Chapter 17.

# Anti-corruption policy in South East Europe

This chapter on anti-corruption policy assesses the policy settings, strategies, processes and institutions in six South East European economies. After a brief overview of trends and performance in the fight against corruption in South East Europe, including the economies' performance against international anti-corruption indicators, the chapter then focuses on five essential sub-dimensions. The first sub-dimension, anti-corruption reforms, policy and implementation, examines anti-corruption policies: how they were developed, including civil society involvement, and how their implementation is monitored. The second, anti-corruption public awareness and education, assesses the extent of government activities in this area. The third, corruption prevention and co-ordination institutions, covers how anti-corruption bodies are organised and their powers and independence guaranteed. The fourth, preventing and managing conflicts of interest and whistleblower protection, considers the frameworks in use and the challenges faced in this area. Finally, the anti-corruption enforcement bodies and regional co-ordination sub-dimension considers whether there are independent and effective enforcement bodies and the frameworks for cross-border action. The chapter includes policy suggestions for enhancing policies in each of these sub-dimensions in order to tackle corruption, which in turn would help to foster greater competitiveness.

Main findings

Corruption imposes a variety of costs on society and can diminish the competitiveness of an economy. It wastes public resources, widens economic and social inequalities, breeds discontent and political polarisation, and reduces trust in institutions. Corruption perpetuates inequality and poverty, affecting well-being and the distribution of income. Moreover, it undermines opportunities to participate equally in social, economic and political life. Corruption can hamper growth, lower the productivity of capital, reduce incentives for innovation and productive labour, and discourage foreign direct investment.

All six assessed SEE economies – Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Kosovo,[*] Montenegro and Serbia – score an average of around 2.1 for the anti-corruption policy dimension (Figure 17.1). This signifies that in the areas covered by the qualitative indicators they generally have their anti-corruption policy frameworks in place. Montenegro has the highest average score of 2.7, thus nearing the level of active policy implementation. Serbia, with an average score of 2.6, and the Former Yugoslav Republic of Macedonia with 2.4 are also relatively advanced. Nevertheless, the implementation of some elements of the frameworks is more advanced than others. Generally, anti-corruption public awareness and education are more advanced than anti-corruption reforms, policy and implementation; anti-corruption enforcement bodies; and regional co-operation.

Figure 17.1. **Anti-corruption policy: Dimension and sub-dimension average scores**
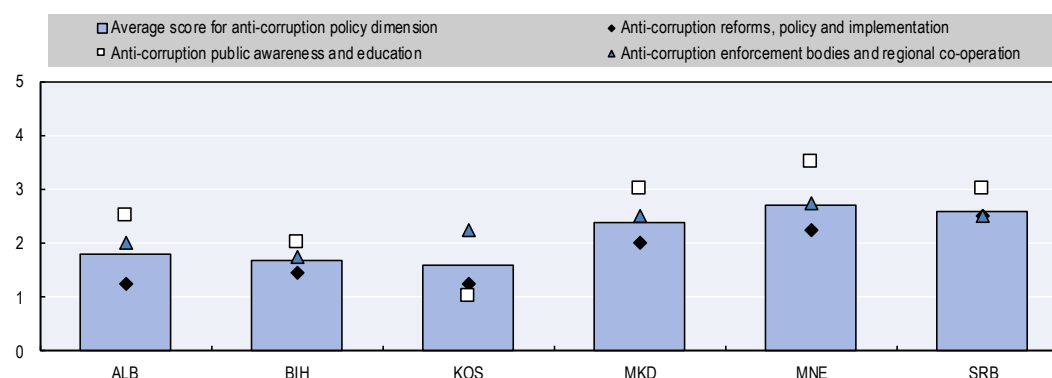
Note: See the methodology chapter for information on the *Competitiveness Outlook* assessment and scoring process.

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Comparison with the 2016 assessment

The six SEE economies continue to face challenges in fully implementing their anti-corruption frameworks. However, compared to the previous assessment, consistent monitoring of the implementation of anti-corruption activities has become almost universal. All of the SEE economies have begun to effectively collect detailed information on the implementation progress of their anti-corruption strategies and action

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[*]   This designation is without prejudice to positions on status, and is in line with United Nations Security Council Resolution 1244/99 and the Advisory Opinion of the International Court of Justice on Kosovo's declaration of independence.

plans. They have adopted new laws and established anti-corruption institutions (in Montenegro and the Republika Srpska entity of Bosnia and Herzegovina[1]) or are currently in the process of establishing them (in Albania, the Federation of Bosnia and Herzegovina entity of Bosnia and Herzegovina, and Serbia). Moreover, several of the economies have undertaken crucial first steps to protect whistleblowers. Although their perceived levels of corruption have only modestly improved, their anti-corruption policies demonstrate a certain degree of innovation and learning from international good practice.

Achievements

Most economies have adopted comprehensive anti-corruption policy documents and taken steps to involve civil society in their preparation and monitoring. These documents typically contain clear objectives, concrete tasks and deadlines. They assign responsibilities to implementing bodies and define follow-up mechanisms.

All six SEE economies have made efforts to raise public awareness of anti-corruption issues and to train public officials. Several economies have run extensive campaigns targeting the general public.

All of the economies have assigned clear responsibilities for co-ordinating the implementation of anti-corruption policy documents. They often have sophisticated procedures for appointing the leadership of their corruption prevention and co-ordination institutions in order to ensure transparency and limit the risk of undue political interference.

The economies generally have comprehensive legal frameworks for managing conflicts of interest. All relevant public officials and civil servants are generally covered by conflict-of-interest rules.

Remaining challenges and key recommendations

- **Improve the involvement of civil society in policy development** and preparing draft legislation by outlining the terms of co-operation more clearly, for example for how participating organisations will be selected and for providing feedback on their responses.

- **Ensure more systematic and comprehensive corruption proofing of legislation**. The six SEE economies are still not widely corruption proofing new legislative proposals.

- **Make public awareness-raising activities more sustainable** in those economies where there is insufficient funding from government budgets.

- **Some multi-stakeholder co-ordination institutions should do more to demonstrate their effectiveness**. In several of the economies, stakeholders have indicated that the relevant councils or similar bodies are not proactive and stakeholders generally feel insufficiently involved.

- **Implement the whistleblower protection laws** enacted by all of the SEE economies. The particular challenges vary from economy to economy, but include a lack of public awareness about the options for protection, as well as the need to improve the effectiveness of protective measures.

- **Provide better safeguards to protect anti-corruption investigation units** from undue interference. For instance, they are usually not separated from the regular police hierarchy and several of the anti-corruption investigation or prosecution bodies suffer from staff shortages.

Context

Anti-corruption policy refers to the formal framework as well as the concrete activities for containing and eventually reducing corruption. Anti-corruption strategies are a key driver of sustainable growth and good governance (OECD, 2015). States that are parties to the United Nations Convention against Corruption (UNCAC) are obliged to develop and implement, or maintain, effective co-ordinated anti-corruption policies (UN, 2004).

In recent decades, the negative impact of corruption on growth has been extensively examined (see for example Mauro, 1995). Corruption has been shown to lower productivity of capital (Lambsdorff, 2003), reduce incentives for innovation and productive labour, damage government services, and lower trust in public institutions (OECD, 2015).

Considering the adverse effects of corruption, anti-corruption policy benefits most of the policy areas covered in this publication. However, the topic is particularly relevant to the following chapters:

- **Chapter 1. Investment policy and promotion** can benefit from anti-corruption efforts. Countries with less corruption generally provide a better investment climate and therefore attract more foreign direct investment.

- **Chapter 7. Education and competencies** are severely affected in corrupt environments. Corruption degrades learning outcomes, helping individuals to succeed who do not merit it, while excluding socially disadvantaged groups who cannot bear the cost of corruption. Corruption in education particularly affects the values formed by young people (Transparency International, 2013).

