶ State capture remains a consistent problem across the entire region.

Moreover, the report shows that lengthy court proceedings are a common problem in the WB, especially in Bosnia and Herzegovina, Kosovo and North Macedonia. For instance, in Bosnia and Herzegovina, the deadline of 298 days for first instance court proceedings in corruption cases, was not respected in any of the major corruption cases analyzed by TI. These cases lasted at least 18 months, with some continuing for over three years.²⁷

On 2 March 2020, the EC presented updates on the implementation of reforms in Albania and North Macedonia.²⁸ These updates showed that both countries had increased efforts and delivered further tangible and sustainable results in the key areas identified in the June 2018 Council Conclusions. On this basis, members of the European Council endorsed the decision to open accession negotiations with Albania and North Macedonia.

OVERVIEW OF ANTI-CORRUPTION COMMITMENTS

After a series of terrorist attacks in Europe in 2016, Directive (EU) 2018/843 was adopted in 2018.²⁹ The new directive tightens EU rules on preventing money laundering and terrorist financing in a number of ways. It is to be expected that the anti-corruption pledges follow the newest EU initiatives and legislation. Among them, enhanced regulation within the EU on the protection of whistle-blowing is recognized. The 2019 Directive of the European Parliament and of the Council on the protection of persons who report breaches of Union law³⁰ contains areas such as public procurement (PP), financial services, prevention of money laundering, public health, etc.

In the following assessments of the six countries, their anti-corruption pledges are divided into three categories:

- Economic criteria: public-private partnership (PPP), PP, tax, beneficial ownership information and extractive industries.
- Political criteria: whistle-blower protection, enforcement capabilities, media, institutional integrity, anti-corruption education and transparency initiatives.
- EU legislation: asset-recovery legislation and international systems.

Albania

Although on the right path, Albania still struggles with corruption. It has set up a special prosecution office to tackle organized crime and corruption, based in part on Croatian legislation, which served as one of the models. Implementation of the judicial reform continues. However, while the number of ongoing investigations remains high, final convictions in cases involving high-level officials is still low.³¹ According to the 2020 Communication, Albania has made good progress in the fight against corruption.³² As detailed in the EC's Albania 2020 Report, achievements included the adoption of the new action plan for 2020–2023 for the implementation of the Inter-sectoral Strategy against Corruption; amendments to the Law on Political Party Financing and Electoral Code; and the adoption of a new Law on the Administration of Seized and Confiscated Assets.³³ The vetting of members of the judiciary and the police has also contributed to the fight against corruption.³⁴ In the coming year, the EC stipulates that Albania should: strengthen the fight against corruption; continue establishing a solid track record of prosecuting corruption cases, including seizure and confiscation/recovery of related assets; and accelerate the use of financial investigations.³⁵ Albania should also make sure that the recently-established Special Prosecutor's Office (SPO), the National Bureau of Investigation (NBI), and the Anti-Corruption and Organized Crime courts are operational and effective.³⁶ In addition, they should ensure that these structures have adequate resources and cooperate with other prosecutorial and judicial entities.³⁷ Moreover, the EC recommends that Albania 'continue to improve access to national electronic registries for law enforcement authorities'.³⁸

Economic criteria

Albania's economic growth has trended upwards in recent years as the country has benefited from both the implementation of reforms and the economic expansion of its European trade partners.³⁹ However, annual GDP growth slowed considerably in 2019, before the outbreak of the COVID-19 crisis. due to lower hydro-electricity production, reduced investment and the impact of the November 2019 earthquake.⁴⁰ Overall, 'the impact of anti-corruption measures in particularly vulnerable areas (customs, tax administration, education, health, public procurement, PPP contracts etc.) remains limited. Internal checks and inspection mechanisms within the public administration remain weak and ineffective'.⁴¹

PPPs and PP

The 2015 Law on Concessions and public-private partnerships is partly aligned with Directive 2014/23/EU.⁴² Amendments to the law introduce articles in breach of *acquis*, while road infrastructure of national importance is exempt from the scope of the law.⁴³ Urgent measures are needed to address these discrepancies.⁴⁴ In 2017, the World Bank noted that Albania scores well in preparation and procurements of PPPs.⁴⁵ However, its PPP contract management score is lower.⁴⁶ The 2018 scores are encouraging, as they show an improvement in preparation, procurement and management of PPPs. In spite of that, more could be done for the management of PPP contracts.⁴⁷

Albanian companies face lack of transparency when competing for public tenders, which prevents potential bidders from participating.⁴⁸ Diversion of public funds to private entities due to fraud and corruption is also a problem,⁴⁹ which prevents the normal functioning of sectors that depend on procurement.⁵⁰ In 2016, the State Supreme Audit identified a number of challenges concerning the proper functioning of PP, including frequent legislative changes, different interpretations of the law by civil servants, procedures that are not harmonized within institutions or for similar goods as well as problems in deciding a spending cap and lack of expertise in managing tendering procedures.⁵¹

The use of framework agreements is expanding, but is still very limited. Furthermore, there is no regular report on PPPs.⁵² The technical skills and capacity to design and assess concessions and PPP projects need to be further improved.⁵³ No progress was made in 2018 on harmonization with directives on utilities, or in defence and security.⁵⁴ Furthermore, the law on concessions and PPPs is partly aligned with the directive on the award of concession contracts.⁵⁵

Amendments to the national legislation strengthen the independence of the Public Power Corporation (PPC). On a positive note, the PPC carries out administrative reviews of public tenders, and the majority of PPC decisions are corrective and can be challenged in the Administrative Court.⁵⁶

The EC Albania 2020 Report points out the lack of transparency in public procurement, especially as regards PPP.⁵⁷ However, the law on concessions and PPPs was amended in 2019. It reduces the possibility for unsolicited offers and enhances the Ministry of Finance and Economy's involvement in the assessment and approval of PPP contracts and addenda.⁵⁸

Tax

In 2018, excise taxation was partially aligned with the EU acquis.⁵⁹ The situation remains unchanged.⁶⁰ Albania has not yet established a central liaison office and does not yet have the technical capacity to facilitate the efficient exchange of information or the appropriate infrastructure to apply the EU information technology standards.⁶¹

According to the 2019 EU Commission Report, revenue performance in 2018 was above 2017 levels but below target, largely due to underperformance of VAT and excises.⁶² Tax revenues remain far below potential.⁶³ This is mainly due to informality in the economy (e.g. a considerable number of taxpayers who under-report the salaries of their employees), but also to tax evasion in the formal economy. Tax evasion, along with other crimes like drug trafficking, smuggling and human trafficking, generates large amounts of cash.⁶⁴ However, tax collection has been modernized with the adoption of a 'MONEYVAL package' of laws in June 2019, although the number of tax exemptions is increasing.⁶⁵

Beneficial ownership

The majority of the customer due-diligence measures cover legal arrangements by explicitly referring to them, however, the Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) Law often refers only to customers or beneficial owners.⁶⁶ Definitions of the latter are taken from the AML/CFT Act, and do not cover legal arrangements.⁶⁷ This is worrying, as it is the key guidance document for financial institutions (FIs) supervised by the Bank of Albania. It sets instructions for assessing risk and offers indicators of suspicious activities.⁶⁸

In 2018, the lack of provisions requiring FIs to identify a beneficiary was identified as another shortcoming.⁶⁹ In addition, FIs are not required to consider the beneficiary as a relevant risk factor in determining if enhanced due-diligence measures are applicable.⁷⁰ Nothing had changed by 2019, while technical and operational issues in establishing the beneficial owner had been encountered.⁷¹ On 21 February 2020, the Financial Action Task Force (FATF) included Albania in the list of jurisdictions subject to enhanced monitoring. Albania has committed to implementing the FATF Action plan by October 2021, covering topics such as money-laundering risks, mutual legal assistance, transparency of beneficial ownership, prosecution and confiscation measures. In July 2020, Albania adopted a law establishing a beneficial ownership registry.⁷²

Extractive industries

Rich in natural resources,⁷³ Albania is using the Extractive Industries Transparency Initiative (EITI) to modernize and promote good governance of the extractive industries.⁷⁴ It is worth noting that Albania is the only EITI-implementing country to expand its EITI scope to hydropower.⁷⁵ In February 2018, the EITI board agreed that Albania had made meaningful progress in implementing the 2016 EITI standard.⁷⁶

In the field of corporate accounting, Albania is partially aligned with the EU Accounting Directive, through the 2018 Law on Accounting and Financial Statements, which includes rules for large and public-interest economic entities active in the extractive or logging industries.⁷⁷

Political criteria

Whistle-blower protection

Albania adopted its first law on whistle-blower protection in 2016. According to the United Nations Convention against Corruption (UNCAC) review, Albanian legislation does not explicitly provide legal protection for whistle-blowers.⁷⁸ The Law on Public Collaboration in the Fight against Corruption covers financial remuneration and anonymity for officials who report corruption as well as protection from any kind of responsibility for reports that turn out to be inaccurate.⁷⁹

Furthermore, as reported by Albania's High Inspectorate of Declaration and Audit of Assets and Conflict of Interests (HIDAACI) in 2018, the practice of whistle-blowing in the country is hindered by prejudices on the one hand, and poor understanding and reporting by the media on the other.⁸⁰ In spite of that, awareness-raising has been minimal and led by foreign-sponsored NGOs.⁸¹

According to the Albania 2020 Report, evaluation of the implementation of the Law on Whistle-blowing and Whistle-blower protection is ongoing.⁸² Responsible structures have been established at central and local level: 166 units for protecting whistle-blowers and reporting cases to HIDAACI, with another 446 units set up across private companies.⁸³ The number of external reporting cases registered and investigated by HIDAACI decreased slightly from 16 in 2018 to 14 in 2019.⁸⁴

In general, the Law on Whistle-blowing and the vetting process for judicial and law enforcement personnel have strengthened HIDAACI's role in identifying conflicts of interest and checking asset declarations.⁸⁵

Enforcement capabilities

Administration of justice continues to be slow and inefficient, while corruption remains prevalent across the judicial sector.⁸⁶ In 2016, GRECO concluded that out of the ten recommendations in the fourth-round evaluation report, nine have been partly implemented and one has been dealt with in a satisfactory manner.⁸⁷ Convictions of high-ranking officials remain very low in 2018.⁸⁸ Corruption remains prevalent and continues to be a serious problem.⁸⁹

Nevertheless, international police cooperation, particularly with EU Member States, has expanded, with several successful large-scale law enforcement operations in 2019 and 2020.⁹⁰ Cooperation between the police and prosecution also intensified.⁹¹

As previously mentioned, Albania has established specialized bodies responsible for investigating, prosecuting and adjudicating complex corruption cases: the Anti-Corruption and Organized Crime courts and SPAK, comprising the SPO and the NBI.⁹² However, the SPO does not yet have the guidelines or best practices necessary to address complex, high-level corruption cases.⁹³ Following the successful conclusion of the vetting process, a Chief Special Prosecutor and 13 of the 15 Special Prosecutors, as well as the Director of the NBI, were appointed.⁹⁴ Sixteen judges were transferred to the first and second instance Anti-corruption and Organised Crime courts, in line with the SPO's jurisdiction.⁹⁵

Law enforcement authorities are able to operate better and conduct investigations more efficiently since police and prosecution were granted direct access to additional private and public national registries.⁹⁶ Overall, law enforcement resources are insufficient, with particular concerns about high staff turnover and inadequate inter-institutional cooperation.⁹⁷ In addition, the length of court proceedings, as well as the execution of court decisions, remain points of concern.⁹⁸ The establishment in 2019 of 'a network of anti-corruption coordinators in 16 agencies ... has also

contributed to improving the effectiveness in the fight against corruption'.⁹⁹ However, Albania still lacks an Asset Recovery Office.

Vetting has begun for the State Police, Guard of the Republic and the Service for Internal Affairs and Complaints (SIAC). To date, 45 of 300 high-level officials have been vetted, resulting in one dismissal and one resignation.¹⁰⁰ The results of this process are 'crucial to restore public trust in the judiciary and law enforcement bodies of the State'.¹⁰¹ In order to efficiently handle those cases not covered by the SPAK or NBI, Albania must strengthen district law enforcement authorities.¹⁰²

Media

In 2015, Albania's independent media rating declined from 4.00 to 3.75 due to editorial restraint and the dismissal of investigative journalists. Private and political interests continue to dominate the media, as epitomized by the so-called Blue Lagoon case.¹⁰³

No significant improvements were made in 2016. The independence of the regulatory authority and public broadcaster must be further strengthened and transparency of state advertising in the media further enhanced.¹⁰⁴

Although the HIDAACI rightly points to the need for improved awareness-raising efforts, the Albanian media has been slow to properly report on whistle-blowing.¹⁰⁵ The overall legislative environment in 2019 is beneficial to the exercise of freedom of expression, but further efforts are needed.¹⁰⁶

Parliament approved amendments to the media law, aimed at regulating online media and some aspects of defamation.¹⁰⁷ However, the amendments 'fall short of international standards and principles of media freedom and raise concerns about increased censorship and self-censorship, and about possible setbacks on freedom of expression'.¹⁰⁸ The draft media law is undergoing revision in light of a June 2020 opinion issued by the Venice Commission.¹⁰⁹ The EC called on Albania to institute a zero-tolerance policy on intimidation of and attacks against journalists; this should also cover threats against the media, including those made in political discourse.¹¹⁰

Institutional integrity

GRECO acknowledges that rules and certain tools (an NGO register, the coordinator for interest groups) to better manage the relations of Members of Parliament (MP) with public and private entities have been introduced.¹¹¹ Nevertheless, most measures regulate the non-governmental sector and, in particular, civil society, notably as regards participation in public hearings.¹¹² Where MPs' conduct is concerned, rules are rather fragmented.¹¹³ They apply to the official contacts of the assembly and its committees, but not to those of parliamentary groups.¹¹⁴ Individual deputies are not under an obligation to disclose or limit their contacts, regardless of whether the latter have influence over legislation debate.¹¹⁵ There is no concrete information on how or if a code of conduct would remedy this.¹¹⁶ In its 2018 report, GRECO emphasizes the need for the judicial reform to be fully implemented.¹¹⁷ Moreover, MONEYVAL's 2018 report concludes that Albania does not do enough to address the key risks identified in the 2015 national risk assessment.¹¹⁸

In November 2019, GRECO conducted the first visit (fifth round) dealing with ‘the prevention of corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies’.¹¹⁹

Although a law to prevent corruption and ensure the integrity of public officials and civil servants exists, ‘institutional capacity for verifying assets and assessing conflict-of-interest declarations should be reinforced’.¹²⁰ While a ‘Manual of Ethics on Public Service Delivery’ was adopted, no integrity plans have been developed for line ministries.¹²¹ At the local level, five municipalities piloted and adopted integrity plans to combat corruption.¹²²

Anti-corruption education

Although training and education are essential to prevent corruption, Albania has done little in that respect. In its 2016 report, GRECO urges authorities to prioritize drafting ethical rules applicable to judges.¹²³ It also warns against multiplying bodies with overlapping powers, as the perception that judicial ethics have been neglected might resurface.¹²⁴

Two years later, GRECO concluded that the adoption of practical guidelines and organization of dedicated training and counselling for deputies concerning standards contained in the code of conduct, as required by the second part of the recommendation, should be properly enforced.¹²⁵ Nevertheless, it is worth noting that the law faculty at the University of Tirana established an anti-corruption legal clinic in 2015, which won the 2019 Sheikh Tamim Bin Hamad Al-Thani International Excellence Award. The effectiveness of financial investigations remains low, local judicial police officers and prosecutors should be further trained to enhance their financial investigation techniques and enable them to better investigate new criminal offences, especially financial crimes and money laundering.¹²⁶