- **Chapter 16. Effective public services** suffer from corruption. Corruption impairs effective tax collection, distorts public procurement and thus reduces the resources available for public services and welfare programmes (Gupta, Davoodi and Alonso-Terme, 2002). In heavily corrupt environments, the government usually only serves those people who pay bribes or have personal connections.

Anti-corruption policy assessment framework

This chapter analyses anti-corruption policy in the six SEE economies. The analysis is not exhaustive but focuses on anti-corruption efforts across five broad sub-dimensions:
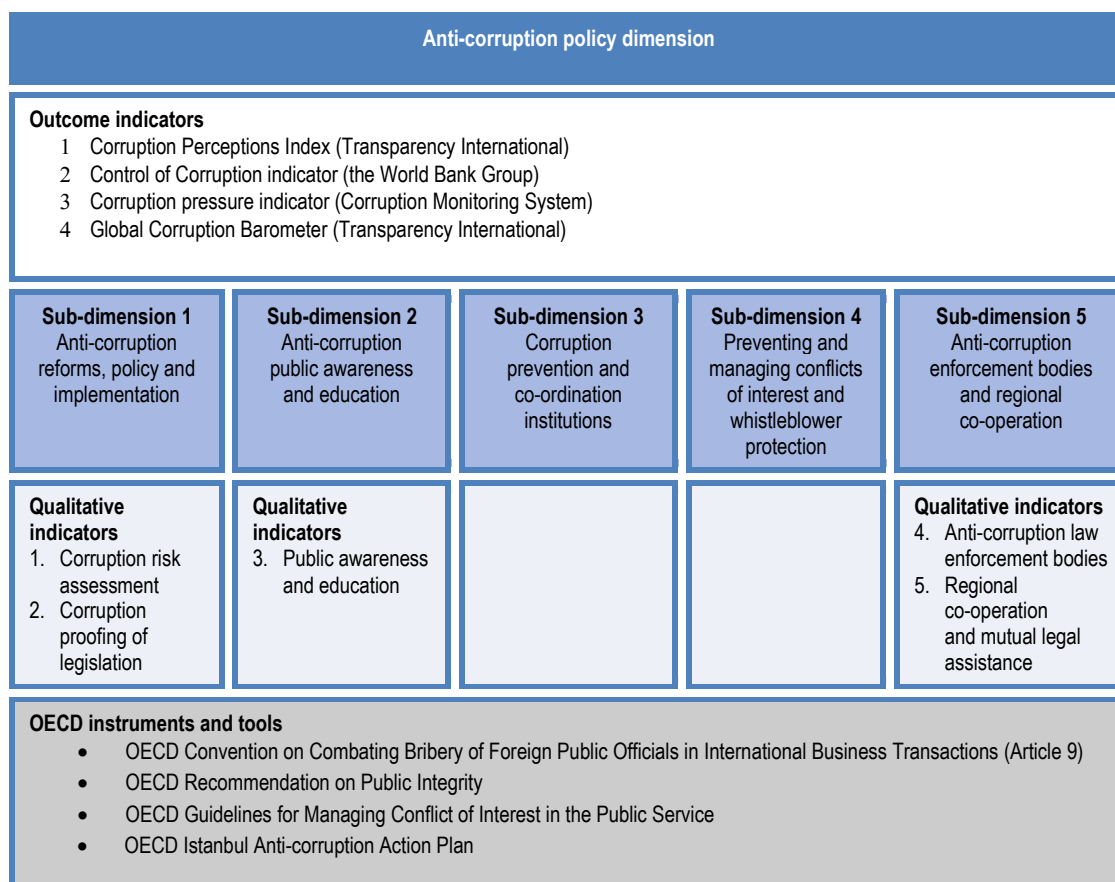
1. Anti-corruption reforms, policy and implementation: what anti-corruption policy documents exist? How were they developed and adopted? How is their implementation monitored and evaluated?

2. Anti-corruption public awareness and education: what public-awareness activities have the government and other stakeholders carried out? Do public officials and other target groups have education and training opportunities on corruption-related issues? Are these activities sustainable and how are they funded?

3. Corruption prevention and co-ordination institutions: how is the co-ordination of anti-corruption policies organised? What powers do prevention and co-ordination institutions have? How are their independence and capacity ensured?

4. Preventing and managing conflicts of interest and whistleblower protection: what is the framework for managing conflicts of interest? What measures are used when conflicts of interest occur? What protection is available for whistleblowers? What are the main challenges in providing protection?

5. Anti-corruption enforcement bodies and regional co-operation: are there specialised anti-corruption enforcement bodies? How are their independence and capacity ensured? What is the framework for international co-operation in anti-corruption matters? What evidence is there for the effectiveness of the framework?

Figure 17.2 shows how the sub-dimensions and their constituent indicators make up the anti-corruption policy assessment framework.

The assessment used qualitative indicators for three of the sub-dimensions (anti-corruption reforms, policy and implementation; anti-corruption public awareness and education; and anti-corruption enforcement bodies and regional co-operation). The other two were assessed through questionnaires based on the OECD instruments and tools for anti-corruption and public integrity listed in Figure 17.2. For the qualitative indicators, public authorities and independent consultants in each of the six SEE economies were invited to score their performance on a scale from 0 to 5, with the results summarised in Annex 17.A1.[2] The results were reconciled and processed by the OECD. For more details on the methodology underpinning this assessment please refer to the methodology chapter.

Figure 17.2. **Anti-corruption policy assessment framework**

Anti-corruption policy dimension				
Outcome indicators 1 Corruption Perceptions Index (Transparency International) 2 Control of Corruption indicator (the World Bank Group) 3 Corruption pressure indicator (Corruption Monitoring System) 4 Global Corruption Barometer (Transparency International)				
Sub-dimension 1 Anti-corruption reforms, policy and implementation	**Sub-dimension 2** Anti-corruption public awareness and education	**Sub-dimension 3** Corruption prevention and co-ordination institutions	**Sub-dimension 4** Preventing and managing conflicts of interest and whistleblower protection	**Sub-dimension 5** Anti-corruption enforcement bodies and regional co-operation
Qualitative indicators 1. Corruption risk assessment 2. Corruption proofing of legislation	**Qualitative indicators** 3. Public awareness and education			**Qualitative indicators** 4. Anti-corruption law enforcement bodies 5. Regional co-operation and mutual legal assistance
OECD instruments and tools • OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Article 9) • OECD Recommendation on Public Integrity • OECD Guidelines for Managing Conflict of Interest in the Public Service • OECD Istanbul Anti-corruption Action Plan				

Anti-corruption policy performance in SEE economies

Over recent years, the six SEE economies have reportedly made only minor progress in reducing corruption. The widely cited Corruption Perceptions Index ranks them between 64th (Montenegro) and 95th (Kosovo) out of 176 countries and territories

(Transparency International, 2017). On a scale from 0 (highly corrupt) to 100 (very clean) the six SEE economies scored an average of 40 in 2016, a slight improvement from 39 in 2012. This compares to an average score of 69 for OECD countries in 2016 (Figure 17.3). Albania, Kosovo, Montenegro and Serbia improved their scores over the period 2012-16, while the scores for Bosnia and Herzegovina and the Former Yugoslav Republic of Macedonia got worse.

Figure 17.3. **Corruption Perceptions Index (2012-16)**

Scale from 1 to 100
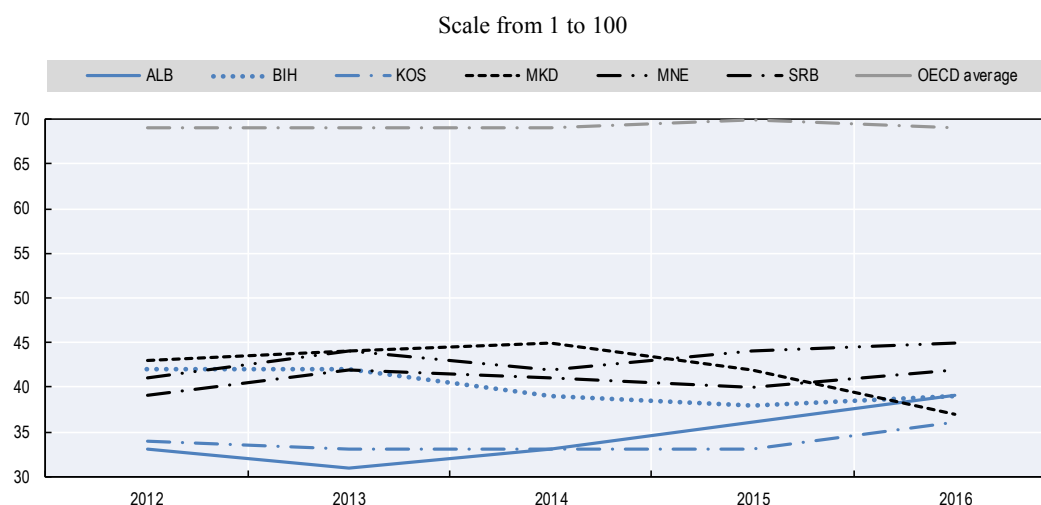
Note: 1 – highly corrupt; 100 – very clean.

Source: Transparency International (2017), Corruption Perceptions Index 2016, www.transparency.org/news/feature/corruption_perceptions_index_2016.

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The World Bank's Control of Corruption indicator reveals a similar dynamic (Figure 17.4). On a scale from -2.5 (worst) to +2.5 (best), the six economies improved their average score marginally (from -0.33 to -0.30) between 2012 and 2015. For comparison, the OECD average in 2015 was 1.24. They have made a more substantial improvement on their scores in 2005, however, when they averaged -0.46. Between 2005 and 2015, all of the economies except Bosnia and Herzegovina improved. Both the Corruption Perception Index and Control of Corruption scores suggest that Albania, Montenegro and Serbia have made the most progress.

The regional Corruption Monitoring System of the Southeast Europe Leadership for Development and Integrity (SELDI) coalition has registered a general improvement in corruption since the early 2000s. However, the position remains quite unstable. Between 2014 and 2016, the corruption pressure indicator (the share of citizens reporting having been asked for bribes by public officials) of the Corruption Monitoring System improved in Montenegro and Serbia but worsened in the other four economies. Increasing public demand for good governance has faced continued rent seeking by corrupt officials (Shentov, Stefanov and Todorov, 2016).

The overall regional trend in the experience of bribery is also improving, according to the Global Corruption Barometer of Transparency International, most notably in Albania, the Former Yugoslav Republic of Macedonia and Kosovo (Figure 17.5).
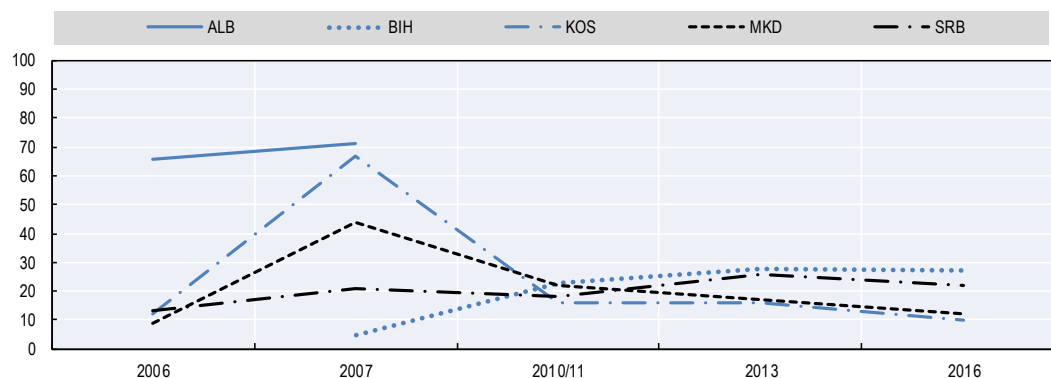
Figure 17.4. **Control of Corruption score (2005-15)**

Scale from -2.5 to 2.5
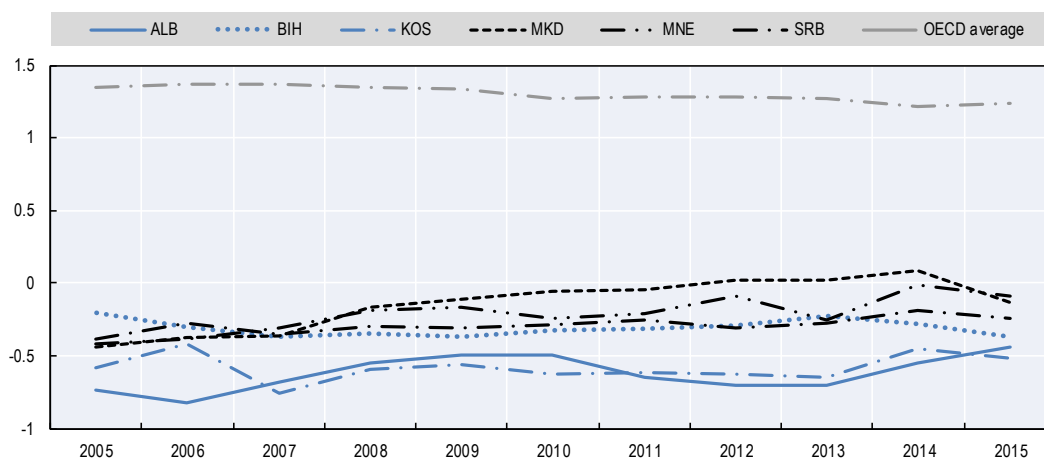
Source: World   Bank   (2017),   *Worldwide   Governance   Indicators*   (database),
http://info.worldbank.org/governance/wgi/index.aspx.

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Figure 17.5. **Percentage of households who paid a bribe in the past year (2005-16)**

Note: In Albania, the share was 34% in 2016 (no data in 2010/2011 and 2013). No data for Bosnia and Herzegovina in 2006. No pre-2016 data for Montenegro (16% in 2016).

The exact list of services covered in the surveys varied from year to year. In 2016, the question was: "Did you or any member of your household make an unofficial payment or gift when using these services over the past 12 months? The road police, public agencies issuing official documents, the civil courts, public education (primary or secondary), public education (vocation), public medical care, public agencies in charge of unemployment benefits or any other public agencies in charge of other social security benefits?"

Source: Transparency International (n.d.), "Global Corruption Barometer", www.transparency.org/research/gcb.

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Moreover, there is a contrast between public opinion about the government's fight against corruption and perceived levels of corruption. Although perceived corruption is much worse in the six SEE economies than the OECD average (Transparency International, 2017), in the SEE economies on average 55% of respondents thought that the current government was handling the fight against corruption poorly – the same

average as for 20 OECD countries (Figure 17.6). The public are most sceptical about the government's fight against corruption in Bosnia and Herzegovina and Kosovo – economies which also have relatively high perceived levels of corruption in the region.