Transparency

Albania scores low on TI’s Corruption Perceptions Index (CPI) – scoring 36 out of 100 in 2015; 39 in 2016; 38 in 2017; 36 in 2018; and 35 in 2019 (where zero indicates high perception levels of corruption and 100 is the lowest possible level of corruption perception).¹²⁷ The NGO makes note that the lack of progress is a likely result of the 2018 political stalemate in Albania and the consequent inability of the government to implement anti-corruption reforms.¹²⁸ On the other hand, the ongoing judicial vetting process and the process of establishing new anti-corruption institutions are promising, but are still to produce results.¹²⁹

EU legislation

Asset recovery

Albania’s track record of freezing and confiscating illegally acquired assets remains very low.¹³⁰ Albanian legislation does not recognize concealment of the proceeds of crime as a separate offence, and offenders are instead prosecuted under money-laundering legislation.¹³¹ Additionally, even though Albania has established the Agency for the Administration of Seized and Confiscated Assets, its mandate is limited to assets related to the anti-mafia law.¹³² As the 2018 GRECO report points

out, the anti-mafia law provides for the protection of *bona fide* third parties in confiscation proceedings; however, no such accords are made in the sequestration procedure.¹³³ Therefore, more efforts are needed to tackle money laundering, criminal assets and unjustified wealth.¹³⁴

As previously noted, the Parliament adopted a new law on the administration of seized and confiscated assets in July 2019; it foresees the creation of an asset recovery office, in line with EU *acquis*.¹³⁵ However, set-up of this office is still pending.¹³⁶ Nor has Albania adopted legislation targeting unjustified wealth, which would cover topics like extended confiscation and legal financial ceilings in cash transactions.¹³⁷ The authorities do not systematically order or carry out the seizure and confiscation of criminal assets in corruption-related cases.¹³⁸ Nevertheless, some progress has been made in the seizure and confiscation of criminal assets, with Albania reporting the seizure of criminal assets and property worth approximately €20 million under the anti-mafia law in 2019—an increase of about €13 million over the previous year.¹³⁹ In 2019, confiscated assets were worth an estimated €870 000, compared to only €26 600 in 2018.¹⁴⁰

International systems

Albania is still to fully align its legislation with GRECO recommendations. As of 2015, the country maintained a 2003 bilateral immunity agreement with the United States, granting exemptions for US citizens from the jurisdiction of the International Criminal Court.¹⁴¹ In doing so, it did not comply with EU common positions on the integrity of the Rome Statute or with the related EU guiding principles on bilateral immunity agreements.¹⁴²

The 2018 MONEYVAL report identifies significant limitations stemming from the legal framework on the ability of authorities to provide assistance in the confiscation of assets.¹⁴³ It is unclear if Albania can cooperate in relation to non-conviction-based confiscation proceedings.¹⁴⁴ The ability to share confiscated property with other countries was not demonstrated.¹⁴⁵ The 2018 European External Action System report draws the conclusion that the administrative capacity and professional standards of the bodies that would be responsible for the implementation of the *acquis* need to be strengthened, and the independence of regulatory bodies safeguarded.¹⁴⁶

According to the EC's Albania 2020 Report, increased international police cooperation led to a number of successful seizures of drugs and assets, as well as prosecutions in 2019.¹⁴⁷ However, room for improvement remains in regard to international cooperation, the timely implementation of multilateral instruments and Albania's institutional capacity.¹⁴⁸

Bosnia and Herzegovina

Bosnia and Herzegovina is perceived as highly corrupt.¹⁴⁹ A 2016 report observes that the public sector in the country is inefficient and private-sector development slow.¹⁵⁰ Not much has changed. Key issues, such as weak rule of law, weak institutional capacities, poor business environment, etc. remain.¹⁵¹ Moreover, the autonomous and practically disconnected legal systems at state-, entity- and canton-level make institutional cooperation challenging at the very least.¹⁵² This presents yet another obstacle to systematic anti-corruption efforts in the country.¹⁵³ According to the EC's 2020 Communication, no progress has been made in Bosnia and Herzegovina concerning corruption.¹⁵⁴ The failure to harmonize legislation across the country, combined with poor cooperation and coordination among institutions continue to hamper the fight against corruption.¹⁵⁵

Economic criteria

Economic growth

Bosnia and Herzegovina has not progressed beyond the early stages of establishing a functioning market economy.¹⁵⁶ Although domestic demand remained strong, economic growth declined in 2019 and early 2020.¹⁵⁷ The economy was already in a downturn when the COVID-19 pandemic hit.¹⁵⁸

Public procurement, which 'represents a significant share of public spending and thus plays an important role for the private economy', is not in line with the EU acquis, since it is governed by unnecessarily complex procedures that facilitate corruption and favour domestic suppliers.¹⁵⁹

PPPs and PP

Corruption, lack of transparency, conflicts of interest and weak institutions are identified as presenting risks to PPPs.¹⁶⁰ Naturally, assessment and monitoring of PPPs is essential, but while the Republika Srpska (RS) oversees PPPs at least to some extent, the Federation of Bosnia and Herzegovina (FB&H) does not.¹⁶¹

As of 2018, there was no unified law on PPP, but rather 12 separate ones.¹⁶² RS and Brčko District adopted their PPP laws in 2013 and 2010, respectively. The FB&H only drafted a law on PPP in 2009, which as of 2017 was still to be adopted.¹⁶³ To make matters worse, each canton in the FB&H has its own set of PPP laws.¹⁶⁴

The legislative framework on concessions and PPPs is highly fragmented and must be harmonized with the EU acquis.¹⁶⁵ Not only has the implementation of the 2016–2020 strategy for the development of public procurement been delayed, but no effective electronic public procurement system has been introduced to improve transparency and lessen abuse of public resources.¹⁶⁶ The country's Public Procurement Agency, which is authorized to 'initiate, implement and monitor public procurement reform in all sectors' lacks sufficient administrative capacities.¹⁶⁷ The EC identified 'serious backsliding' during the reporting period, due to the preferential treatment for domestic bidders in awarding public contracts.¹⁶⁸ This is a breach of Bosnia and Herzegovina's commitments towards the EU.¹⁶⁹

On a more positive note, the corruption prevention body of Sarajevo Canton mapped corruption risks and adopted a methodology on public-procurement monitoring for COVID-19 pandemic-related measures.¹⁷⁰ The canton's government followed up on the body's work, with 70 reports of irregularities processed and more than 20 cases referred to responsible institutions for follow-up.¹⁷¹ In 2021, the EC recommends that authorities strengthen the Public Procurement Agency and the Procurement Review Body's administrative capacities by hiring more staff and providing them with appropriate training.¹⁷² This would enhance the transparency of the procurement process.

Tax

Political tensions led to slowing the pace of reform in 2018, including the adoption of legislation on excise tax.¹⁷³ In 2019, public finances benefited from strong revenue growth, reflecting not only rising domestic demand but also improved tax collection measures.¹⁷⁴ A large portion of the economy – some 25–35% of GDP – remains informal. 'It provides (unregistered) employment and income, but also distorts competition and erodes the base for taxation and social security contributions.'¹⁷⁵ Bosnia and Herzegovina signed the OECD/Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters on 26 November 2019 and ratified it in July 2020.¹⁷⁶ Bosnia and Herzegovina must now strengthen its capacity and improve inter-agency cooperation to more effectively combat tax and customs fraud.¹⁷⁷

Beneficial ownership

The MONEYVAL 2015 report shows poor implementation of beneficial ownership requirements. The mechanism in place to ensure adequate transparency of beneficial ownership and control of legal persons is not comprehensive enough.¹⁷⁸ In particular, an asset recovery office and a beneficial ownership register on legal persons should be established.¹⁷⁹ Targeted trainings were regularly delivered, until the outbreak of the COVID-19 pandemic.¹⁸⁰

Extractive industries

Uneven and disharmonious legislative frameworks for the natural gas sector at entity level and missing

legislation at state level, have jeopardized the already precarious supply of natural gas in the country.¹⁸¹ This is contrary to EU requirements and led to a supply crisis in late 2019.¹⁸²

Political criteria

Whistle-blower protection

In its 2018 report, the EC reiterates that corruption is still present and widespread in Bosnia and Herzegovina.¹⁸³ Although whistle-blowing is essentially the right to freedom of expression and the act itself is crucial in tackling corruption, the Committee of Ministers of the Council of Europe (CoE) stresses that current whistle-blower guarantees in Bosnia and Herzegovina are insufficient.¹⁸⁴

Despite the existence of some protection mechanisms, the number of whistle-blowers remains small.¹⁸⁵ This is likely because of the deep-rooted mistrust in institutions' capacities and the perception of corruption's omnipresence.¹⁸⁶ The EC's Bosnia and Herzegovina 2020 Report underlines the necessity for the country to adopt in 2021 a state-level law to prevent conflicts of interest and to complete the legal framework to protect whistle-blowers.¹⁸⁷ Protection for whistle-blowers remains minimal: 'The Agency for the Prevention of Corruption and Coordination of the Fight against Corruption granted administrative protection to whistle-blowers in one case in 2019, compared with two in 2018. There is no legislation on whistle-blower protection in the Federation entity'.¹⁸⁸ Rules to protect whistle-blowers are not enforced in the Brčko District either. Although this district designated a body for the protection of whistle-blowers, it is not yet operational.¹⁸⁹

Enforcement capabilities

Bosnia and Herzegovina's failure to harmonize criminal legislation, combined with poor institutional coordination, seriously hinders its capacity to effectively dismantle criminal organizations.¹⁹⁰ The resulting 'systemic lack of operational cooperation' and extremely limited intelligence-sharing, creates 'many opportunities for criminal organizations'.¹⁹¹

The country's criminal justice policy is 'largely ineffective' in combating corruption.¹⁹² Very few high-profile corruption cases end with a final

conviction.¹⁹³ One element of this ineffectiveness is the inadequate penalties, which are insufficient to deter corruption.¹⁹⁴ Another element is the overall inefficiency of the justice system: proceedings are lengthy, in part due to 'weak trial management and lenient enforcement of procedural discipline by judges'.¹⁹⁵ It is imperative that the country increase managerial oversight of court presidents/chief prosecutors and adopt legislation and implementing measures to shorten the length of proceedings.¹⁹⁶

In 2021, the country should also focus on improving cooperation among law enforcement agencies, in particular by: 'establishing specialised multi-agency investigation teams for complex cases; improving mutual access to databases and the secure exchange of information; strengthening financial investigations; and adopting standard operating procedures to run financial investigations'.¹⁹⁷ The institutional set-up in complex, with multiple distinct law enforcement bodies, 15 of which have investigative powers.¹⁹⁸ There are currently 481 police officers per 100 000 inhabitants in the country, significantly more than the EU average of 326 in 2017.¹⁹⁹ Better cooperation and exchange of crime-related data between domestic law enforcement agencies and their regional counterparts is necessary.²⁰⁰

Media

There is some level of preparation on freedom of expression, but no progress was made in 2016 according to the EU Commission Report.²⁰¹ Cases of political pressure and intimidation against journalists need adequate legal follow-up.²⁰² Both the financial stability of the public broadcasting system and the lack of transparency in media ownership are still to be addressed.²⁰³

Political pressure and intimidation towards journalists continued in 2018, including both physical and verbal attacks.²⁰⁴ The EC's 2020 Communication confirmed that no progress was made in the reporting period, with authorities 'react[ing] weakly to concerns over political pressure, intimidation and threats against journalists'.²⁰⁵ There has also not been any progress towards protecting freedom of expression, freedom of media or journalists.²⁰⁶ Bosnia and Herzegovina must ensure a judicial response to threats of and violence against journalists and other media workers. It should also

guarantee the public broadcasting system is politically independent and has a sustainable financial basis.²⁰⁷

In order to provide transparency and restore public trust in the judiciary, courts and prosecutors' offices should undergo comprehensive training on public communication and media relations.²⁰⁸ In addition, Bosnia and Herzegovina should adopt legislation on transparency of media ownership and criteria for public advertising.²⁰⁹ Public companies' advertising practices and advertising agencies with ties to political parties have a negative impact on media integrity.²¹⁰ At the start of the COVID-19 pandemic, from 19 March to 17 April 2020, legislation was in force in the Republika Srpska entity 'prohibiting the transmission of information that may cause panic or severely violate public peace and order'.²¹¹ 'Such legislation has a chilling effect on freedom of expression for both media and individuals, leading to the risk of self-censorship'.²¹² Regarding media self-regulation although all major media outlets pledged to comply with the Press Council's press and online media code, their compliance is uneven.²¹³

Institutional integrity

In 2016, the FB&H implemented changes to its civil-service legislation, which led to a growing risk of politicization.²¹⁴ Currently, a harmonized approach to policy development is lacking between the entities.²¹⁵

The adoption of a new strategic framework for public administration as well as a strategy on public financial management are needed.²¹⁶

According to the 2015 MONEYVAL report, protection from criminal and civil liability was not extended to directors and officers of obliged entities.²¹⁷ There were significant delays in the enactment of legislation due to lack of agreement between policymakers.²¹⁸ Politically motivated threats on the judiciary continued.²¹⁸ Judicial independence remains to be strengthened.²¹⁹

Bosnia and Herzegovina has four nearly completely autonomous, virtually detached legal systems, which makes inter-institutional cooperation very challenging.²²⁰ Legislative activity that regulates the work of the judiciary and law-enforcement agencies takes place within those jurisdictions but lacks harmonization.²²¹ In turn, funding comes from 14 different local budgets,

which undermines stability and makes the judiciary vulnerable to political interference through budgeting processes.²²² All these factors open up room for uneven judicial practices, inconsistent application of laws and unequal treatment of the same factual and legal situations, while criminals continue to operate unhindered across these administrative boundaries.²²³

In 2018, Bosnia and Herzegovina's constitution remained in breach of the European Convention on Human Rights.²²⁴ A number of reforms were delayed by disagreements within the ruling coalition.²²⁵ A national programme for the country's legal harmonization with the EU acquis has yet to be adopted.²²⁶ According to GRECO's 2018 report, changes would also need to be introduced in the electoral law.²²⁷ Moreover, it will be necessary to ensure that the law, once adopted, is effectively implemented in practice.²²⁸ The absence of operational mechanisms allowing asset declarations and financial reports to be effectively reviewed for both repressive and preventive purposes is certainly a crucial weakness in the existing conflict-of-interest regime.²²⁹

As of 2018, lobbying remained unregulated in Bosnia and Herzegovina.²³⁰

According to the Bosnia and Herzegovina 2020 Report, the country did not take any legislative steps or set up an action plan to implement the comprehensive set of recommendations regarding the transparency and overall integrity of the electoral process and the implementation of election results that were issued by GRECO and the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE).²³¹

Concerning the judiciary, 'evident signs of deterioration require urgent measures to strengthen the integrity and regain citizens' trust in the judiciary, starting with a credible and rigorous system of verification of financial statements of judicial office holders'.²³² The lack of an effective and transparent system for the submission, verification and processing of the asset declarations of judges, prosecutors, and members of the High Judicial and Prosecutorial Council strongly impacts the integrity of the judiciary.²³³

Anti-corruption education

GRECO notes that no new developments have been reported on integrity-related guidance, training and counselling opportunities.²³⁴

Civil service agencies do not have funds to adequately train or ensure the professional development of staff.²³⁵ In general, the country lacks systemic, consolidated data on the integrity of civil servants.²³⁶ The EC recommends that court presidents and chief prosecutors 'be more involved in identifying the training needs of their staff'.²³⁷ In 2021, the country should also 'significantly improve rules and practices on the appointment, integrity and training of judges and prosecutors,' as well as institute a performance appraisal system.²³⁸

Transparency

Bosnia and Herzegovina scored 38 on the Corruption Perceptions Index in 2015; 39 in 2016; 38 in 2017; 38 in 2018; and 36 in 2019.²³⁹

The laws on concessions permit the awarding of concessions based on unsolicited proposals, without public tender, which is not in line with good practice or EU directives.²⁴⁰ It has been observed that: 'The basic characteristic of the concession system in [Bosnia and Herzegovina] is a large number of concession agreements awarded through unsolicited offer, without sufficiently open, transparent and competitive procedures'.²⁴¹

In 2018, GRECO noted that the chief prosecutors of the Prosecutor's Office of Bosnia and Herzegovina, the Federal Prosecutor's Office of the FB&H, the Republic Prosecutor's Office of RS and the Prosecutor's Office of the Brčko District were exempt from performance appraisal.²⁴² It invited the High Judicial and Prosecutorial Council of Bosnia and Herzegovina to adopt evaluation criteria for these professionals too.²⁴³ Finally, the performance-appraisal system for judges still needs to be upgraded.²⁴⁴ According to the 2020 TI report on state capture in the WB, 'one of the most effective ways to control public decision-making is to have loyal people in positions of responsibility'.²⁴⁵ It requires control over appointments and the ability to dismiss those who call into question the use of public office for private gain. Bespoke legislation enabling exactly this type of control was identified by TI in Bosnia and Herzegovina.²⁴⁶

EU Legislation

Asset recovery

The 2015 MONEYVAL report states that the confiscation of instrumentalities is subject to imprecise conditions in most cases.²⁴⁷ High evidential standards are applied in some parts of the country, leaving the number of confiscation orders low overall.²⁴⁸ Limited use of provisional measures means that a high proportion of confiscation orders cannot be enforced.²⁴⁹ Value-based confiscation is not applied.²⁵⁰ In 2018, a UNODC report asserted that specialized and independent institutions have been established with a mandate to recover assets and manage them, such as the Federal Agency for the Management of Seized Assets of the Federation of Bosnia and Herzegovina and the Asset Recovery Office and the Asset Management Agency of Republika Srpska.²⁵¹

However, these independent institutions do not have mechanisms in place to ensure domestic inter-agency coordination.²⁵² Apart from RS, Bosnia and Herzegovina has not yet had any cases of seized assets, either domestically or internationally.²⁵³ Results in RS to date include US\$13 million in managed or seized assets, US\$7 million in confiscated assets and US\$5.5 million in domestic asset returns.²⁵⁴ According to the Bosnia and Herzegovina 2020 report, adoption of new legislation on anti-money laundering and terrorist financing, as well as the creation of an asset recovery office, have been delayed. The latter would help the country make more consistent use of legal provisions on asset confiscation.