Figure 17.6. **Share of respondents who believe their government is poor at fighting public corruption (2016)**
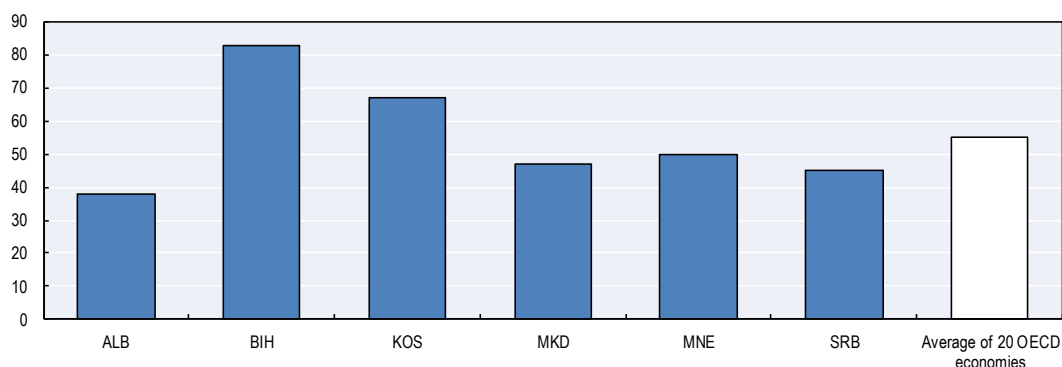
Note: The *Global Corruption Barometer* covered the following OECD countries: Australia, Belgium, the Czech Republic, Estonia, France, Greece, Hungary, Italy, Japan, Korea (South), Latvia, the Netherlands, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey and the United Kingdom.

Source: Pring, (2016), *People and Corruption: Europe and Central Asia: Global Corruption Barometer,* www.transparency.org/whatwedo/publication/people_and_corruption_europe_and_central_asia_2016; Pring (2017), *People and Corruption: Asia Pacific: Global Corruption Barometer*, www.transparency.org/whatwedo/publication/people_and_corruption_asia_pacific_global_corruption_barometer.

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Anti-corruption reforms, policy and implementation

Tackling corruption requires effective and co-ordinated anti-corruption policies, which, among other things, promote the participation of civil society (UN, 2004). Comprehensive strategies and action plans which set strategic objectives and immediate goals, and allocate responsibilities for particular tasks, are widely recognised to be the optimal way to frame anti-corruption policies.
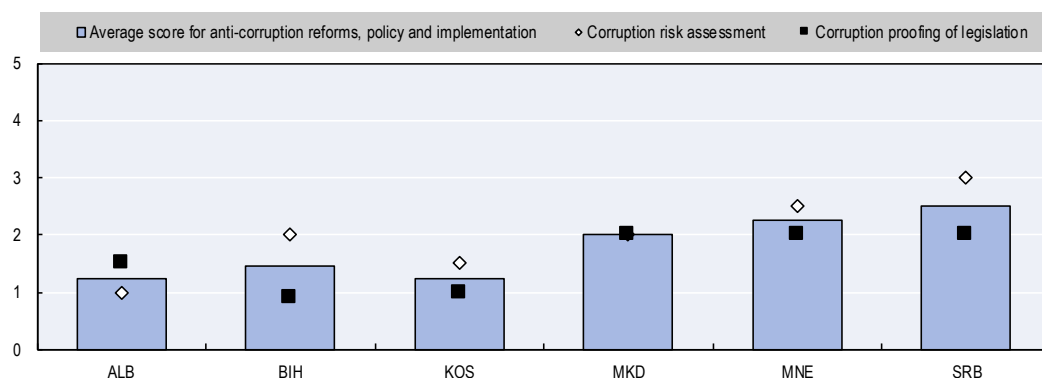
The anti-corruption reforms, policy and implementation sub-dimension comprises two qualitative indicators: 1) the framework and practice of corruption risk assessment; and 2) the corruption proofing of legislation (Figure 17.7).

The results of the assessment of these two indicators are presented in the next section. Two further sections assess two other important issues for anti-corruption policy: civil society involvement and monitoring.

The six SEE economies score 1.8 on average in this sub-dimension, indicating there is scope for further progress, especially on implementation.

These scores indicate that the economies generally have corruption risk assessment procedures in place. Several have introduced them as standard practice in all public institutions. Overall, the Former Yugoslav Republic of Macedonia, Montenegro and Serbia obtain the highest average scores for this sub-dimension. These three economies all have relevant procedures and methodologies to corruption proof laws, with Serbia having accumulated the most extensive practical experience in this area.

Figure 17.7. **Anti-corruption reforms, policy and implementation:
Sub-dimension average score and indicator scores**

Note: See the methodology chapter for information on the *Competitiveness Outlook* assessment and scoring process.

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Analysis nevertheless indicates that all the economies should strengthen their efforts to ensure that they systematically follow up their corruption risk assessments with activities to reduce those risks.

Corruption risk assessments are common but there is no routine corruption proofing of legislation

In order to ensure effectiveness and to enable informed adjustments, anti-corruption policies need to contain objective and measurable criteria for measuring progress. A viable policy will also need to be evidence-based in order to ensure that it meets the real needs of the economy and achieves its goals.

The **corruption risk assessment** indicator explores whether the legal and methodological framework for corruption risk assessments has been adopted and implemented in public institutions. The indicator takes into account how systematic the practice is, whether it has become an integral part of organisational activities, and whether it is sufficiently funded and regularly carried out.

All six economies have introduced corruption risk assessments in public institutions or in particular sectors. However, their level of use varies. In some economies, corruption risk assessments represent a crucial stage in the process of developing institutional integrity plans. Such plans are mandatory in Bosnia and Herzegovina, Montenegro and Serbia. As a result, these economies demonstrate the most systematic activity in this area.

Serbia has most experience with institutional integrity plans. By 2014 around 47% of all institutions had adopted an integrity plan (Anti-corruption Agency, 2014). In addition, the Anti-corruption Agency assesses the quality and implementation of a selection of the integrity plans. In Montenegro, according to the Corruption Prevention Agency's 2016 annual report, 674 out of 697 public institutions had fulfilled their obligation to develop an integrity plan as of 31 December 2016 (Corruption Prevention Agency, 2017).

In Bosnia and Herzegovina, as of 31 December 2016, all the state-level institutions had fulfilled or were in the final stage of fulfilling their obligation to develop integrity plans. By May 2017, a considerable proportion of institutions in the Federation of Bosnia and Herzegovina had developed such plans. In the Republika Srpska, the anti-corruption strategy requires all public institutions to develop integrity plans. The entire public sector

should have adopted integrity plans by December 2017. The Ministry of Justice organises training for officials on the development of integrity plans.

While corruption risk assessments are fairly well-established in the SEE region, the **corruption proofing of legislation** is not yet a universal practice, although the trend is improving (see Figure 17.7 above). This indicator evaluates whether the government has established a formal process to corruption proof legislation. In order to ensure it has the desired impact, any recommendations from the corruption-proofing process should lead to effective changes in draft legislation. Ideally, corruption proofing should cover the majority of laws and normative acts, even local regulations. Several of the economies have adopted national corruption-proofing methodologies based on a regional methodology (Hoppe, 2014) and are building their capacities through training and amendments to their strategic documents and legal frameworks.

The Former Yugoslav Republic of Macedonia, Montenegro and Serbia have made most progress in corruption proofing. In the Former Yugoslav Republic of Macedonia, the State Commission for the Prevention of Corruption is authorised to give opinions on proposed draft laws of significance for combating corruption. Accordingly, it has published a methodology for assessing legislation. However, the commission had published only four assessments on its website as of September 2017. In Montenegro, the Corruption Prevention Agency has the power to conduct corruption proofing. It started preparing corruption-proofing opinions based on a methodology developed by an international expert in 2017. It had published seven opinions as of September 2017. In Serbia, the Anti-corruption Agency has carried out more than 100 assessments since 2013, although its conclusions do not need to be considered, and corruption proofing is not generally mandatory for all relevant legislation.

In July 2017, Bosnia and Herzegovina introduced corruption proofing of legislation at the state level through amendments to the Unified Rules for Drafting Legal Acts in the Institutions of Bosnia and Herzegovina. The amendments include the concept of impact assessment in the field of corruption and put the Agency for the Prevention of Corruption and Co-ordination of the Fight against Corruption in charge of doing so.

Albania has no legislative basis or formal process for corruption proofing legislation. However, it has signed a memorandum of understanding with a non-government think tank to conduct corruption proofing. According to information provided by the National Co-ordinator against Corruption, approximately 55 legal acts had been screened as of early 2017. To date, Kosovo has made significantly less progress towards corruption proofing legislation.

Civil society is generally involved in developing anti-corruption strategies

All six economies have anti-corruption strategies and corresponding action plans. Montenegro differs from the rest in that it has integrated its anti-corruption policy planning into the framework of its accession process with the European Union (EU) and has action plans for the relevant negotiation chapters. The Operational Document for Prevention of Corruption in Areas of Particular Risk accompanies the action plan for Chapter 23 (Judiciary and Fundamental Rights) of its negotiations.

Most of the economies' anti-corruption strategies and action plans set out objectives and specific measures for each objective, designate institutions responsible for implementing each measure, and define timeframes for their implementation and criteria for assessing implementation. However, not all of the economies specify the budget allocation.

All of the economies organised special rounds of consultations, debates or workshops with civil society during the preparation of their strategies and action plans. Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, and Serbia included civil society representatives in the working groups which actually drafted the plans. Drafters in all of the economies set up channels for receiving input from civil society and provided opportunities for civil society actors to voice their views.

Despite this, stakeholders raised two areas of grievance. First, in some of the economies, Albania, Kosovo and Montenegro, stakeholders openly regretted that they got no feedback as to whether their comments and proposals were incorporated into the final policy documents. In the case of Montenegro, some non-government organisations (NGOs) formally complained that they were not consulted. Discussions with stakeholders in the Former Yugoslav Republic of Macedonia led to the conclusion that a clearer outline of the role of the various stakeholders (including state agencies) in all stages of preparing the policy planning documents would ensure more comprehensive participation.

Overall, where civil society stakeholders were involved in the actual drafting of policies rather than just in debates, the number and intensity of grievances were reduced. Permanent institutional arrangements (such as the Thematic Group on Anti-corruption Policies in Albania) can generally be considered good practice for both developing anti-corruption policies and monitoring their implementation.

Monitoring of anti-corruption policies is mostly limited to outputs rather than outcomes

The six SEE economies have set up systems to monitor the implementation of the actions envisaged in the relevant anti-corruption plans. Typically the implementing bodies report to a co-ordinating body. In most of the economies (except Albania and Montenegro) their specialised anti-corruption agencies gather the information from all the implementing institutions. The latter, which may be numerous, typically have designated individuals who are responsible for reporting. The co-ordinating body compiles the information, and prepares and publishes regular progress reports.

In the Former Yugoslav Republic of Macedonia, the methodology for monitoring and evaluating the anti-corruption action plan is described in the State Anti-corruption Programme. The competent institutions – those directly implementing the activities – have fixed deadlines for reporting to the State Commission for Prevention of Corruption. The institutions appoint individual representatives who submit implementation information on their behalf.

In Montenegro monitoring is organised differently – it is carried out directly by working groups within the framework of its EU accession negotiations. In March 2014, the government of Montenegro established the Council for the Rule of Law as the high-level body to oversee all relevant activities and address potential challenges.

Overall, monitoring is efficient in most of the SEE economies. The exception is Bosnia and Herzegovina, where the state-level Agency for the Prevention of Corruption and Co-ordination of the Fight against Corruption has not yet been able to enforce the requirement for institutions to report on progress in implementing the Anti-corruption Strategy. Out of around 75 state-level institutions, some 25 had not submitted their implementation reports at the time of this assessment. Hence the status of implementation remains unclear.

In substance, monitoring is mostly limited to measuring outputs – the assessment of outcomes and impact is rare. For instance, Albania's monitoring matrix includes eight reporting sections for each activity, including implementation status, descriptions of key achievements per output indicator, planned steps for implementing the measure, and disbursed funds for specific activities and their source. In Kosovo the reporting matrices include quantitative and qualitative indicators, where the quantitative data reflect the number of measures implemented in each sector. Montenegro uses both result and impact indicators, but its impact indicators are generally basic and are missing for some activities. Many of the indicators lack baseline and target values, which makes them hard to monitor since there are no clear benchmarks against which to assess the results and impact (Government of Montenegro, 2015). Serbia has introduced additional monitoring reports commissioned from civil society actors selected by competition.

The way forward for anti-corruption reforms, policy and implementation

The six economies, but particularly Albania, Kosovo and Montenegro, should **ensure that non-government stakeholders participating in developing anti-corruption policies receive comprehensive feedback** on which of their proposals were taken into account and why. This could be done by publishing all proposals online with remarks about whether and why they were adopted or rejected.

Bosnia and Herzegovina should **consider options to strengthen institutions' compliance with their obligation to report on progress in implementing the Anti-corruption Strategy.** Creating and disseminating attractive infographics summarising the current status of compliance could be an effective approach for informing the general public.

Albania, the entities of Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, and Kosovo should **ensure more systematic assessments of corruption risks in public institutions**, for example by obliging anti-corruption bodies to review a sample of institutions annually to determine whether they have assessed their corruption risks. Moreover, they should explicitly define corruption as one of the main risk areas in general risk-management systems.

Albania, Bosnia and Herzegovina and Kosovo should **systematically corruption proof their legislation** by adopting a corruption-proofing methodology and making its use mandatory for the most relevant legislation. The other economies should strengthen their existing corruption proofing of legislation by ensuring that all relevant legislation is assessed against criteria set in the proofing methodology and making it mandatory to consider the findings.

Anti-corruption public awareness and education

Tackling corruption effectively fundamentally relies on intolerance of corruption amongst the general public and public officials. Key practices, such as reporting corruption to competent bodies or punishing corrupt candidates at the ballot box, depend on people being hostile to corruption. The objective of anti-corruption public awareness and education is to create a culture in which corruption is not perceived to be the norm in public service provision. Anti-corruption public awareness and education are also essential to provide practical knowledge on how to act in order to avoid corruption.

The OECD Recommendation on Public Integrity highlights the need to foster public awareness of and education about anti-corruption and overall integrity. It emphasises the importance of "a whole-of-society culture of public integrity" and the provision of

"sufficient information, training, guidance and timely advice for public officials to apply public integrity standards in the workplace" (OECD, 2017).

The anti-corruption public awareness and education sub-dimension has one qualitative indicator, public awareness and education, which assesses the extent of government engagement in awareness raising and education activities. In particular, it considers whether the government produces easily accessible materials, allocates specific funding, monitors the effectiveness of awareness-raising campaigns and adjusts them accordingly, and develops and supports anti-corruption education programmes (Figure 17.8).

As shown in Figure 17.8, all six SEE economies have engaged in awareness-raising activities. The level of activity and available resources vary across the economies, however, with the Former Yugoslav Republic of Macedonia, Montenegro and Serbia achieving a score of 3 or higher.

Figure 17.8. **Anti-corruption public awareness and education: Sub-dimension scores**
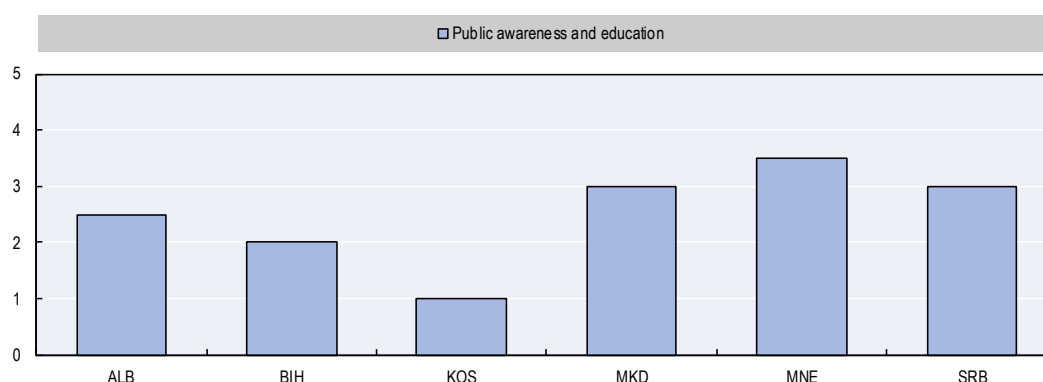
Note: See the methodology chapter for information on the *Competitiveness Outlook* assessment and scoring process.