Bosnia and Herzegovina must also 'improve its track record of financial investigations, prosecutions and convictions for related offences'.²⁵⁵ Although extended and third-party confiscations are possible under the current criminal legislation, they are rarely used.²⁵⁶ In 2019, €11.8 million in assets were confiscated in 106 cases (first instance and final convictions), compared to €9.7 million confiscated in 116 cases in

2018.²⁵⁷ The tools required to freeze, manage and confiscate criminal assets are inadequate.²⁵⁸ The country needs to make 'the confiscation of criminal assets a strategic priority in the fight against organized crime, terrorism and high-level corruption'. A more systematic approach to the immobilization of assets needs to be instituted, along with better management of frozen assets.²⁵⁹ Data can be used to improve the effectiveness of the system, and therefore data on asset seizure and confiscation should be collected and analyzed.²⁶⁰

International systems

The conclusion of the 2019 EU Commission report is that Bosnia and Herzegovina will need to reform its institutions to be able to effectively participate in EU decision-making and to fully implement and enforce the *acquis*.²⁶¹

In 2016, cooperation between state-level, entity-level and Brčko District parliaments improved.²⁶² However, their role and capacities in the EU integration process need further work.²⁶³ A strategic programme for the country's legal approximation with the EU *acquis* has yet to be adopted.²⁶⁴ Further sustained efforts are needed with regard to justice, freedom and security matters, and competition.²⁶⁵ The country is a signatory to several agreements that foster cooperation with neighbouring countries.²⁶⁶ Cooperation between the Border Police and the European Border and Coast Guard Agency (Frontex) and Interpol is satisfactory.²⁶⁷ Bosnia and Herzegovina initialled a Status Agreement with the EU in January 2019, which should now be signed and ratified.²⁶⁸ The country will have to develop joint operational plans with Frontex, to enable the deployment of European border and coast guards at its EU border, as well as operational activities between the Border Police and Frontex.²⁶⁹ Bosnia and Herzegovina already participates in the Frontex-led Western Balkan Risk Analysis Network.²⁷⁰ The EC recommends that law enforcement authorities in Bosnia and Herzegovina 'make use of regional initiatives, such as the Joint Operational Office in Vienna, which serves as a regional operational platform for international investigations into migrant-smuggling organized crime groups'.²⁷¹ and the country signed an agreement with the EU to implement the 2018 joint action plan on counterterrorism for the Western Balkans.²⁷²

Kosovo

Lack of transparency and accountability in the public administration results in widespread corruption, which poses serious risks to companies operating in or planning to invest in Kosovo.²⁷³ Although anti-corruption laws are strong, the judicial system is inefficient, leading to poor enforcement.²⁷⁴ Active and passive bribery, extortion, money laundering and abuse of office are all prohibited under Kosovo's Criminal Code, while facilitation payments have not been addressed.²⁷⁵ All gifts received by public officials are required to be declared and registered.²⁷⁶ This notwithstanding, the practices of bribery and offering gifts are common.²⁷⁷ The government, which came to power in June 2020, has emphasized the fight against corruption as one of its top priorities.²⁷⁸

The new administration is facing the disappearance of €2 million from the state budget. On 20 October 2020, the police arrested a finance ministry official, citing four illegal transfers of €2.07 million from the Ministry of Infrastructure to a private company, the LDA Group, on 9 October.

According to the 2020 Communication, due to the extended electoral period, as well as two changes of government, Kosovo has made only limited progress on EU-related reforms.²⁷⁹ As already stated, it is a positive sign that Kosovo (together with all WB countries except Serbia) agreed to participate in the Sofia priority action on monitoring of trials in high-level corruption and organized-crime cases.²⁸⁰ Overall, in Kosovo limited progress in fighting corruption has been observed. Corruption remains a serious, widespread problem: 'despite efforts made, there is a need for strong and continual political will to effectively address corruption issues, as well as a robust criminal justice response to high-level corruption'.²⁸¹ Robust implementation of the amended legislation is also crucial. Confiscation of assets is still seen merely as a peripheral element of criminal proceedings, deserving little attention or resources.²⁸²

Economic criteria

The country's persistent trade deficit reflects a weak production base and poor international competitiveness, while reliance on remittances and the widespread informal economy additionally decrease employment incentives.²⁸³ The continued politicization of public administration remains a concern, and adversely affects its efficiency and professional independence.²⁸⁴ The 2019 EU Commission report states that the government adheres to the fiscal rules, but certain spending pressures pose risks to public finances and hinder private-sector development.²⁸⁵

Kosovo 'has made limited progress in developing a functioning market economy'.²⁸⁶ While the labour-market situation and the lack of economic diversification continue to pose challenges, strong economic growth continued throughout 2019.²⁸⁷ However, Kosovo's economic outlook deteriorated rapidly after the onset of the COVID-19 crisis, as quarantine measures disrupted remittances.²⁸⁸

PPPs and PP

The PPP unit does not assess or estimate the fiscal risks of existing or pending projects and, as such, the government's accountability for managing government risk exposure under PPPs remains limited. The relatively high cost of transactions for the development and implementation of PPPs hampers their sustainable development.²⁸⁹ The following weaknesses of PPPs in Kosovo were identified: low capacity of contracting authorities to develop transactions without the assistance of donors, a low level of PPP recognition within public authorities and the private sector, and lack of a publicly available list of future PPP transactions that would enable potential investors to undertake the necessary planning.²⁹⁰ In its Kosovo 2020 Report, The EC recommends that Kosovo 'enhance public-private sector dialogue through the National Council for Economic Development and make this body effective'.²⁹¹

Concerning public procurement, Kosovo made limited improvements in the transparency of the public administration and public procurement procedures.²⁹² Implementation of reforms in this area have been hampered by weak central and inter-ministerial coordination.²⁹³ In addition, 'contract implementation remains prone to irregularities and vulnerable to corruption'.²⁹⁴ Kosovo initiated a revision of its legal framework to align it with the EU acquis on e-procurement, contract implementation and monitoring and tender evaluation.²⁹⁵ Despite advancements, 'public procurement remains prone to irregularities and vulnerable to corruption during the procurement process and contract implementation'.²⁹⁶ To ensure compliance with procurement law, Kosovo 'needs an efficient remedy system with sufficient capacity, including a fully staffed board of the Procurement Review Body'.²⁹⁷ Although Kosovo has a public procurement code of ethics, adherence is not monitored.²⁹⁸

Extractive industries

The energy sector continues to face problems, with no progress made in decommissioning the Kosovo A power plant or refurbishing Kosovo B plant and very little progress in the field of renewable energy.²⁹⁹

Kosovo's energy production system is largely coal-based, outdated and unreliable.³⁰⁰ Kosovo has nevertheless made some progress on energy issues, particularly regarding energy-efficiency measures in the public sector and incremental growth of investments in renewable energy sources.³⁰¹ In addition, Kosovo took a step towards integration in regional energy networks, 'improving an unreliable and health-hazardous energy supply which is a key bottleneck for Kosovo's economic development'.³⁰² Little progress was achieved in the environmental sphere.³⁰³

The economy is slowly becoming digitalized.³⁰⁴ The economic sectoral structure is shifting towards non-tradable activities, which put an emphasis on competitiveness and increased merchandise exports.³⁰⁵ Serious improvements need to be made in the quality of the educational system; unfortunately, no progress was made in this area.³⁰⁶ Regarding the institutional framework on anti-trust regulations, 'the Kosovo Competition Authority, as the responsible institution to implement competition law, has powers to initiate investigations, conduct onsite inspections, impose fines and remedies and prohibit anti-competitive mergers'.³⁰⁷ The Authority adopted a Strategic Plan for 2020–2023 and signed memoranda of understanding in 2019 with the Energy Regulatory Office, Kosovo Railways, the Electronic and Postal Communications Regulatory Authority, the Water Services Regulator and the Central Bank.³⁰⁸ The Authority should continue to improve cooperation and coordination with government institutions, regulators and ministries.³⁰⁹ It also needs to ensure follow-up on individual public procurement cases by working closely together with public procurement bodies.³¹⁰

Political criteria

Whistle-blower protection

Kosovo's whistle-blower law is not in line with European or international standards.³¹¹ It does not allow for external whistle-blowing, and public institutions are not required to set up reporting channels.³¹² In addition, the law imposes no financial penalties on employers who retaliate against their workers and there are no mechanisms to monitor the implementation of the

law.³¹³ In practice, the law has not been implemented or enforced effectively, thus exposing whistle-blowers to victimization.³¹⁴ As of 2018, the current law on the protection of informants was still not in line with international standards.³¹⁵ Whistle-blowing mechanisms and protection requirements need to be strengthened in law and in practice.³¹⁶

In 2020, Kosovo appointed officers to handle whistle-blower complaints in more than 175 public institutions, thereby helping to implement whistle-blower protection rules.³¹⁷ However, the secondary legislation that should elaborate the procedure for handling these complaints has not yet been adopted.³¹⁸ The Law on the Protection of Whistle-Blowers largely meets international standards; however, whistle-blowing mechanisms and protection requirements must be improved in practice.³¹⁹ For example, while the new legislation improves the protection of journalists' sources, implementing legislation has not been prepared by the justice ministry.³²⁰ The authorities publish annual reports on disciplinary measures imposed on civil servants.³²¹

Enforcement capabilities

In 2016, the EU Commission reported that the administration of justice is slow and inefficient, and there is insufficient accountability of judicial officials.³²² The judiciary is vulnerable to undue political influence, and rule-of-law institutions suffer from a lack of funding and human resources.³²³

A 2019 report, based on the work of the Balkan Investigative Reporting Network (BIRN), finds that in 2018, there was a fall in the number of resolved cases, in verdicts imposing effective prison sentences, and in verdicts imposing fines or parole sentences.³²⁴ On the other hand, there was a drastic increase in acquittals and the number of dropped cases.³²⁵

There was a deterioration in the fight against corruption in terms of the number of accused persons as well as in the number of punishable verdicts.³²⁶ In total, 152 people accused of corruption received no sentences because they were acquitted or their cases were dropped, and only 65 people were sent to prison.³²⁷ The BIRN report finds that of the total of €27 867 583 sequestered by the judicial authorities in all cases in 2018, only €49 393, or 0.1 per cent of the total

amount, was confiscated. No money was confiscated in corruption cases.³²⁸

According to the EC's Kosovo 2020 Report, Kosovo should take steps to enhance the prosecution and preclude political interference in the operational activities of any law enforcement body.³²⁹

The organized crime situation in northern Kosovo remains problematic for law enforcement agencies.³³⁰ Concerning the fight against corruption, limited progress was made, including on: investigation and prosecution of high-level cases; confiscation of assets; and establishment of the Special Departments handling high-level corruption and organized-crime cases in the courts.³³¹ The prosecution capacity (including among support staff) remains low, despite the recruitment of additional special prosecutors.³³² Kosovo has established two specialized law-enforcement institutions to fight corruption, the National Coordinator for Combating Economic Crimes and the Police Directorate for the Investigation of Economic Crimes and Corruption, which 'maintains anti-corruption units at police stations and headquarters'.³³³ Nevertheless, the quality of investigations and indictments is often inadequate.³³⁴ In 2021, the EC recommends that Kosovo adopt the revised Criminal Procedure Code, 'including provisions on the suspension of public officials indicted for corruption-related offences'.³³⁵

Media

There were worrying developments in the media environment during the reporting period in 2016, including a number of threats against journalists.³³⁶ The Kosovo parliament shows limited commitment to finding a solution for sustainable funding of the public broadcaster, leaving it vulnerable to political pressure.³³⁷ There have been no legislative developments on the regulation of media ownership and transparency.³³⁸

There was no progress in 2018 either, leaving the situation almost the same as in 2016. Freedom of expression is enshrined in the constitution, and Kosovo benefits from a pluralistic and lively media environment.³³⁹ However, threats and attacks against journalists have continued.³⁴⁰

In Kosovo, according to the EC's 2020 Communication, there has been limited progress concerning media.³⁴¹

Although the legal framework mostly complies with European standards, there are still concerns about public smear campaigns and threats against journalists.³⁴² Freedom of expression, including self-censorship, in northern Kosovo is especially worrying.³⁴³ While the general media environment remains lively and pluralistic, private media 'struggle to sustain themselves financially through commercial means'.³⁴⁴ The inability of media companies—including the public broadcaster—to sustain themselves financially leaves them vulnerable to political and business interests.³⁴⁵ The state-funded public broadcaster, Radio Television of Kosovo, also remains susceptible to political pressure and influence.³⁴⁶ Whistle-blowers 'publicly denounced political influence on the public broadcaster' twice in 2019.³⁴⁷

Institutional integrity

The parliament accomplished most of the outstanding appointments to independent institutions and agencies. However, appointments were often subject to political influence in 2016.³⁴⁸ This undermined the independent functioning and effective management of these bodies.³⁴⁹ The continued politicization of the public administration remains a serious concern – the state administration is fragmented and does not ensure accountability.³⁵⁰ The overlap of responsibilities of government agencies needs to be addressed.³⁵¹

Little progress was made in 2018, as the continuing political fragmentation and polarization affected the parliament and hampered the effectiveness of the government.³⁵² Unacceptable actions by a number of parliamentarians were recorded, such as the use of tear gas.³⁵³

According to the EC's Kosovo 2020 Report, there were no developments on integrity or conflicts of interest.³⁵⁴ Although Kosovo has put measures such as integrity plans in place, with the goal of promoting integrity in the public service, these measures 'are not systematically implemented across the administration'.³⁵⁵ Legislation on conflicts of interest is unevenly implemented.³⁵⁶ In 2021, Kosovo should 'ensure that the financial reports and campaign disclosure reports of political parties are consistently published and audited, and sanctions applied for violations of relevant laws'.³⁵⁷ In addition, Kosovo should 'amend the legal framework governing political party and campaign financing in line with the opinion of the Venice Commission, to ensure effective enforcement, accountability and transparency'.³⁵⁸