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Awareness raising continues to rely predominantly on international funding

In recent years, all six of the economies have engaged in public awareness-raising campaigns, including "Show the Real Face of Corruption – Denounce the Invisible so Visible" in Albania and "Not a Cent for a Bribe" in Montenegro. Kosovo has broadcast TV clips of the President, Chief State Prosecutor, the Head of Kosovo Police, the Director of the Anti-corruption Agency, and the Chairman of the Kosovo Judicial Council asking citizens to report corruption and be part of the anti-corruption effort. Serbia has also carried out a similar campaign, using print and electronic media, as well as social networks. The Regional Anti-corruption Initiative recently commissioned a regional documentary promoting whistleblowing, *The Medal of the Loud*, featuring stories from Albania, Bosnia and Herzegovina, Croatia, and Serbia.

The effectiveness of these activities has been limited, however, notably by a lack of continuity and national funding, with most of them currently funded by international donors. Some of the campaigns mentioned above were completed several years before this assessment (for example, Kosovo's in 2014 and Serbia's in 2013). They were not part of a broader government communication strategy, instead reflecting momentum and opportunities at that particular moment.

Bosnia and Herzegovina report that the Agency for the Prevention of Corruption and Co-ordination of the Fight against Corruption has no specific budget for awareness raising. Kosovo has no budget for raising awareness and public education, and there is no clear evidence of state funding for such activities in Albania. Montenegro and Serbia have funded some awareness-raising activities from state budgets. The Former Yugoslav Republic of Macedonia has introduced anti-corruption education in schools supported by joint contributions (funding and other resources) from the State Commission for the Prevention of Corruption, an international donor and an NGO.

Moreover, monitoring and evaluation of the effectiveness of such activities remain rare. Montenegro has the highest score on the public awareness and education indicator, in part because of its good practice in measuring the impact of the Not a Cent for a Bribe campaign. It used a survey question to measure how many citizens were familiar with the campaign and how many believed that these campaigns encouraged citizens to counter corruption.

Training in anti-corruption needs to become a permanent feature throughout the region

Several of the economies provide anti-corruption training for certain categories of public officials and civil servants in general. The Former Yugoslav Republic of Macedonia reports that the Academy for Judges and Public Prosecutors runs training programmes; the Ministry of Information Society and Administration has annual generic training programmes for civil servants that include courses on anti-corruption topics; the Ministry of Finance offers training on risk assessment and management; and the Instrument for Pre-Accession Assistance 2010 twinning project, Support to Efficient Prevention and Fight against Corruption, in 2014-16 provided extensive training activities. In 2014-16 there were also a series of specialised training courses for law enforcement agencies on inter-institutional co-operation; legal changes concerning proceedings against legal persons; international co-operation in processing cases of corruption; and new methods to protect whistleblowers, informants, collaborators and undercover agents. The State Commission for the Prevention of Corruption also provides institutions with training on request.

However, continuity demands that national authorities engage permanently in training as part of their regular functions. Across the SEE economies, there is evidence of such continued effort, although the amount of training varies. In Albania, tailored anti-corruption training programmes for public officials have been designed in co-operation with the Albanian School of Public Administration. Six training curricula were developed and adopted, and a total of 80 public employees were recently trained.

Bosnia and Herzegovina has a standardised training curriculum on preventing corruption and co-ordinating the fight against corruption in public institutions (APIK, 2017). In the Federation of Bosnia and Herzegovina, the Civil Service Agency provides training programmes on corruption-related matters (e.g. the integrity plan and guidelines for its design, prevention of conflict of interest, and ethics and integrity). For example, in 2016 it provided 4 days of training of trainers to 11 participants on the fight against corruption. In 2015 it organised 6 training days for 106 participants on the development and implementation of integrity plans (ADS, n.d.). This explains the score of 1 for the Federation of Bosnia and Herzegovina, where more government activity in awareness raising and education is needed. According to the Ministry of Interior of the Republika Srpska, since 2014 around 100 secondary school students, 300 tertiary students and

350 employees of government institutions have attended training on a variety of subjects related to corruption. In addition, around 1 500 public-sector employees participated in training on integrity plans. In Montenegro, the Corruption Prevention Agency organised 11 training courses in 2016 on the agency's competences and authorities' obligations for implementing anti-corruption legislation. These courses were attended by 340 participants. Seminars and training were also provided on developing integrity plans and designing anti-corruption campaigns. In Serbia, a total of 1 588 public-sector employees have attended the Anti-corruption Agency's ethics and integrity training programme.

E-training on anti-corruption exists or is in development in Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, and Serbia. For example, according to information provided by the government, the Agency for the Prevention of Corruption and Co-ordination of the Fight against Corruption of Bosnia and Herzegovina has developed an online course on public-sector ethics that has been taken by more than 2 600 officials.

Furthermore, the Regional Anti-corruption Initiative has implemented a number of training courses in corruption proofing legislation and corruption risk assessment.

The way forward for anti-corruption public awareness and education

The six SEE economies, but particularly the Federation of Bosnia and Herzegovina and Kosovo, should **endeavour to step up awareness-raising activities** in print, public television and other media. They should ensure that the general public are regularly made aware of the negative consequences of corruption and given information about practical means to counter it.

All of the economies should **define objectives for raising public awareness and ensure these activities become permanent**. Objectives might include such measures as a minimum share of the population who are aware of how to report corruption. Governments should make use of the international donor support on offer to do this, but should also fund awareness-raising efforts from their own budgets. This would signal that they give these activities adequate priority. In particular, Albania, Bosnia and Herzegovina, and Kosovo should **introduce government funding for awareness raising, preferably as a separate budget item**.

The economies, particularly Bosnia and Herzegovina (at the state and entity level), the Former Yugoslav Republic of Macedonia and Kosovo should **consider measuring the effectiveness of their awareness-raising activities**, for example by using public opinion surveys to measure the extent to which members of the public remember the information provided. All of the economies should use the results of such monitoring to adjust their future activities, for example by using media channels that reach groups with lower awareness.

The six economies should also **increase the reach of anti-corruption training**, for example by developing and introducing cost-effective online courses. This is particularly important for economies with tighter budget constraints such as Kosovo, and those economies where falling donor funding may reduce the level of training. For instance, online courses could be made available to all public officials relatively cost effectively.

Corruption prevention and co-ordination institutions

Prevention and co-ordination are crucial functions of governments' overall anti-corruption efforts. There is a firmly established consensus that preventing corrupt acts before they occur is equally important, if not even more important, than repressing corruption. Moreover, the overall success of anti-corruption efforts requires concerted actions by a range of stakeholders. It is therefore crucial to ensure that they undertake these efforts across the public sector in a mutually reinforcing way. Institutions to implement, oversee and co-ordinate corruption-prevention policies are therefore one of the cornerstones of an effective anti-corruption framework. This is reflected in Article 6 of the United Nations Convention against Corruption (UN, 2004).

This sub-dimension was not assessed using qualitative indicators. Instead it was assessed through questionnaires based on the OECD instruments and tools for anti-corruption and public integrity listed in Figure 17.2 in the Context section above. All six SEE economies have established specialised institutions with corruption-prevention functions and designated entities responsible for co-ordinating anti-corruption policies. They have all adopted procedures to safeguard the autonomy of these institutions, especially in selecting and appointing their leadership.

Some SEE economies use multi-stakeholder bodies to co-ordinate anti-corruption efforts

One way to approach the task of co-ordination is to set up multi-stakeholder councils, teams or other similar arrangements, comprising representatives from various relevant government and non-government institutions. Some of the economies only include the representatives of public authorities in such bodies, however. In Kosovo, the Anti-corruption Council consists of heads of 15 public institutions and is presided over by the President of Kosovo. Multi-stakeholder co-ordinating institutions consisting only of representatives of state institutions have also been set up in the Federation of Bosnia and Herzegovina (Anti-corruption Team), and the Republika Srpska (Commission for the Implementation of the Strategy on the Fight against Corruption, with non-government representatives participating as observers; RTRS, 2015).

In Serbia, the Advisory Council for the Fight against Corruption has six members who have been selected based on their scholarship and expertise rather than to represent institutions. In 2014, the government also set up a co-ordination body to implement the Anti-corruption Strategy, consisting of the Prime Minister, the Minister of Justice, the Minister of Finance and a representative of the Council for the Fight against Corruption (Mera Vlade, 2014). The multi-stakeholder bodies have been reported to lack decisive influence on some occasions. Along with multi-stakeholder bodies, all of the economies have also designated single co-ordinating bodies.

Functions and powers of the corruption prevention and co-ordination institutions vary

Five of the six SEE economies have specialised institutions to prevent corruption and to co-ordinate anti-corruption policies, while in Albania, the Minister of State for Local Issues is designated as the National Co-ordinator against Corruption. The scope of the institutions' functions varies from economy to economy (Table 17.1). Albania's High Inspectorate of Declaration and Audit of Assets and Conflict of Interest fulfils several of the responsibilities reflected in Table 17.1.

Table 17.1. **Areas of primary responsibility of specialised prevention and co-ordination institutions**

	BIH	KOS	MKD	MNE	SRB
Strategic planning and monitoring implementation	X	X	X		X
Managing conflicts of interest	X	X	X	X	X
Overseeing assets	X	X	X	X	X
Preliminary investigation of other corruption offences		X	X	X	
Overseeing political finance				X	X
Protecting whistleblowers	X			X	
Raising awareness	X	X	X	X	X
Lobbying			X	X	

Note: Primary responsibility means that the institution has some central responsibility for this area. For example, it will not count as primary responsibility if the institution is only one of several channels where whistleblowers may report or if it is responsible for the oversight of only some narrow aspects of campaign financing.

The bodies vary not just in their general functions but also in their particular powers. For example, with regard to strategic planning, the State Commission for the Prevention of Corruption of the Former Yugoslav Republic of Macedonia stands out as it has the power to adopt state anti-corruption programmes and action plans. Elsewhere this power rests with the government or parliament.

All of the bodies have responsibility for overseeing and managing conflicts of interest, but again their powers differ. Typically, these agencies issue recommendations on how to manage conflicts of interest. However, in the Former Yugoslav Republic of Macedonia, Kosovo and Serbia they can also request or recommend the dismissal of the official in question. In particular, the Serbian agency can publish decisions concerning violations of the law and make recommendations to dismiss officials. Notably, the Corruption Prevention Agency of Montenegro has the strongest repressive powers as it can issue misdemeanour reports and initiate misdemeanour and other proceedings.

The Anti-corruption Agency of Kosovo and the State Commission for the Prevention of Corruption of the Former Yugoslav Republic of Macedonia have the power to carry out preliminary investigations of corruption before forwarding the cases to the competent prosecutorial or judicial bodies. In Kosovo, however, civil society organisations have argued that the Anti-corruption Agency should not have responsibility for carrying out investigations because it does not have the necessary legal powers. For example, it cannot request the use of covert and technical surveillance and investigation measures (Sutaj, 2016).

Institutional capacity varies across economies

The resources allocated to corruption prevention and policy co-ordination institutions vary from economy to economy (Figure 17.9). The available data do not allow direct funding comparisons to be made because the mandates of these bodies differ. For example, the funding of the Albanian body (the Ministry of State on Local Issues) may appear relatively low, but it lacks several important responsibilities held by institutions in the other economies. At the most general level of comparison, however, Montenegro and Serbia have the most well-resourced prevention and policy co-ordination bodies.

Staffing levels are another measure of these agencies' resources (Figure 17.10), and mostly correlate with their budget.

Figure 17.9. **Budgets of the corruption prevention and policy co-ordination institutions (2016)**
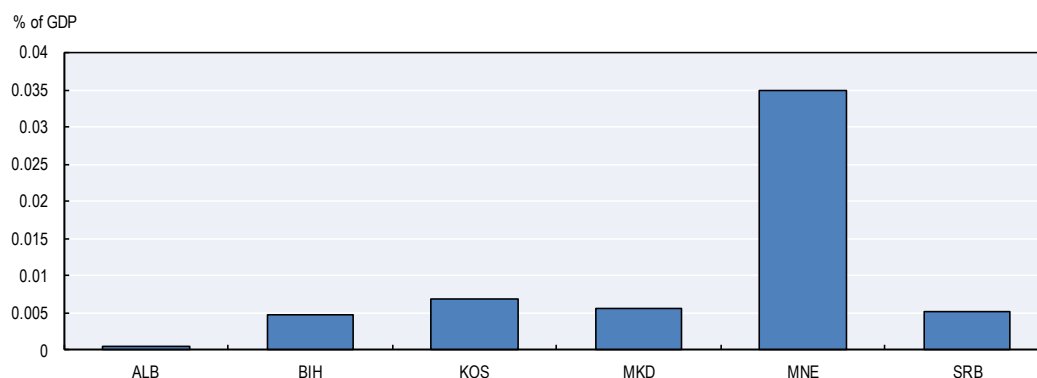
Note: Including all operational costs of the staff of the Minister of State on Local Issues in Albania.

Source: Data provided by the governments. Bosnia and Herzegovina: APIK (2017), "Izvještaj o radu: Agencije za Prevenciju Korupcije i Koordinaciju Borbe Protiv Korupcije: Za period 01.01. - 31.12". 2016. Godine" [APIK work report: For the period 01.01 - 31.12.2016] http://apik.ba/izvjestaji/izvjestaji-agencije/default.aspx?id=1325&langTag=bs-BA. Kosovo: ACA (2017), *Annual Report January – December 2016*, http://akk-ks.org/repository/docs/ANG-9._Raporti_Vjetor_2016_versioni_final_shqip_477475.pdf; Montenegro: Corruption Prevention Agency (2017); Serbia: Anti-corruption Agency (2017) "Izveštaj o radu za 2016. Godinu", [Work report 2016], www.acas.rs/wp-content/uploads/2017/03/Izvestaj-o-radu-2016-za-net.pdf?pismo=lat. The World Bank Group.