Regarding police integrity, widening the scope of asset declaration to cover not only senior management positions, but also the more exposed lower-level posts would help deter corruption.³⁵⁹ Integrity in the public service must be promoted as an important tool for preventing corruption and ensuring discipline.³⁶⁰ Unfortunately, the Anti-Corruption Agency has not continued its work on municipal integrity plans.³⁶¹ Kosovo achieved some progress on integrity within the judiciary with the adoption of a new code of ethics and reinforced disciplinary procedures.³⁶²

Anti-corruption education

Anti-corruption education is developed jointly with the Anti-Corruption Agency and the UNESCO International Institute for Educational Planning.³⁶³ Anti-corruption lectures started in high schools of the municipality of Priština as a pilot initiative, to

be replicated in other municipalities.³⁶⁴ The Priština municipality depoliticized the process of recruitment of directors and teachers in schools.³⁶⁵ According to the EC's Kosovo 2020 Report, the Kosovo Institute for Public Administration, with its limited budget and capacity to provide the required training, remains weak; this impedes both the recruitment of civil servants and their professional development.³⁶⁶

Members of the judiciary need additional in-service training, i.e. on values and professional skills.³⁶⁷ More work is particularly needed in 'specialized areas such as economic crime including money laundering, confiscation and public procurement, mediation, the new provisions of the revised Criminal Code (including on domestic violence and sexual harassment), and European Court of Human Rights case law'.³⁶⁸ Performance evaluation should place more weight on judicial education.³⁶⁹ In accordance with European good practice, the 'oversight and reporting lines of the Academy of Justice should be strengthened'.³⁷⁰ Although it has made a degree of progress, the Special Prosecution Office 'continues to suffer from a lack of sufficiently specialized staff with the required level of training and competence to deal specifically with financial and procurement cases'.³⁷¹ Overall, the professionalism and competence of judiciary staff, especially prosecutors, gives cause for concern: 'some are inadequately trained and some are unwilling to apply the training received and to take full responsibility for their cases'.³⁷²

The EC recommends that Kosovo finalize work in 2021 on the Functional Review of the Rule of Law Sector and develop a 'comprehensive sector strategy aiming at strengthening the independence, impartiality, integrity, accountability as well as the overall capacity of judiciary and prosecution, with a specific focus on fighting corruption and organized crime'.³⁷³ In addition, staff of the main anti-corruption bodies should be trained, especially on risk assessment.³⁷⁴

Transparency

TI notes that the state prosecutor's office 'lacks initiative, integrity and resources, and is therefore largely ineffective in the fight against corruption'.³⁷⁵

According to the TI report on state capture in the WB, 'one of the most effective ways to control public decision-making is to have loyal people in positions of responsibility'.³⁷⁶ It requires control over appointments and the ability to dismiss those who call into question the use of public office for private gain. Bespoke legislation enabling exactly this type of control was identified by TI in Kosovo.³⁷⁷ In addition, TI found 'similar outcomes in court proceedings [that] reveal patterns and raise questions regarding the fair and equal implementation of the law' in Kosovo, 'where the frequent acquittal of defendants seems to offer supporting proof'.³⁷⁸ As reported by TI, 'the Kosovo Law Institute found that from January to September 2019, the Basic Court of Priština imposed imprisonment on only 18 per cent of those convicted of corruption, whereas 26 per cent received suspended sentences, 12 per cent were fined, and 44 per cent were acquitted'.³⁷⁹

EU legislation

Asset Recovery

Kosovo prosecutors should make full use of tools provided under the new Law on Extended Powers of Confiscation, which entered into force in January 2019.³⁸⁰ The number of financial investigations, final confiscations of assets and final convictions remains low.³⁸¹ Thus far, although there have been few final confiscations of assets, their value increased significantly from 2018 to 2019 (€49 394 vs. €991 593) due to one critical case.³⁸² The value of preliminarily confiscated assets dropped from €28 million in 2018 to €8.7 million in 2019.³⁸³ The Asset Recovery Office in the Directorate for Economic Crime Investigations, whose capacity was recently strengthened by the assignment of two police officers, has received few requests for assistance from other relevant entities and should be used more effectively.³⁸⁴ Operational cooperation is facilitated by 'interoperable databases [that] offer mutual access to police, tax and customs services'.³⁸⁵

Despite the fact that the Law on the Prevention of Money Laundering 'clearly stipulates that the predicate offence does not have to be proven to retain a conviction on money laundering, this principle still remains unclear to both judges and prosecutors. As a result, many stand-alone money-laundering cases are dismissed by the Special Prosecution Office'.³⁸⁶ In 2021, the EC recommends that Kosovo improve the efficiency of its confiscation regime 'by promoting systematic use of both extended and 'regular' confiscation by prosecution and police, by the creation of a confiscation fund and by improving the sales process of sequestered and confiscated assets managed by Agency for the Management and Sequestered and Confiscated Assets'.³⁸⁷

International System

EU integration is hampered by the slow implementation of the Stabilization and Association Agreement (SAA).³⁸⁸ Kosovo's decision to impose a 100 per cent tariff on

imports from Serbia and Bosnia and Herzegovina undermined regional cooperation efforts in 2019.³⁸⁹ The EC's Kosovo 2020 Report noted that Kosovo lifted the 100 per cent tariff imposed in November 2018 on imports from Serbia and Bosnia and Herzegovina, as well as all reciprocal measures, thus paving the way for restoration of trade with Serbia and Bosnia and Herzegovina and the resumption of the Belgrade–Pristina dialogue.³⁹⁰

Kosovo's policy on state aid is not in line with EU acquis.³⁹¹ It has not yet complied with SAA obligations or alignment with EU rules in this field.³⁹²

Regarding war crimes cases, mutual legal cooperation between Kosovo and Serbia is 'extremely limited', while work 'with the United Nations International Residual Mechanism for Criminal Tribunals in The Hague, which possesses a lot of evidence and prosecutorial know-how, remains difficult due to status-related issues'.³⁹³

While Kosovo is not party to the majority of multilateral treaties due to status issues, it does unilaterally apply internationally-recognized treaty standards on mutual judicial cooperation.³⁹⁴ In criminal matters, 'Kosovo's international legal cooperation ... is based on the relevant 2013 law as well as on 28 bilateral treaties. Four additional treaties entered into force in the reporting period: one with Czechia, two with France and an extradition treaty with the USA'.³⁹⁵ The principle of reciprocity regulates cooperation with countries not covered by bilateral agreements.³⁹⁶

One of the most urgent regional issues is the normalization of relations between Serbia and Kosovo.³⁹⁷

Although relations between Pristina and Belgrade are still difficult, 'the resumption of the EU-facilitated Dialogue in July 2020 and the commitment of both parties to re-engage in it is a positive first step'.³⁹⁸ This will need to be followed by further, tangible progress towards a comprehensive, legally-binding normalization agreement.³⁹⁹

Montenegro

In Montenegro, major problems in the fight against corruption remain. Issues of officials' integrity persist, as is evident from a number of high-profile political scandals in 2019. According to the EU 2020 Communication, there has been only limited progress in fighting corruption in Montenegro.⁴⁰⁰ The country needs to improve its track record on the confiscation of assets.⁴⁰¹ In addition, 'despite some positive developments, challenges with regard to independence, credibility and priority setting of the Agency for Prevention of Corruption remain largely unaddressed'.⁴⁰² Tangible results have not yet demonstrated the effectiveness of anti-corruption efforts in particularly vulnerable areas such as local self-government, spatial planning, public procurement, privatization, healthcare and education.⁴⁰³ Montenegro needs to take forward-looking action 'to ensure maximum integrity, impartiality and accountability' of its Anti-Corruption Agency.⁴⁰⁴

Economic criteria

Economic growth

The EC's Montenegro 2020 Report notes that, during the reporting period, Montenegro 'made some progress as regards both the existence of a functioning market economy and the capacity to cope with competitive forces'.⁴⁰⁵ Even prior to the COVID-19 crisis, the economy was growing at a slower, more sustainable rate, as a result of a decline in investment.⁴⁰⁶ The Montenegrin economy 'is strongly dependent on tourism, a key source of GDP growth, foreign exchange, employment and fiscal revenues'.⁴⁰⁷

PPPs and PP

Legislative and institutional frameworks on PPPs were still not in place in 2018, despite the government's plans for regulation.⁴⁰⁸ Instead, various sectoral acts and a law on concessions govern PPPs.⁴⁰⁹ Several PPP projects have been implemented over the past few years, mostly followed by controversies and suspicions, while some cases have been investigated by the prosecution.⁴¹⁰ Basic data on concessions is published, but most information on other PPPs is kept from the public.⁴¹¹ Key risks in relation to PPP are a proper legal framework, lack of transparency and corruption.⁴¹² In addition, drafting of the new law on PPP has drawn heavy criticism. The draft law reduces parliamentary control, as the government is to monitor concession contracts; excludes public debate on concession contracts; puts no time limit on concessions; and foresees the establishment of an agency on investments as the monitoring body, responsible to the government, which, again, excludes parliament from decisions on the utilization of national resources.⁴¹³

Many problems with PPPs were identified in 2019. The limitations mainly relate to the monitoring of a project's implementation and to the overlaps in competencies between institutions participating in a project.⁴¹⁴ The concession law fails to provide for a one-stop shop permitting procedures and there are no clear rules on the scope of necessary permits.⁴¹⁵

Deficiencies in the capacity of PP actors significantly undermine the performance of the system, and its capability to respond to the reality of corruption in Montenegro.⁴¹⁶ While standardization in information-management structure has significantly progressed, a lack of digitalization creates loopholes in corruption detection and sanctioning for established organizational infrastructure.⁴¹⁷ Finally, the structural lack of resources invested in the PP system are undermining its overall good progress.⁴¹⁸ 'Enhancing transparency and accountability, in particular ensuring the effective, efficient and transparent functioning of the public procurement system and public finance management, remains essential' in Montenegro'.⁴¹⁹ The government launched a high-profile tender in October 2019 for the concession to operate the Montenegrin airports.⁴²⁰ The process is seen as a test of the government's commitment to adhere to European standards for fair and transparent PP processes.⁴²¹

Regarding the legislative framework, the EC's Montenegro 2020 Report observes that as a result of the law on PPPs, which entered into force in January 2020, a National Investment Agency was created, replacing the Secretariat for Development Projects.⁴²² Montenegro also adopted a law on PP in December 2020.⁴²³ Unfortunately, neither of these laws were adopted with by-laws, making it impossible to implement them.⁴²⁴ 'Alignment with key parts of the EU acquis under other chapters remains a prerequisite for proper implementation of EU structural and investment funds'.⁴²⁵ Nevertheless, once the necessary secondary legislation has been adopted (ideally in 2021), the new PP law could potentially create a more transparent system closely aligned to the EU acquis.⁴²⁶

Regarding data management systems, the new PP regulatory framework provides a foundation for creating an electronic PP system.⁴²⁷ The current PP portal and traditional, paper-based procedures should be replaced in 2021 by an e-procurement system.⁴²⁸ Montenegro's PP market represented 12.4% of GDP in 2019, with a total value of approximately €608 million.⁴²⁹

Tax

The tax administration suffers weak enforcement of policies, and favourable tax procedures established at

the national level are often ignored at the local level.⁴³⁰ Montenegro is required to more effectively counter organized crime and money laundering as a condition of joining the EU.⁴³¹ The EU gave the country until the end of 2019 to do more on tax transparency or face blacklisting.⁴³²

Absent indications of a criminal offense, inspectors cannot gain access to the private premises of natural persons where informal activities are suspected.⁴³³ A new inspection law was adopted in January 2020 but did not rectify this situation.⁴³⁴ Montenegro added three new departments to the tax administration in 2019: internal audit, international cooperation and tax police (tax evasion).⁴³⁵

Since January 2019, Montenegro has allowed foreigners who invest at least €350 000 in the country to obtain Montenegrin citizenship.⁴³⁶ This investor citizenship scheme must be closely monitored, given the potential risks to security from phenomena like money laundering, tax evasion, terrorist financing, corruption and organized crime.⁴³⁷

Beneficial ownership

Issues were identified in 2015 with respect to the identification of beneficial owners.⁴³⁸ Workshops have been organized to present country specific guidelines for the private sector on the strengthening of the transparency of beneficial ownership.

Extractive industries

Industrial production in Montenegro slumped year on year in October 2019, following a fall in the previous month.⁴³⁹ It had been the sharpest drop in industrial activity since April.⁴⁴⁰ In addition, production fell for electricity, gas, steam and air-conditioning supply, and slowed for mining and quarrying.⁴⁴¹ The country has made progress in aligning its legislation with the EU acquis in areas like company law, intellectual property law and energy, as well as foreign, security and defence policy.⁴⁴² The government has prioritized the 'reform of the energy sector to improve its competitiveness and integration into the regional electricity market'.⁴⁴³ In December 2019, the government acquired 88.6% of the shares in the electric power company EPCG, thereby finalizing the company's re-nationalisation; EPCG retains about 10% of its shares.⁴⁴⁴

Regarding state aid, the authority should investigate potential cases in the energy sector and 'monitor implementation of State aid rules in large projects undertaken in cooperation with third countries'.⁴⁴⁵ Montenegro has not yet adopted 'rules for auctions granting support to renewable energy producers compliant with the 2014–2020 guidelines on State aid for environmental protection and energy'.⁴⁴⁶

Political criteria

Whistle-blower protection

In December 2014, after avoiding the topic for years, Montenegro adopted a law protecting whistle-blowers – the Anti-Corruption Act.⁴⁴⁷ Not much has changed since then.

In early 2016, the Montenegrin Anti-Corruption Agency (ASK) received 46 whistle-blower reports, seven requests for protection and 21 anonymous complaints that could not be verified as legitimate whistle-blowing.⁴⁴⁸ Overall, only two whistle-blowers received protection.⁴⁴⁹ In 2019, the ASK received only three requests for whistle-blower protection, compared to one in 2018.⁴⁵⁰ ASK interprets its responsibilities in whistle-blower protection very narrowly, and does not offer adequate legal aid and protection to possible whistle-blowers.⁴⁵¹ Employees who report wrongdoings have been publicly persecuted and humiliated, and received no protection from ASK.⁴⁵²

The ASK, with its newly-appointed leadership, has not yet demonstrated 'a proactive approach in all areas falling under its mandate, including on the protection of whistle-blowers, the control of financing of political parties and electoral campaign, and oversight of lobbying'.⁴⁵³

Enforcement capabilities

Montenegro needs to improve 'the institutional and operational capacity of prosecutors, judges and police to fight corruption ... particularly through specialized and long-term training'.⁴⁵⁴ In addition, to identify the 'financial structures behind criminal offenses', the country should systematically pursue financial investigations in parallel with criminal investigations.⁴⁵⁵ Montenegro also needs to improve its track record of prosecuting cases from the police and other state

institutions.⁴⁵⁶ Law enforcement and judicial officials should not be subjected to pressure or influenced by members of the executive or legislative branches.⁴⁵⁷ The poor working conditions of the Special Prosecutor's Office, which now has 50 employees (including 13 Special Prosecutors and 34 civil servants) are concerning.⁴⁵⁸ Nevertheless, the 'internal organization and coordination of law-enforcement agencies was further improved, as reflected in the increasing number of investigations, arrests and seizures'.⁴⁵⁹

It is imperative that all reports of excessive use of force by the police are thoroughly investigated by the responsible national authorities, in particular the 'serious allegations of police torture of three individuals during their detention in May 2020, the excessive, unjustified and unauthorised use of force by law enforcement, communal police and private security agencies during the June 2020 events in Budva in the context of change of power in the municipality'.⁴⁶⁰

In 2021, Montenegro should address: 'the lengthy duration of trials and frequent adjournments in organised crime cases; ensure a stronger mutual understanding between courts and the prosecution on some key legal concepts such as money laundering and the quality of evidence'.⁴⁶¹ Although the Ministry of Interior is pursuing technical solutions to improve law-enforcement agencies' access to key databases, such access remains insufficient and is an impediment to effective and efficient investigations.⁴⁶² There must be an 'independent and effective institutional response' to the allegations of corruption in the Supreme State Prosecutor's office, as well as to charges of unauthorized interference in the work of the Special State Prosecution.⁴⁶³

In 2021, Montenegro should 'ensure the maximum integrity, impartiality and accountability' of the ASK and fix the faults identified by the domestic courts in its decision-making.⁴⁶⁴ The country also needs to improve its track record on prevention of and punishment for corruption, including through application of effective penalties and taking tangible steps to allow plea bargains only in exceptional cases.⁴⁶⁵ Together, these measures would 'improve the transparency and the credibility of the judicial response to corruption through a more deterrent and consistent sanctioning policy'.⁴⁶⁶

Media

In Montenegro there have been no improvements in the general media situation.⁴⁶⁷ Although there was progress as a result of the revised media legislation, this achievement was blotted out by the detentions of and proceedings against editors of online portals and citizens for online content they posted or shared in 2020.⁴⁶⁸ The EC emphasized in its 2020 Communication that ‘measures taken to limit the effects of disinformation and online harassment or hate speech should not limit disproportionately freedom of expression and of the media’.⁴⁶⁹ The January 2020 detention of online portal editors, although intended as a way to fight disinformation, could set a dangerous precedent and foster self-censorship, the same as ‘the subsequent repressive measures, arrest and criminal proceedings against members of the public for their social media posts, including in the context of the COVID-19 crisis’.⁴⁷⁰ In addition, there are allegations of undue pressure put on journalists by law-enforcement officials to disclose their sources.⁴⁷¹ Harassment—including use of physical force—against journalists was also reported, while journalists critical of the government were anonymously harassed in the run-up to the August 2020 elections.⁴⁷² The country’s ‘ad hoc commission for monitoring violence against media has produced six reports since September 2016 on both recent and old cases, identifying a number of shortcomings including delays in investigations’.⁴⁷³

Regarding protection of sources, ‘the broadly formulated provision on disclosure of journalistic sources in the new Law on media will need to be applied restrictively, limited to exceptional circumstances only, and in accordance with international and European standards and the case-law of the ECtHR’.⁴⁷⁴ The editorial independence and professional standards of the national public broadcaster are still points of concern.⁴⁷⁵

The Parliament adopted a new code of ethics for MPs in July 2019, with the votes of MPs from the previous ruling majority.⁴⁷⁶ The human rights committee has not yet received any complaints from the public, media or interested parties regarding suspected breaches of the code.⁴⁷⁷

In 2021, the EC recommends that Montenegro: ‘investigate cases of attacks against journalists as a matter of priority; ensure that any individual measures taken to limit the effects of disinformation and online harassment or hate speech do not limit disproportionately freedom of expression and the media; complete the revision of the legal framework in the area of media and provide for unambiguous application of the new legislation in accordance with international and European standards’.⁴⁷⁸

Institutional integrity

GRECO notes that the code of ethics obliges MPs to act in the public interest while performing their duties.⁴⁷⁹ That said, MPs are under no obligation to report or declare conflict of interest under the current legislation.⁴⁸⁰ There is no such requirement in the code of ethics for MPs either.⁴⁸¹

The situation did not improve in 2019. Then-president and former prime minister of Montenegro, Milo Đukanović, was implicated in a failure to declare a gift, but this was dismissed by the Agency for the Prevention of Corruption.⁴⁸² In another case, the ex-mayor of Podgorica was taped receiving funds exceeding the legal barrier. His party

was not held responsible, but the former mayor was indicted for money laundering.⁴⁸³ The last major case of 2019 saw the deputy governor of the Central Bank of Montenegro extorting money from the owner of Atlas Bank to allegedly bribe bank controllers. The former was arrested and charged with abuse of public office.⁴⁸⁴

There are legal AML/CFT provisions in place, which provide for domestic cooperation between competent authorities. However, in practice, operational coordination remains an issue, and affects the timely flow of information among competent authorities.⁴⁸⁵ The supreme state prosecutor was criticized for perceptions of a conflict of interest in 2014.⁴⁸⁶ Companies report that Montenegrin administrative requirements are burdensome, and inefficient government bureaucracy and corruption are ranked among the top constraints for doing business in the country.⁴⁸⁷

GRECO reports a systemic public track record on complaints on the types of misconduct, disciplinary action taken and sanctions applied against judges is missing.⁴⁸⁸ The mere disclosure of minutes of the meetings where complaints have been discussed is insufficient.⁴⁸⁹ The monitoring body also notes that no information on the dissemination of the case law on disciplinary matters was provided in 2017.⁴⁹⁰

MONEYVAL's 2015 report states there is no concrete law-enforcement policy to proactively investigate money laundering and the financing of terrorism, while the number of money laundering investigations is low and no investigations on terrorist financing were pursued.⁴⁹¹ In 2016, TI noted that limited cooperation between the prosecution and the police in the conduct of investigations is a problem.⁴⁹² The vast majority of criminal complaints submitted to the State Prosecutor's Office came from the public (i.e. NGOs and private firms).⁴⁹³ The police rarely submit criminal complaints, while those registered by oversight bodies or auditing agencies are extremely infrequent.⁴⁹⁴

As the EC notes in its 2020 Communication, 'public administration reform is essential for improving governance at all levels'.⁴⁹⁵ In Montenegro, despite the December 2019 adoption of new legislation and April 2020 adoption of amendments, deficiencies remain in the legal framework regulating political parties and their funding.⁴⁹⁶ Significant efforts will be needed throughout the region to ensure more transparency and accountability to the financing of political parties and electoral campaigns.⁴⁹⁷ Montenegro's track record on enforcing ethics codes ensuring disciplinary accountability for judges and prosecutors remain poor.⁴⁹⁸ The competition and anti-corruption agencies' institutional capacities are feeble.⁴⁹⁹

Transparency

With a score of 45/100 on the 2019 TI CPI, Montenegro ranks 66th out of 180 countries on the 2019 TI's CPI.⁵⁰⁰

In 2017, GRECO observed that the publication of information on disciplinary proceedings against prosecutors in the annual report of the Public Prosecutor's Office responds to a need for more transparency.⁵⁰¹ While noting Montenegro's ongoing efforts to harmonize the national legal system with the UNCAC criminalization and law-enforcement provisions, a number of challenges in implementation were acknowledged as well as grounds for further improvements.⁵⁰²

Among its recommendations, the review lists the continued efforts to broaden the scope of cooperation between national investigation and prosecuting authorities and the private sector with respect to offences covered by the UNCAC; ensuring legislation and its interpretation on confiscation, seizure and freezing of criminal assets are clear and consistent; and ensuring the update of the criminal code includes issues on harmonization of sanctions on active and passive bribery.⁵⁰³

EU legislation

Asset Recovery

The legal framework governing confiscation and provisional measures is still not comprehensive enough. There were very few instances in 2015 where property was seized and confiscated in money-laundering cases, and none for proceeds-generating offences and the financing of terrorism.⁵⁰⁴

There are no clear and effective gateways for supervisory authorities to facilitate and allow exchanges of information directly between counterparts.⁵⁰⁵ Insufficient details were provided on the controls and safeguards in place to ensure that information received is used only in an authorized manner.⁵⁰⁶ With the exception of the Administration for Prevention of Money Laundering and Terrorist Financing, assistance is not requested from, or by, other supervisory authorities.⁵⁰⁷

In April 2019, Montenegro formally created an Asset Recovery Office within the police.⁵⁰⁸ There is room for improvement in the country's track record on seizure and confiscation of criminal assets.⁵⁰⁹ While the number of legal proceedings for asset recovery as well as the value of assets recovered increased in 2019, preliminary recovery orders were made in only in six cases, regarding 120 people, for €4 million and several pieces of real estate.⁵¹⁰ 'In a high-profile corruption case involving the former President of the country, large real estate and land properties were confiscated.'⁵¹¹ Corruption is common in Montenegro, requiring strong political will as well as a strong criminal justice response.⁵¹² While it is legally possible to launch a financial investigation in parallel with a criminal one, it is done only to a limited extent.⁵¹³ On the contrary, 'in most cases, financial investigations start too late and

remain focused on tracing assets, mainly with the aim of proceeding to an extended confiscation, and therefore not in line with EU practice and FATF standards'.⁵¹⁴ Instead, the financial analysis is carried out by the prosecution within scope of the criminal investigation: it 'evaluate[s] the proceeds of crime, but not on a sufficient scale to prove criminal acts, improve knowledge of criminal networks, uncover financial flows and investment of dirty money in the economy'.⁵¹⁵

Montenegro should, as a matter of priority: 'review the legal approach towards financial investigations and asset recovery, to align it with international standards and with modern EU practices; establish an integrated approach between all the bodies involved and provide them with the necessary legal and operational tools to create the conditions for establishing a sustainable track record in this area'.⁵¹⁶

International System

Closer integration with the EU requires the establishment and maintenance of good neighbourly relations and regional cooperation.⁵¹⁷ They 'contribute to stability, reconciliation and a climate conducive to addressing open bilateral issues and the legacies of the past'.⁵¹⁸ Although bilateral relations with Serbia are occasionally tense, Montenegro has nonetheless demonstrated its commitment to regional cooperation and participates constructively and actively in about 35 different regional organizations and initiatives (CEFTA, Energy Community, Transport Community, SEECP, the Regional Cooperation Council, etc.).⁵¹⁹ Montenegro has chaired the Western Balkans Fund and has enabled the Regional Youth Cooperation Office to play a stronger role in the country.⁵²⁰

Regarding judicial cooperation, 'Montenegro continued to align its legislative framework with the relevant EU *acquis* through amendments to the Law on international legal assistance in criminal matters'.⁵²¹ These amendments governed the creation of Joint Investigation Teams and revised extradition procedures.⁵²² The EC has encouraged Montenegro to participate in these teams if required.⁵²³ In 2019, 12 cases involving Montenegro were opened in Eurojust, most of which dealt with money laundering, swindling and fraud.⁵²⁴

North Macedonia

Corruption and inefficient bureaucracy are challenges that companies may face when doing business in North Macedonia.⁵²⁵ Risk of corruption is present in most of the country's sectors, but PP, customs administration, and the building and construction sectors are some of the areas where it is most prevalent.⁵²⁶ Facilitation payments are prohibited, and gifts may be considered illegal, depending on their value or intent.⁵²⁷ Insufficient implementation of legislation and ineffective law enforcement impede the fight against corruption, while public officials continue to act with impunity.⁵²⁸

Although many challenges persist, the above-mentioned situation has begun to change. According to the EC's 2020 Communication, North Macedonia has made good progress in the fight against corruption, with a stronger track record of investigating, prosecuting and trying high-level corruption cases.⁵²⁹ The newly-appointed (in February 2019) State Commission for Prevention of Corruption is increasingly active.⁵³⁰ It should be underlined that the former Chief Special Prosecutor was convicted in June 2020 in a first instance verdict to seven years in prison as part of the so-called 'racket case', which dealt with allegations of bribery and abuse of office related to a case of the Special Prosecutor's Office (SPO).⁵³¹ All entities with a role in preventing and fighting corruption need to take a more proactive approach in order to root out corruption, which is prevalent in many areas in Montenegro.⁵³² In 2021, the EC recommends in its North Macedonia 2020 Report that the country: 'implement the new legislation transferring some of the prerogatives of the former Special Prosecutor's Office to the Office of the Public Prosecutor for Prosecuting Organized Crime and Corruption and regulating the status of the wiretaps so that accountability for the crimes arising from and surrounding the wiretaps continues; increase the track record of final convictions in high-level corruption cases including by further confiscating criminal assets; demonstrate political will to fight corruption by supporting relevant bodies with further financial and human resources and by providing clear policy guidance to all state institutions on how to tackle corruption in line with the State Commission for Prevention of Corruption's recommendations'.⁵³³ The State Programme for Prevention and Repression of Corruption and Reduction of Conflict of Interests drafted a new national strategy for 2020–2024 through an inclusive process that involved experts and relevant stakeholders; it analyzes which sectors have the highest risk of corruption and prioritizes future activities on this basis.⁵³⁴ It is currently awaiting adoption by the Parliament.⁵³⁵

Economic criteria

Economic growth

The lack of political commitment to deliver on necessary reforms in public financial management led to a significant reduction of EU financial assistance in 2016.⁵³⁶

Despite a political stalemate in the first half of the year, noteworthy improvements were seen in 2017, in particular in public-finance management and transparency.⁵³⁷ Key weaknesses of the economy remain, such as weak contract enforcement and a large informal economy.⁵³⁸ Structural problems in the labour market are reflected in low activity and high unemployment rates.⁵³⁹ Although the pace of economic growth increased in 2019 alongside investments, since the COVID-19 crisis that hit in Spring

2020 has negatively impacted both the economy and public finances.⁵⁴⁰ The outsized shadow economy continues to hobble the business environment.⁵⁴¹ The EC recommends that North Macedonia target more growth-inducive public infrastructure spending, while improving revenue collection and the management of public investments.⁵⁴² In general, the 'large shadow economy and corruption remain major constraints for private companies to conducting business and impact negatively on investment behaviour'.⁵⁴³

PPPs and PP

In 2019, North Macedonia was considered to be moderately prepared for EU accession in relation to the reform of its public administration. PPs and their legal standardization were reported to have undergone changes, and the Law on Public Procurements was considered to provide greater protection against corrupt actions, as well as enabling competition for small and medium-sized companies.⁵⁴⁴ Still, the issue of integrity was seen as a challenge.⁵⁴⁵

North Macedonia made good progress, especially with the implementation of the public-administration reform strategic framework, improved public consultations, and increased transparency in policymaking and in the areas of policy development and coordination.⁵⁴⁶ Politicized appointments were partly addressed, but further efforts are needed to enhance the accountability of the administration and prevent its politicization.⁵⁴⁷

Regarding PP, North Macedonia is moderately prepared.⁵⁵⁰ The State Commission for Prevention of Corruption intends to examine reported 'misuse of authority and funds during the COVID-19 crisis, including in the area of public procurement'.⁵⁵¹ The country achieved some progress with the adoption of a law on PPs in the defence and security sector, as well as of secondary legislation for the Law on Public Procurement.⁵⁵² North Macedonia needs to increase the capacity of the primary bodies implementing PP and take measures that 'prevent irregularities and corruption during the procurement cycle and that ensure a more effective public procurement system, following the principles of transparency, equal treatment, free competition and non-discrimination'.⁵⁵³ It should also ensure that important bodies such as the Public Procurement Bureau, the State Appeals Commission

and the Supreme Audit Office for the oversight and monitoring of public procurement, and the Ministry of Economy for the management of concessions and PPPs are provided with adequate administrative staff.⁵⁵⁴ PP is critical to North Macedonia's economy: in 2019, the public procurement market was 11% of GDP and 24.8% of the state budget.⁵⁵⁵ Regarding integrity measures, the State Commission for Prevention of Corruption, which recently launched several cases on potential abuse of duty in public procurement.⁵⁵⁶

Tax

The government took measures to improve public-finance management and transparency.⁵⁵⁷ It adopted reforms of income taxation and the pensions system.⁵⁵⁸ However, public spending worsened and fiscal consolidation needs to be more ambitious in order to put public finances on a sustainable path.⁵⁵⁹

Following the start of the COVID-19 crisis in April 2020, the government reversed fiscally-significant reforms of income tax and the pensions system that had been introduced in early 2019.⁵⁶⁰ The EC notes that the 'average tax wedge is highly regressive in North Macedonia at the bottom of the income distribution, meaning that the average contribution rate is higher for low-income workers', which has implications for informality.⁵⁶¹ The country needs to adopt and apply a tax system strategy dealing with fair taxation, revenue collection, tax transparency, quality of services and green taxation.⁵⁶²

Extractive industries

The energy and environmental statistics collected by North Macedonia on topics such as environmental protection expenditure, waste, water and environment-related taxes, are largely in line with the EU acquis.⁵⁶³ The country's economy tends to be high-energy/low-efficiency in production and consumption, due to an out-of-date production system and heavy reliance on coal and imports.⁵⁶⁴ North Macedonia is working to improve and diversify its energy systems: a national gas distribution system is under construction and efforts to connect with regional gas pipelines are slowly progressing.⁵⁶⁵ In addition, the 'construction of an electricity transmissions interconnector with Albania, providing the missing link in an East-West electricity

transmission corridor uniting five countries, is still in the preparatory phase.⁵⁶⁶ However, the country's electricity and gas markets 'are open for competition' and significant progress has been made to put in place the necessary implementing legislation.⁵⁶⁷

Political criteria

Whistle-blower protection

Three years after it was first proposed, a comprehensive whistle-blower law was passed by the assembly of Macedonia in November 2015.⁵⁶⁸ In 2016, an Independent Reporting Mechanism (IRM) researcher found Macedonia's whistle-blower protections ineffective, and the government's ability to promote proper public accountability limited.⁵⁶⁹ While the enactment of the law for the protection of whistle-blowers is a positive step, the EC and the CoE's Venice Commission have cast doubts upon the scope of the law, the criteria for permitting public disclosures, the vague descriptions of exemptions from protection and the disclosure of the identity of whistle-blowers.⁵⁷⁰

A course for trainers on whistle-blower protection contributed to the training of more than 30 representatives from the public sector in 2018.⁵⁷¹ Television shows, public advertising, social media, newspaper articles and informational websites are among the many elements of a far-reaching campaign designed to promote whistle-blowing among citizens and employees.⁵⁷² Yet, both officials and anti-corruption experts agree that further efforts are mandated in promoting report of misconduct.⁵⁷³ At the same time, officials have begun a broad-based effort to implement the law on the protection of whistle-blowers, which provides legal protection to public- and private-sector employees who report wrongdoing.⁵⁷⁴ The effort is being led by the State Commission for the Prevention of Corruption (SCPC).⁵⁷⁵

According to the EC's North Macedonia 2020 Report, 'integrity in the public service is well regulated, including whistle-blower legislation. However, no data is available on how the integrity mechanisms, including whistle-blower legislation, are implemented in practice, nor on whether and how whistle-blowers are protected against retaliation actions.'⁵⁷⁶ In addition, North Macedonia needs to further align the Law on the Protection of Whistle-blowers with the new EU acquis.⁵⁷⁷

Media

In 2016, civil-society organizations continued to express their concerns about the deterioration of the climate

in which they operate and the limited government commitment to dialogue, as well as about public attacks by politicians and pro-government media.⁵⁷⁸

In 2019, there was an improvement on the reporting and transparency tools of the government through open data, but this tool had not been equally implemented in all institutions and, additionally, in the local self-government.⁵⁷⁹ There is lack of promotion of greater participation of civil society in the shaping of anti-corruption policies.⁵⁸⁰ However, civil society is slowly establishing itself as a relevant partner in the building of anti-corruption measures, unlike the private sector, which remains on the margins of this issue.⁵⁸¹ Besides the concluded memorandums of understanding between the SCPC and the Chambers of Commerce, these two institutions do not cooperate frequently.⁵⁸² The private sector is yet to be included, and has not been properly introduced to the possibilities of cooperation and to the importance of the matter.⁵⁸³

In 2019, the EC reported that the country is moderately prepared in the area of freedom of expression and had made good progress over the previous year.⁵⁸⁴

According to the EC's 2020 Communication, there has been limited progress regarding freedom of expression in North Macedonia over the reporting period.⁵⁸⁵ The environment in which media operate, is 'generally conducive to the promotion of media freedom, freedom of expression and critical media reporting, although there have been some increased tensions during the COVID-19 crisis and in the context of the elections'.⁵⁸⁶ North Macedonia should intensify media self-regulation efforts to support higher professional standards and quality journalism.⁵⁸⁷ There should be 'greater transparency of media advertising by state institutions, political parties and public enterprises'.⁵⁸⁸ In addition, the country must find durable ways to ensure the independence, professionalism and financial sustainability of the public service broadcaster.⁵⁸⁹ It is essential that North Macedonia 'continue supporting media pluralism, promoting professionalism, unbiased reporting and investigative journalism, and building resilience to

effectively combat disinformation', while addressing challenges posed by the lack of financial sustainability of independent media and journalists' working conditions.⁵⁹⁰ Moreover, it is imperative that law enforcement and judicial authorities at all levels swiftly and effectively investigate and address all allegations of physical and verbal violence against journalists.⁵⁹¹

It is essential that public officials and the political elites demonstrate a higher level of tolerance towards criticism, thereby upholding freedom of expression.⁵⁹² The country needs to make sustained efforts to improve the independence and professional standards of the public broadcaster as well as its financial sustainability.⁵⁹³ Amendments to the law on audio and audio-visual media services have been adopted, and their implementation will require strong political commitment to guarantee professionalism, respect for the principles of transparency, merit-based appointments and equitable representation.⁵⁹⁴

Free access to public information is an issue for which public debate has been initiated, based on which the creation of a new law on the matter has commenced.⁵⁹⁵ Since the adoption of the current law on free access to public information, the biggest problems have been the silence of the administration and its inconsistent implementation.⁵⁹⁶ The new law, especially with the newly established Agency for Free Access to Public Information, increases expectations for a significant improvement in the implementation of this matter.⁵⁹⁷

Institutional integrity

GRECO also recommends that, firstly, sanctions should be provided in relevant laws, and, secondly, that proper law-enforcement actions be taken in cases of misconduct by MPs.⁵⁹⁸ A specific anti-corruption working group has conducted some analysis on the legal and institutional framework, including the Law on Prevention of Corruption (LPC) and the Law on Prevention of Conflict of Interests (LPCI), but no adequate outcome has been reported to address the concerns outlined.⁵⁹⁹ North Macedonian authorities maintain the LPC, LPCI and the Criminal Code address the first part of the recommendation, and the SCPC has taken measures (which are in its competence) in all cases where violations have been committed by MPs.⁶⁰⁰ GRECO, on the other hand, considers the recommendation not implemented because of series of gaps and anomalies regarding the sanctions provided in the LPCI and the Criminal Code.⁶⁰¹ In addition, it recognizes there is lack of consistent and convincing data on the outcome of proceedings and on the penalties applied relative to the sanctions provided by laws.⁶⁰² Enforcement measures are also perceived as weak and not persuasive.⁶⁰³

GRECO recommends developing of a code of conduct for MPs, and establishing a suitable mechanism to promote the code and raise awareness among MPs on the standards expected of them.⁶⁰⁴ GRECO reports that this recommendation was not implemented because work on the drafting of a code had been interrupted owing to political factors.⁶⁰⁵

GRECO recommends that rules and guidance be developed for prosecutors on the acceptance of gifts, hospitality and other perks, and that compliance with these rules be properly monitored.⁶⁰⁶ The authorities now refer to the Guidelines for the Practical Application of the Ethical Code of Public Prosecutors and its proposed

amendments, which contain rules and standards for the acceptance of gifts, and other matters.⁶⁰⁷ The authorities also point out that the public prosecutor established an ethics council chaired by a president who also selects the members of the council.⁶⁰⁸ In 2018, the council adopted rules for detecting violations of the Ethical Code as well as rules of procedure.⁶⁰⁹ GRECO establishes that the ethical standards in relation to gifts are not clear enough.⁶¹⁰ Moreover, it rules that, pending a more in-depth analysis, the Guidelines for the Practical Application of the Ethical Code of Public Prosecutors do not constitute the practical guidance that GRECO recommendations required.⁶¹¹

Despite the detailed procedure for recruitment of administrative officials and the established norms for selection of the best candidates, recruitment based on party affiliation or nepotism is an integral part of the process.⁶¹² This is reflected in the promotion process, which leads to demotivation on the part of the employees and the departure of quality public-sector employees.⁶¹³ In spite of the commitments on integrity, as one of the basic measures to reduce corruption, in practice measures show uncertainties.⁶¹⁴ The control mechanisms do not meet the expectations, and often the integrity issue is just on paper.⁶¹⁵

Temporary contracts have continued to be converted into permanent positions without open competition.⁶¹⁶ Ineffective accountability lines, the use of the public sector as a political instrument, allegations of pressure exerted on public employees and alleged politicization of administration in an electoral year continue to be of concern.⁶¹⁷ Parliamentary elections took place in December 2016. The obstructions faced by the newly-established special prosecutor have shown the need to address the lack of independence of the judiciary and to prevent selective justice.⁶¹⁸

The 2018 EU Commission report states that the Ministry of Information Society and Administration needs to improve its capacity to drive and coordinate public administration reform.⁶¹⁹

On a positive note, the State Commission for Prevention of Corruption continued pursuing allegations of nepotism, cronyism and political influence in the

recruitment process for public-sector employees.⁶²⁰ Efforts to enhance the efficiency of the democratic system should continue, including transparency on political party funding, in accordance with GRECO recommendations.⁶²¹ Progress was made on professionalization of the judiciary in 2019, with the organization of 11 training sessions on topics related to ethics, ethical behaviour and anticorruption measures for 200 professionals by the Academy for Judges and Prosecutors.⁶²² In 2019, 'the Judicial Council received 107 requests for determining the responsibility of a judge/president of court ... filed mainly by parties in court cases'.⁶²³

The State Commission for Prevention of Corruption received 7 275 asset declaration submissions in 2019.⁶²⁴ It opened investigations in 82 cases relating to allegations of nepotism in the public administration in the period from February 2019 to 31 March 2020.⁶²⁵ In two incidents, it transferred the cases to the Public Prosecutor's Office.⁶²⁶ The government adopted a new Code of Ethics applicable to members of the government as well as those serving in government-appointed public functions, in line with GRECO recommendations on preventing corruption and promoting integrity in the central government and law-enforcement agencies.⁶²⁷ However, it is vital that 'the regulatory and institutional systems on integrity and conflict of interest, put in place to identify and address corruption, collusion and fraudulent practices' are 'vigorously applied'.⁶²⁸

Enforcement capabilities

Good progress was made in 2019 by consolidating a track record on investigating, prosecuting and trying high-level corruption cases and through changes to the legislative framework.⁶²⁹ In this regard, the new legal framework for preventing corruption has improved, and the appointment of the new members of the SCPC has become more transparent than in the previous years.⁶³⁰ The EC has taken important steps to proactively fight corruption, which involves high-level officials across the political spectrum.⁶³¹ The special public prosecutor has confirmed its leading role in investigating and prosecuting high-level corruption cases.⁶³² However,

corruption is prevalent in many areas, and remains an issue of concern.⁶³³ The big blow for the Special Public Prosecutor's Office was a scandal that saw North Macedonia's special prosecutor for organized crime, Katica Janeva, arrested on suspicion of offering leniency in exchange for cash.⁶³⁴

The SCPC has often been criticized for a lack of independence, a weak mandate and a low profile rather than acting as a driving force in the fight against corruption.⁶³⁵ In March 2018, five of its seven members, including the president, resigned amid accusations of misappropriation of funds.⁶³⁶ The SCPC's activities have been stalled, and the public prosecutor's office has opened an investigation.⁶³⁷ Most local sources report that the SCPC has lost citizens' trust and failed to fulfil its monitoring-and-control responsibilities.⁶³⁸ The new State Commission was established in February 2019, based on the new Law on Prevention of Corruption and Conflicts of Interest (LPCCOI), adopted in 2019.⁶³⁹ The criminal-justice system has also been unsuccessful in combating corruption.⁶⁴⁰ Although the Special Prosecutor's Office has taken several high-level corruption cases to court, prosecutors in general have not systematically prosecuted high-profile or politically sensitive cases.⁶⁴¹ Progress in this area is believed to strongly depend on whether the country's judiciary can move towards independent and impartial functioning.⁶⁴² Since an on-site visit, the GRECO evaluation team has been made aware of certain positive developments concerning criminalizing high-level corruption.⁶⁴³ However, the capacity of the public sector to prevent corruption has shown structural and operational deficiencies.⁶⁴⁴ Political interference in the work of and appointments to the public administration appear widespread and often charged with ethnic considerations. Nepotism and conflicts of interest are not properly addressed, and the media environment is considered not free.⁶⁴⁵

North Macedonia has developed and partially implemented anti-corruption policies, but there are significant omissions, such as the non-functioning of the SCPC for almost a year.⁶⁴⁶ For that purpose, the LPCCOI was adopted, which aims to strengthen the

efficiency and independence of the SCPC and the legal and institutional anti-corruption framework.⁶⁴⁷

Cooperation between the judiciary, the SCPC and the Prosecution Office for Organized Crime and Corruption is weak or non-existent. The government established the Special Public Prosecutor's Office as an ad hoc body in an attempt to remedy that and to address issues of high-level corruption in the country.⁶⁴⁸

On paper, the country established rather broad policy, legal and institutional frameworks for preventing and combating corruption in 2019.⁶⁴⁹ The 2016–2019 State Programme for Repression of Corruption and Reduction of Conflicts of Interest encompasses preventive and repressive elements, and covers the public and private sectors.⁶⁵⁰ The legal framework is composed of the LPCCOI, the law on lobbying and the law on the protection of whistle-blowers as well as a substantial number of regulations.⁶⁵¹ Yet the implementation of these policies and laws has been weak and selective, and frequent legislative changes have created an unpredictable overall environment and allowed corrupt public officials to act with impunity.⁶⁵²

According to the EC's 2020 Communication, North Macedonia took positive steps in this area, including the June 2020 entry-into-force of the law on the Public Prosecutor's Office, which the EC referred to as a 'key milestone'.⁶⁵³ Following expiration of their mandate, the prosecutors detailed to the SPO returned to their original positions in the Public Prosecutor's Office, but retained competence over their SPO cases.⁶⁵⁴

North Macedonia adopted a new law on the Public Prosecutor's Office that enables the Public Prosecutor for Organized Crime and Corruption to take over some of the SPO's prerogatives, 'ensuring long-term accountability for the crimes arising from and surrounding the illegal wiretaps'.⁶⁵⁵ A total of 25 cases involving 178 people have been transferred since autumn 2019 from the SPO to the Public Prosecutor's Office for Prosecuting Organized Crime and Corruption.⁶⁵⁶ Most of these cases deal with allegations of abuse of office/position, falsification or forgery of documents, embezzlement, money laundering and fraud.⁶⁵⁷ Final convictions have

been obtained in three cases against four defendants, including a former interior minister who was sentenced to six years in prison.⁶⁵⁸ In another case, a businessman and one of his associates were convicted for forging documentation in order to win a tender from the state-owned electricity generation company; the court also found the involved legal entities guilty.⁶⁵⁹ Unfortunately, 'due to inconsistency of proceedings, some cases reached the statute of limitations while others were forced to restart'.⁶⁶⁰

The Office lacks both the human and financial resources to procure expert services.⁶⁶¹ The Office needs to ensure specialization of staff, in addition to taking a more assertive approach to pursuing cases.⁶⁶² To improve cooperation between prosecutors, the police and other relevant bodies, investigation centres were established in the Basic Public Prosecution Offices in Skopje, Kumanovo and Tetovo, as well as in the Basic Public Prosecutor's Office for Organized Crime and Corruption.⁶⁶³ To be fully operational, these investigative centres must be provided with sufficient staff—including experts—and equipment.⁶⁶⁴ Law enforcement and prosecutorial bodies should improve their operational capacity to conduct financial investigations, and more actively engage with each other in multidisciplinary cooperation.⁶⁶⁵ After finalization and adoption of new legislation on payment services, a central bank account register should be established, which would make a substantial contribution to the quality of financial investigations.⁶⁶⁶

Anti-corruption education

GRECO recommended in 2018 measures to strengthen the independence, impartiality and integrity of lay judges by introducing specific guidelines and training on questions of ethics, expected conduct, corruption prevention, conflicts of interest and related matters.⁶⁶⁷ GRECO considers the recommendation partly implemented. Efforts were made in 2014–2016 to involve lay judges in training and awareness-raising events on ethics, conflicts of interest and anti-corruption measures organized for judges and prosecutors.⁶⁶⁸ In 2014 and 2015, five seminars were organized specifically for lay judges on these subjects.⁶⁶⁹ The Law on Courts was being amended to raise the requirements to become a lay judge (including the passing of integrity tests) and it was planned to amend the code of judicial ethics so that it also applies to them.⁶⁷⁰ The authorities now merely refer to training activities.⁶⁷¹ In the period February to October 2017, six two-day training courses for newly elected lay judges were organized.⁶⁷² It would appear that the other intended improvements, which GRECO had assessed positively, such as the raising of the requirements to become a lay judge and the extension of the code of judicial ethics to lay judges, have been abandoned.⁶⁷³ In 2019, the issue of the judicial system remained unresolved, despite the reforms that had already begun in this area.⁶⁷⁴ There has been some progress, but not enough to clearly indicate meaningful results.⁶⁷⁵ As with most areas, the implementation of regulations will pose a challenge.⁶⁷⁶

The EC's North Macedonia 2020 Reports notes that the 'Academy for Judges and Prosecutors continued to improve its operation, by strengthening its curricula for basic and continuous training', offering 253 in-service training sessions for 5661 staff.⁶⁷⁷

Transparency

North Macedonia scored 42 on the CPI in 2015; 37 in 2016; 35 in 2017; 37 in 2018; and in 35 in 2019.⁶⁷⁸

EU legislation

Asset Recovery

North Macedonia needs focus on the proceeds of crime and make confiscation of criminal assets a strategic priority in combating organized crime, terrorism and high-level corruption.⁶⁷⁹ However, the tools for freezing, managing and confiscating criminal assets are insufficient: in 2019, the criminal assets of only 21 people were confiscated.⁶⁸⁰ This includes three cases in which real estate was confiscated.⁶⁸¹

Implementation of the Strategy on Strengthening the Capacities for Conducting Financial Investigations and Confiscation of Property should be a priority, along with the systematic use of provisions for the confiscation or extended confiscation of assets for specific crimes.⁶⁸² There is 'a positive trend of adopting temporary measures for freezing bank accounts and property', but this should be accompanied by an increase in the seizure and confiscation of criminal assets.⁶⁸³ In 2021, North Macedonia should focus on proactively fighting organized crime and corruption, which 'remains fundamental to countering criminal infiltration of the political, legal and economic systems'.⁶⁸⁴ In addition, the efficiency of the Public Prosecutor Office's electronic case-management system should be improved.⁶⁸⁵

International system

The 'name issue' was considered a matter of urgency in 2018. Talks intensified under the auspices of the United Nations,⁶⁸⁶ and the dispute was resolved with the country adopting its new name.

In accordance with the objectives elaborated in the Joint Action Plan on Counter-terrorism for the Western Balkans and its bilateral implementing agreement, North Macedonia has made some progress in preventing and countering terrorism and violent extremism.⁶⁸⁷

The government 'has taken a positive approach to regional cooperation and good neighbourly relations', engaging constructively in regional initiatives like the Central European Free Trade Agreement, Energy Community, Transport Community, South East European Cooperation Process, the Regional Cooperation Council, RECOM and the Regional Youth Cooperation Office, in addition to the EU Strategy for the Adriatic-Ionian Region (since April 2020).⁶⁸⁸ Law enforcement contacts remained constructive: 'joint border patrols with neighbouring countries and the joint police contact centres continued to regularly exchange information. Police from Kosovo and North Macedonia signed a protocol for establishing a joint task force'.⁶⁸⁹

Serbia

In Serbia, corruption remains a significant concern for citizens.⁶⁹⁰ In June 2019, the country was taken off the Financial Action Task Force (FATF) grey list of jurisdictions with strategic AML/ CFT deficiencies.⁶⁹¹ Serbia was commended for significant progress in addressing previously identified deficiencies.⁶⁹² As a result, the country will again be under the monitoring auspices of the CoE MONEYVAL Committee, to which it will report further progress on strengthening its AML/CFT practices.⁶⁹³

In its 2020 Communication, the Commission – for the first time – evaluated ‘the overall balance in the accession negotiations’ with Montenegro and Serbia and proposed a way forward.⁶⁹⁴ There has been only modest progress in combating corruption in Serbia.⁶⁹⁵ Corruption remains a concern: Serbia has ‘no effective prevention coordination mechanism in place’ and must ‘increase its efforts and step up the prevention and repression of corruption’.⁶⁹⁶ In the past, it was stated that significant improvements must be made to ‘the transparency and corruption risk assessments and mitigation in sectors particularly vulnerable to corruption in these fields’.⁶⁹⁷ The capacities of the Anti-Corruption Agency (now under the new name of Agency for the Prevention of Corruption) have since been developed to facilitate implementation of the Law on the Prevention of Corruption, which entered into force in September 2020.⁶⁹⁸ While the law on the organization and jurisdiction of government authorities in suppression of organized crime, terrorism and corruption, in force since March 2018, has produced some results, the number of finalized high-level corruption cases actually decreased in 2019.⁶⁹⁹

As underlined already, one positive sign of dedication to anti-corruption is the agreement of Albania, Bosnia and Herzegovina, Kosovo, Montenegro and North Macedonia to engage in the Sofia priority action on trial monitoring for high-level corruption and organized-crime cases. Further discussion in this regard is needed with Serbia.⁷⁰⁰ Serbia must ‘urgently accelerate and deepen reforms, in particular on the independence of the judiciary, the fight against corruption, media freedom, the domestic handling of war crimes and the fight against organized crime’.⁷⁰¹ In addition, numerous election-related recommendations previously made by the OSCE/ODIHR remain unaddressed.⁷⁰² Given that a number of opposition parties boycotted the elections, it is imperative that ‘the Serbian authorities address long-standing electoral shortcomings through a transparent and inclusive dialogue with political parties and other relevant stakeholders well ahead of the next elections’.⁷⁰³

The national anti-corruption strategy expired in 2018, but the authorities have not yet decided upon the follow-up strategic framework and coordination mechanism.⁷⁰⁴ Serbia adopted amendments to the laws on the anti-corruption agency, on the financing of political activities and on public enterprises, ‘with a view to clarifying provisions on prohibiting the use of public resources for electoral campaigns’.⁷⁰⁵ To fully comply with all OSCE/ODIHR recommendations, the law on the financing of political activities will require further amendments.⁷⁰⁶ The government ‘has adopted decisions aiming to regulate the use of public resources for electoral purposes’.⁷⁰⁷

According to a 2018 nationwide survey conducted by the United States Agency for International Development (USAID), corruption is among the most significant

concerns for Serbians.⁷⁰⁸ More than 80 per cent of Serbs polled believe that corruption affects Serbian society and politics from 'moderately' to 'very much'.⁷⁰⁹ At the same time, very few people are ready to report corruption when they see it – some out of fear, some because they do not believe anything will change.⁷¹⁰

Economic criteria

Economic growth

According to the EU 2016 Report, Serbia was moderately well prepared for EU accession in terms of developing a functioning market economy.⁷¹¹ Good progress was made in addressing some of the policy weaknesses, in particular with regard to the budget deficit and restructuring of publicly owned enterprises.⁷¹² Government debt is still high and the budgetary framework and its governance need to be strengthened.⁷¹³ Major structural reforms of the public administration, the tax authority, and state-owned enterprises remain incomplete. Informal employment, unemployment and economic inactivity are still very high, particularly among women and young people.⁷¹⁴ The state retains a strong footprint in the economy, and the private sector is underdeveloped and hampered by weaknesses in the rule of law and in the enforcement of fair competition.⁷¹⁵

According to the 2020 Communication, Serbia has made some progress towards establishing a functioning market economy and building its capacity to 'cope with competitive forces'.⁷¹⁶ The country has also 'made good progress in the fields of the right of establishment and freedom to provide services, company law, intellectual property law, competition policy, and financial services'.⁷¹⁷ Regarding transport policy, Serbia is at a 'good level of preparation'.⁷¹⁸

Regarding economic criteria, Serbia experienced accelerating GDP growth prior to the outbreak of the COVID-19 crisis, thanks to stronger domestic demand.⁷¹⁹ Although external imbalances widened, 'their financing remained healthy due to high inflows of foreign direct investment. Price pressures remained subdued and inflation expectations contained.'⁷²⁰ Serbia substantially improved its debt sustainability through reductions in its budgetary deficit and maintenance of responsible fiscal policies.⁷²¹ Serbia's unemployment

rates were at their lowest point in the last ten years, although this was a result of expansive emigration.⁷²² As in other countries, the COVID-19 crisis is depressing the economic outlook for 2020, especially in terms of GDP growth, public finances and employment. Regarding economic reforms, 'while some progress has been made in the reforms of the tax administration and the privatisation of state-owned banks, other structural reforms of public administration and state-owned enterprises advanced slowly'.⁷²³

PPP and PP

'Enhancing transparency and accountability, in particular ensuring the effective, efficient and transparent functioning of the public procurement system and public finance management, remains essential' in Serbia.⁷²⁴ Despite the fact that the country has aligned large parts of its PP legislation with the EU acquis, a new law adopted in February 2020 on 'special procedures for linear infrastructure projects' allows the authorities to exempt infrastructure projects deemed to be of 'special importance' for Serbia from the application of PP rules, thus circumventing EU rules and standards.⁷²⁵ The implementation of third-country intergovernmental agreements is especially problematic: they apparently do not respect the principles of equal treatment, non-discrimination, transparency and fair competition and are not in line with the relevant EU acquis and national legislation.⁷²⁶ The new PP law 'contains provisions for detection and prevention of corruption during the procurement process'.⁷²⁷ The PP rules remain in force in extreme emergency situations, such as the COVID-19 pandemic, although they do provide some flexibility.⁷²⁸ However, it is important to note that use of the more flexible procedure does not obviate the need for transparency.⁷²⁹

In 2021, the EC recommends that Serbia 'ensure full alignment with the 2014 EU directives on public procurement, in particular by adopting amendments to the law on public-private partnerships and concessions and by ensuring that projects financed from public funds are subject to public procurement procedures; ensure that intergovernmental agreements concluded with third countries do not unduly restrict competition and comply with the basic principles of public procurement, such as transparency, equal treatment

and non-discrimination, in line with the national legislation and the EU acquis; continue to strengthen the capacity of the Public Procurement Office, the Commission for Public-Private Partnerships and Concessions, the Republic Commission for the Protection of Rights in Public Procedures, and the Administrative court'.⁷³⁰

The new PP development programme for 2019–2023 and the corresponding 2019–2020 action plan, adopted in November 2019, included some activities originally foreseen in the previous programme and the 2018–2019 action plan.⁷³¹ In 2019, the PP market again grew modestly, to 8.14% of GDP.⁷³² Until mid-2020, the Commission for Public-Private Partnerships and Concessions had approved proposals for 154 PPP projects, including 62 with concession elements, predominantly in the transportation, sanitation and urban-planning sectors.⁷³³ The Serbia 2020 Report noted that the PPP Commission remains understaffed.⁷³⁴ There were no developments in this period regarding integrity or conflicts of interest.⁷³⁵ PPP- and concession-financed projects are 'exempted from the full application of the decree on capital investment management from July 2019'.⁷³⁶ The amendments to the law on PPPs and concessions, which should align the legislation with the directive on concessions have not yet been adopted.⁷³⁷

Tax

While Serbia has made some progress 'in the reforms of the tax administration and the privatization of state-owned banks, other structural reforms of public administration and state-owned enterprises advanced slowly'.⁷³⁸ Serbia's new law on the origin of assets, 'which provides for further legal options and human resources for the tax administration to check assets of natural persons, against declared income, and tax any assets that are in discrepancy based on a specific tariff' must be implemented fairly and in a manner that prevents corruption or abuse.⁷³⁹ Implementation of important new legislation in line with the EU acquis in the fields of public procurement, state aid rules and taxation, is lagging.⁷⁴⁰ In 2021, Serbia should 'continue with implementation of the tax administration reform programme in order to streamline the tax

administration's activities while ensuring sufficient human and IT resources for this purpose, improve tax collection and combat the informal economy'.⁷⁴¹

Extractive industries

Sufficient political attention needs to be paid to environmental and climate change issues, in order to achieve 'better coordination, stronger institutions, more financing and mainstreaming across all sectors of the economy'.⁷⁴² Serbia should foster a green-energy transition—away from coal—as a matter of priority, while intensifying the fight against air pollution.⁷⁴³ In line with EC recommendations, Serbia continued its rail reform process.⁷⁴⁴ However, it must take care that transportation investment decisions ensure best value for money.⁷⁴⁵

In 2019, investment activity in Serbia was very robust 'benefiting from increased capital spending by the government and a stream of foreign direct investments, including some large infrastructure projects, in particular the TurkStream gas pipeline'.⁷⁴⁶ Srbijagas' financial consolidation is a vital element of its reorganization plan, given that the government's support for servicing Srbijagas debt was scheduled to end in December 2020.⁷⁴⁷

Although only limited progress was made towards addressing previous essential EC recommendations on energy, Serbia remains moderately prepared. In 2021, Serbia 'should therefore fully unbundle and certify Srbijagas, Transportgas and Yugarosgaz, and develop competition in the gas market, ensure third-party access to the gas network as well as implement the conditions requested by the Energy Community Secretariat on the exemption of Gastrans; fully implement outstanding connectivity reform measures as committed to under the Connectivity Agenda including filing for Elektrosever licencing urgently in the context of establishing a regional electricity market; advance on green energy transition: strengthen human resources capacity and promote investment in energy efficiency and in substitution of coal power plants with gas and renewables, implement consumption-based metering and billing and move towards cost reflective electricity prices'.⁷⁴⁸

Political criteria

Whistle-blower protection

Whistle-blower protection in Serbia is not in as strong a position as the government claims. In 2016, provisions of several laws and bylaws regulated protection of whistle-blowers.⁷⁴⁹ However, whistle-blower protection was limited in its scope for several reasons.⁷⁵⁰ It was therefore necessary to establish a uniform legal framework by enacting legislation that would better regulate the area.⁷⁵¹ In addition, it was important to build public trust and the trust of potential whistle-blowers that full protection will be provided to them by the adoption of the law on whistle-blower protection.⁷⁵²

Practice has revealed inconsistencies in the implementation of the said law, primarily due to the way in which the entire judicial system, especially the courts, is organized.⁷⁵³ As Dragana Matović, lawyer and editor of the Pištaljka portal, told the Beta news agency, 'It is also of vital importance for judges to receive appropriate training. And there is also the need to prosecute and punish those responsible for corruption ... a matter that has not been dealt with by this law, but must go hand in hand with its application'.⁷⁵⁴ According to Dragomir Milojević, president of the Supreme Court of Cassation, the results of the first two-and-a-half years of application have exceeded all expectations, and the law continues to reap great benefits.

Milojević, however, also identified gaps and weakness related to court judgments not being respected. In his view, in order to ensure effective enforcement and prevent the violation of its provisions, stricter penalties in the event of a violation of the rights established

by law were needed;⁷⁵⁵ this is all the more important in the event of non-compliance with judgments.⁷⁵⁶ A mechanism for protection of whistle-blowers against retaliation was also deemed necessary.⁷⁵⁷ Statistical surveys show that Serbia's higher courts rarely comply with the eight-day statutory deadline for deciding on a request for a provisional measure to protect whistle-blowers, which usually take weeks.⁷⁵⁸ Based on collected data, 60 per cent of requests for the issuance of a provisional measure were addressed to the courts of Belgrade, Novi Sad and Požarevac, and of all the requests about 40 per cent were accepted, 20 per cent rejected, while 39 per cent were not even considered.⁷⁵⁹

Courts in Serbia received 152 new cases in 2019 in accordance with the law on protection of whistle-blowers, compared to 122 in 2018; 160 cases from a total of 220 were finalized, significantly more than in 2018 (124).⁷⁶⁰ The authorities must ensure the protection of whistle-blowers in high-level corruption cases, also as a means to improve trust in state institutions.⁷⁶¹ The legal framework on whistle-blower protection should be amended to bring it in line with the new EU acquis.⁷⁶² It is imperative that whistle-blower reports be investigated in accordance with the law, such as in the Krusik case.⁷⁶³ However, it must be noted here that the Krusik case is not currently designated as a whistle-blowing case since Mr Obradović's attorneys decided not to request such a status.⁷⁶⁴

Media

Again in 2020, no progress was made on freedom of expression in Serbia.⁷⁶⁵ This is a matter of serious concern.⁷⁶⁶ A new media strategy was drafted in a transparent and inclusive manner.⁷⁶⁷

According to the 2020 Communication, while this new media strategy identified the main challenges, implementation has not yet begun; as yet, no improvements to the overall environment for freedom of expression have been registered.⁷⁶⁸ As noted in the strategy, ‘threats, intimidation and violence against journalists are still a source of serious concern’.⁷⁶⁹ Transparency regarding media ownership and allocation of public funds, particularly at the local level, must be ensured.⁷⁷⁰ The ODIHR observed that during the electoral campaign most of the TV channels and newspapers with national coverage promoted government policy.⁷⁷¹ In addition, the ODIHR ‘found that the few media outlets which offered alternative views had limited outreach and provided no effective counterbalance, which compromised the diversity of political views available through traditional media, through which most voters receive information’.⁷⁷²

Further amendments to the law on freedom of access to information of public importance should be adopted, including those aimed at better enforcing decisions of the Commissioner for Information of Public Importance.⁷⁷³

Enforcement capabilities

The inclusiveness, transparency and quality of law making, and effective oversight of the executive need to be further enhanced, and the use of urgent procedures limited.⁷⁷⁴ Constitutional reforms were recommended in 2016 for alignment with EU standards in some areas.⁷⁷⁵ There is scope for improved cooperation between the executive and independent regulatory institutions.⁷⁷⁶ The institutional set-up is not yet functioning as a credible deterrent for corrupt practices.⁷⁷⁷ A track record of effective investigations, prosecutions and convictions in corruption cases is required, including at a high level.⁷⁷⁸

The Serbian Anti-Corruption Agency’s position is weakened by unclear division of mandates for monitoring the implementation of the country’s anti-corruption strategy between the government’s Anti-Corruption Council, the Ministry of Justice and the governmental coordination body headed by the prime minister.⁷⁷⁹

Strengthening of the agency’s role in all anti-corruption fields was envisaged by the 2013–2018 National Anti-Corruption Strategy, though progress has been slow due to a lack of support from the government and parliament.⁷⁸⁰ Furthermore, the public prosecution service does not make sufficient use of the findings of either the Anti-Corruption Agency or the Anti-Corruption Council for criminal investigations, nor does it collaborate sufficiently with the police.⁷⁸¹

UNCAC reviewers identified a number of challenges and grounds for further improvement in implementation of the UNCAC.⁷⁸² Among the number of recommendations, the review lists expanding the scope of provisions on active bribery; ensuring uniformity and consistency in sanctions and their imposition against corruption offences; and ensuring coherency and efficiency of existing witness-protection legislation.⁷⁸³

As noted in the 2020 Communication, Serbia failed to implement the EU's recommendations regarding the judiciary and fundamental rights from the previous year's report; there was therefore no progress during the reporting period.⁷⁸⁴ Serbia has put 'constitutional amendments aimed at aligning the constitution with European standards have been put on hold until after the parliamentary elections. This delay has repercussions on the adoption of related judicial legislation that is needed to increase safeguards for judicial independence.'⁷⁸⁵ There are significant concerns that current legislation leaves open the possibility of continued political influence over the judiciary.⁷⁸⁶ Work has continued on reducing old enforcement cases and harmonizing court practice.⁷⁸⁷

Serbia has continued implementing its task-force concept to investigate corruption offences; six task forces composed of representatives of the relevant state authorities have been set up by the special anti-Corruption departments of the Higher Public Prosecutor's Offices.⁷⁸⁸ While 'there has been some improvement in relation to internal control functions in bodies audited by the State Audit Institution', they remain weak.⁷⁸⁹ In addition, 'the Prosecutor's Office for Organized Crime, which has jurisdiction over high-level corruption cases, is understaffed'.⁷⁹⁰

Progress was made on the technical preparations necessary for the creation of a centralized criminal intelligence system. An inter-institutional cooperation agreement was signed in September 2019 to enable this system to 'serve as a safe and unified platform for managing and exchanging data in the field of serious and organized crime between law enforcement and judicial authorities'.⁷⁹¹

Institutional integrity

Serbia is moderately prepared in the area of public-administration reform. Some progress was made in the area of service delivery.⁷⁹² Political influence on senior managerial appointments remains an issue of serious concern, especially regarding the excessive number of acting positions.⁷⁹³ Serbia's ability to attract and retain qualified staff in the administration dealing with EU issues is crucial.⁷⁹⁴ A coordinated monitoring and reporting system of the public administration reform

strategy and public financial management reform programme is yet to be established.⁷⁹⁵

Some progress was achieved in 2018, especially in adopting amendments to the economic crimes section of the criminal code; to the law on the organization of state authorities in the field of the fight against corruption, organized crime and terrorism; and to the law on the seizure and confiscation of proceeds of crime.⁷⁹⁶ However, there was a serious delay in adopting the new law on the anticorruption agency.⁷⁹⁷ Operational capacity of relevant institutions remains uneven.⁷⁹⁸ Law-enforcement and judicial authorities still need to prove that they can investigate, prosecute and try all high-level corruption cases in an unbiased and operationally independent manner.⁷⁹⁹ Corruption remains prevalent in many areas, and continues to be a serious problem.⁸⁰⁰

There is an urgent need to create more space for genuine cross-party debate, in order to forge a broad pro-European consensus, which is vital for the country's progress on its EU path.⁸⁰¹ The ruling coalition's parliamentary practices led to a deterioration in legislative debate and scrutiny, and undermined the parliament's oversight of the executive.⁸⁰² Several opposition parties began boycotting the parliament in early 2019.⁸⁰³ Serbia needs to fully address all recommendations on the elections, identified by international observers.⁸⁰⁴

The constitutional reform process intended to align the constitution with European standards for the judiciary is ongoing; further to the adoption of the constitutional amendments, the system for the appointment and evaluation of judges and prosecutors needs to be revised to allow for fully merit-based judicial recruitments and careers.⁸⁰⁵ Currently, the scope for political influence remains of concern.⁸⁰⁶ Some (limited) progress has been made, but the corruption-prevention reforms have had no measurable impact. A revised law on the prevention of corruption was adopted in May 2019.⁸⁰⁷ As regards the repression of corruption, the European Commission reported in 2019 that the law on the organization and jurisdiction of government authorities in the suppression of organized crime, terrorism and corruption, which entered into force in March 2018, is being implemented, but it is too early to fully assess its impact.⁸⁰⁸

The ruling coalition currently enjoys an overwhelming majority in the new Serbian parliament, with no viable opposition party.⁸⁰⁹ Regarding the public administration reform, Serbia is moderately prepared, although it should significantly reduce the excessive number of acting senior manager positions, which undermines the integrity of the civil service.⁸¹⁰ In addition, 'lack of transparency and respect of the merit-based recruitment procedure for senior civil service positions is an issue of increasing concern'.⁸¹¹

With respect to members of parliament, the adoption of the new law on lobbying whose effective application together with its secondary legislation training and awareness-raising activities, if properly implemented, will significantly increase the transparency of lobbying.⁸¹²

Although only seven of 13 members have been nominated, the Anti-Corruption Council continued its work 'in exposing and analysing cases of systemic corruption'.⁸¹³ In 2019, it issued informative reports on a variety of topics, including enforcement agents, the science fund, the lack of transparency on signature of government contracts, the rule of law and public procurement.⁸¹⁴

The Council does not receive the cooperation of the Serbian government and is not systematically consulted on draft legislation.⁸¹⁵ Unfortunately, 'the required amendment to the government's rules of procedure for systematic consideration of the Anti-Corruption Council's recommendations has been seriously delayed'.⁸¹⁶

In order to promote integrity in the public service, a code of ethics for civil servants has been adopted.⁸¹⁷ Serbia needs to ensure implementation of the existing integrity plans in the judiciary and the public administration.⁸¹⁸ The impact of local anti-corruption plans and efforts has not yet been assessed.⁸¹⁹ The public administration structure requires streamlining and clarification of the lines of accountability between agencies to eliminate overlapping functions, fragmentation, and unclear reporting lines.⁸²⁰ The interior ministry's internal control sector was provided with additional equipment and human resources, to strengthen its capacity.⁸²¹ However, 'the implementation of the anticorruption

measures, including integrity tests, has yet to show concrete results'.⁸²²

According to a November 2020 report, GRECO noted that, 'the vast majority of the recommendations remain partly implemented', a situation that is 'globally unsatisfactory'.⁸²³ Although it recognized that the parliamentary situation had prevented Serbia from adopting a new Constitution it lamented that 11 of 13 recommendations had not yet been fully implemented.⁸²⁴ GRECO underlined that while the use of an urgent procedure for adopting legislation proposals in the Parliament had declined, it still left the option of introducing late amendments that have not been subject to public notification or debate.⁸²⁵

Regarding parliamentary ethics, the adoption of a code of conduct for parliamentarians, listed as a priority, has been fulfilled.⁸²⁶ GRECO welcomed the 'normative framework and the methods to improve the objectivity and transparency of the recruitment procedures of judges and prosecutors'.⁸²⁷

Anti-corruption education

Although the government's self-assessment report indicated that training had been conducted for civil servants, the IRM researchers could not find reliable information on whether this had been implemented for employees in local administration.⁸²⁸ The awareness-raising campaign on the Law on the Protection of Whistle-blowers was conducted in June 2015 with the support of USAID.⁸²⁹ The University of Belgrade's faculty of law established a legal clinic against corruption in 2015 with the support of United Nations Development Programme and USAID.

In addition to improving the functioning of reporting channels, it is necessary to provide adequate training for the staff of the body responsible for receiving the reports, as they often experience the same pressures as whistle-blowers.⁸³⁰ According to the Supreme Court of Cassation, in 2017, 1 100 judges and about 200 office technical advisers received training for the implementation of the Whistle-blower Protection Act.⁸³¹ In early 2017, Pištaljka launched a project co-financed by the EU, aimed at providing training to 1 000 judges and 100 attorneys.⁸³² This project is a novelty at the European level, as it is the first time that a civil-society

organization has provided state employees with training on the implementation of a law using experience gained in fieldwork.⁸³³

Exchanges of experience between civil-society representatives and public employees is very valuable, and is of crucial importance for good law enforcement.⁸³⁴ Hopefully, this type of training will be picked up in the implementation of other regulatory acts.⁸³⁵ The Serbian law on whistle-blower protection is the only one in the world that has made its application conditional on judges obtaining special training and licensing.⁸³⁶

Transparency

To become more transparent, Serbia needs to implement its reform targets, professionalize and depoliticize the administration, and make recruitment and dismissal procedures more transparent, especially for senior management positions.⁸³⁷

The recommendations of international observers need to be fully addressed, including those related to the transparency and integrity of the election process during the electoral campaign.⁸³⁸ The parliament still does not exercise effective oversight of the executive.

Transparency, inclusiveness and quality of law making need to be enhanced and cross-party dialogue improved; meanwhile, the use of urgent procedures should be reduced and actions that limit the ability of the parliament to conduct effective scrutiny of legislation must be avoided.⁸³⁹ The role of independent regulatory bodies needs to be fully acknowledged.

Constitutional reforms are needed for alignment with EU standards in some areas.⁸⁴⁰

Serbia scored 40 on the CPI in 2015; 42 in 2016; 41 in 2017; and 39 in 2018 and 2019.⁸⁴¹

EU legislation

Asset Recovery

The interior ministry's financial investigation unit is 'designated to carry out the functions of Serbia's Asset Recovery Office that are related to the exchange of police data in line with the EU acquis'.⁸⁴² In 2021, Serbia should improve its track record on investigations, indictments and final convictions in high-level corruption and organized crime cases, including the seizure and confiscation of criminal assets.⁸⁴³ In addition, Serbia should 'systematically increase the freezing and confiscation of criminal assets based on a systematic tracking of money flows, in particular in cases of organised crime and money laundering'.⁸⁴⁴

Regarding high-level corruption, in 2019 the courts rendered first instance judgements against 30 individuals (2018: 41; 2017: 50).⁸⁴⁵ Assets were confiscated in three of these cases (2018: two).⁸⁴⁶ In 2019, the Prosecutor's Office for Organized Crime indicted 20 individuals (2018: 21).⁸⁴⁷ As these figures make clear, the number of cases in which assets are seized or confiscated is still limited and the amounts tend

to be low.⁸⁴⁸ Serbia 'needs to make confiscation of criminal assets a strategic priority in the fight against organised crime, terrorism and high-level corruption, in order to take away the economic basis of criminal networks'.⁸⁴⁹

International systems

Serbia is moderately prepared in areas such as PP, statistics, monetary policy and financial control. It needs to align its foreign and security policy with EU common foreign and security policy in the period up to accession.⁸⁵⁰ Serbia needs to address issues of non-compliance with the SAA, in particular with regard to restrictions on capital movement, state aid regulation, fiscal discrimination on imported spirits and restrictions on waste exports.⁸⁵¹

Serbia has continued dialogue with Kosovo to establish a normalization of relations.⁸⁵² In 2019, Serbia showed restraint in its response to the introduction of the customs tariffs on its border with Kosovo.⁸⁵³ Nevertheless, it needs to make substantial efforts, in particular diplomatically, to establish a conducive environment for the conclusion of a legally-binding agreement with Kosovo.⁸⁵⁴ Such an agreement is urgent and crucial if both countries are to advance on their respective European paths.⁸⁵⁵

According to the EC's Serbia 2020 Report, the country is developing strong Relationships as well as strategic partnerships with many countries, including Russia, China and the US.⁸⁵⁶ Cooperation with China 'increased during the COVID-19 crisis and was marked by pro-China and EU-sceptical rhetoric by high-ranking officials'.⁸⁵⁷

One of the most urgent regional issues is the normalization of relations between Serbia and Kosovo.⁸⁵⁸ The latter lifted the 100% tariff imposed in November 2018 on imports from Serbia and Bosnia and Herzegovina, as well as all reciprocal measures, thus paving the way for restoration of trade with Serbia and Bosnia and Herzegovina and the resumption of the Belgrade-Priština dialogue.⁸⁵⁹ Although relations between Priština and Belgrade are still difficult, 'the resumption of the EU-facilitated Dialogue in July 2020 and the commitment of both parties to re-engage in it is a positive first step'.⁸⁶⁰ This will need to be followed by further, tangible progress towards a comprehensive, legally-binding normalization agreement.⁸⁶¹

In December 2019, the cooperation agreement between Eurojust and Serbia entered into force. Serbian participation in Eurojust is increasing: not only has it been involved in 41 cases and taken part in three joint investigation teams, it is the most frequently requested country in the region.⁸⁶²

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The EU approach toward the Western Balkans and overview of anti-corruption commitments

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