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Figure 17.10. **Staffing levels of corruption prevention and policy co-ordination institutions (2016)**

% of population
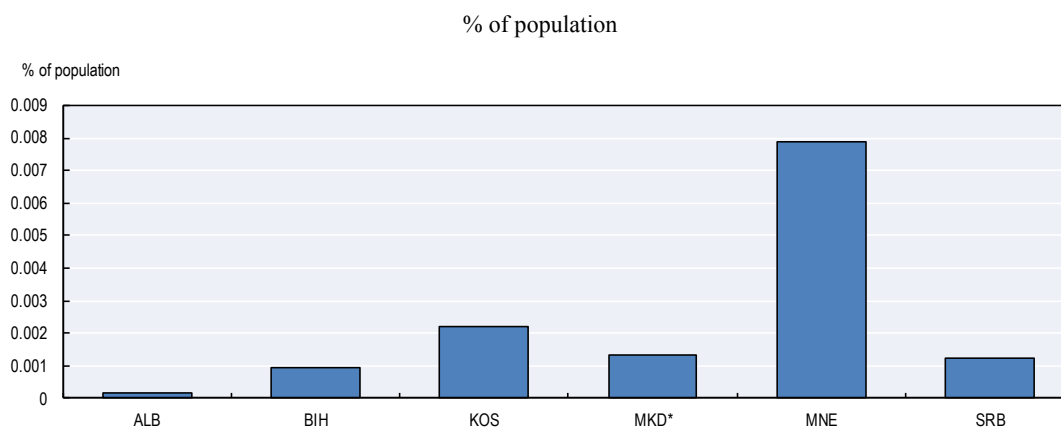
Note: * For the Former Yugoslav Republic of Macedonia, staff numbers do not include the seven Commission members.

Source: Data provided by the governments. Bosnia and Herzegovina: APIK (2017), "Izvještaj o radu: Agencije za Prevenciju Korupcije i Koordinaciju Borbe Protiv Korupcije: Za period 01.01 - 31.12". 2016. Godine" [APIK work report: For the period 01.01 - 31.12.2016], http://apik.ba/izvjestaji/izvjestaji-agencije/default.aspx?id=1325&langTag=bs-BA; Montenegro: Corruption Prevention Agency (2017), "Izvještaj o radu Agencije za Sprjecavanje Korupcije u 2016. Godini" [Annual report on the work of the Corruption Prevention Agency: 2016], www.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/114/1392-8913-00-72-17-12.pdf; Serbia: Anti-corruption Agency (2017), "Izveštaj o Radu za 2016. Godinu" [Work report 2016], www.acas.rs/wp-content/uploads/2017/03/Izvestaj-o-radu-2016-za-net.pdf?pismo=lat.

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Limited resources mean unfilled positions remain an issue and several of the agencies have large numbers of vacancies. For example, in the Former Yugoslav Republic of Macedonia, the anti-corruption institution has just 28 employees out of 51 planned positions. The Anti-corruption Agency of Serbia has both the largest budget and most staff of the six SEE economies, but as of May 2017 it still had unfilled vacancies.

Despite open mechanisms to recruit their leadership, trust in anti-corruption agencies is often lacking

The six SEE economies use sophisticated procedures to appoint the leadership of their co-ordination and prevention institutions. For example, in Montenegro the Committee for Anti-corruption, which is appointed by parliament, selects the candidates to sit as members of the council of the Corruption Prevention Agency. The committee consists of two members of parliament (one from the parliamentary majority, one from the opposition), a representative of the Judicial Council, a representative of the Prosecutorial Council and an NGO representative, who is selected through an open call. The committee interviews the applicants, reviews their written visions for the future work of the agency and proposes suitable candidates to parliament for appointment. The process for appointing the agency's director is similar except that the council selects the candidates and makes the final appointment.

The procedure is similar in Serbia, where the National Assembly appoints members of the board of the Anti-corruption Agency and the board appoints the agency's director. However, Serbia is the only economy where the director is not appointed through an open competition.

In some cases, these procedures have provoked complaints about an alleged lack of transparency or merit-based approach. In Montenegro, the interviews for the director's post took place in a closed meeting in 2015, which caused controversy (MANS, 2015). In the Former Yugoslav Republic of Macedonia some stakeholders felt that consideration should be given to changing the procedure for assessing candidates for the State Commission for Prevention of Corruption in order to ensure they were appointed on merit (Taseva et al., 2016).

However, often it is not particular deficiencies in procedures or abuses of power that raise doubts about the appointment decisions, but rather an underlying general lack of trust in such public agencies in the region (Shentov, Stefanov and Todorov, 2014).

The way forward for corruption prevention and co-ordination institutions

To **strengthen the capacity of its co-ordinating institution, Albania should consider increasing staffing levels of the National Co-ordinator against Corruption**. Alternatively, it could consider allocating the co-ordination function to a new specialised anti-corruption body.

The Former Yugoslav Republic of Macedonia and Serbia should **attempt to reduce the number of vacancies in their specialised corruption prevention and co-ordination institutions** by actively advertising the vacancies, inviting qualified individuals to apply and, if necessary, increasing salaries.

In Kosovo, responsible officials could consider demonstrating greater political will to **improve co-ordination of anti-corruption reforms through the Anti-corruption Council**. One way to do this would be to propose concrete anti-corruption activities, such as common information campaigns, for joint implementation by the institutions represented

in the council. The council could also review implementation progress regularly, e.g. every six months, and report on it publicly.

Serbia could **consider streamlining its anti-corruption co-ordination function** by allocating responsibilities to a single multi-stakeholder body instead of the current two entities. The responsible body should include both trained officials and experts.

The Former Yugoslav Republic of Macedonia should **consider amending the procedures for selecting key personnel for the State Commission for Prevention of Corruption in order to safeguard the merit-based assessment of candidates**. Montenegro could also consider further clarifying the criteria for the selection of candidates to the post of the Director of the Agency since the current provisions of the Corruption Prevention Law (Sections 83 and 91) are very brief. The criteria should define all the key competencies required, such as proven leadership skills, a track record in effective communication and strong ethics. The professional experience requirements should also be published in detail, such as a minimum number of years worked in managerial positions and a certain amount of experience with international anti-corruption mechanisms.

Preventing and managing conflicts of interest and whistleblower protection

According to the OECD Guidelines for Managing Conflict of Interest in the Public Service "a 'conflict of interest' involves a conflict between the public duty and private interests of a public official, in which the public official has private-capacity interests which could improperly influence the performance of their official duties and responsibilities" (OECD, 2003). If they are not managed properly, conflicts of interest can lead to corruption. On the other hand, effective control of conflicts of interest is an effective preventive tool because all corrupt acts involve some form of conflict of interest. Protecting whistleblowers is essential because sometimes receiving a report may be the only way to detect corruption.

The sub-dimension on preventing and managing conflicts of interest and whistleblower protection draws on two key OECD tools: the OECD Guidelines for Managing Conflict of Interest in the Public Service (OECD, 2003) and the OECD Recommendation on Public Integrity (OECD, 2017).

Overall, the six SEE economies have comprehensive frameworks for limiting how public officials behave in conflict-of-interest situations and envisage elaborate incompatibilities, i.e. activities that are not compatible with the official position. In this regard, all relevant public officials and civil servants are generally covered by dedicated conflict-of-interest, civil service and other laws. All of the economies also provide channels for reporting conflicts of interest and corruption. However, whistleblowers need greater protection if this channel is to be effective.

Economies vary in the severity of their sanctions for conflicts of interest

All six SEE economies are making efforts to tackle conflicts of interest and have adopted laws to regulate them. However, the public officials that are covered by dedicated conflict-of-interest laws vary. In several of the economies (for example, Bosnia and Herzegovina at the state and entity level, Kosovo, Montenegro, and Serbia), civil service laws govern the conflicts of interest of civil servants. Generally, the conflict-of-interest frameworks cover public-sector office holders comprehensively.

The aggregate data shown in Figure 17.11 include a variety of sanctions applied for conflict-of-interest related violations. These overall numbers are not directly comparable because the type of sanctions largely depends on the approach of the particular economy. For example, in Kosovo, the seemingly low number of sanctions (just 9) is mostly explained by the large number of cases where no sanctions were applied: of 210 cases of reported conflicts of interest, in 90 of them the conflict of interest was averted and in 54 opinions (advice) were issued (ACA, 2017). Serbia records a large number of sanctions, but in 234 of the total of 353 cases, the sanctions were warnings to public officials. In the Former Yugoslav Republic of Macedonia, 39 out of the 58 sanctions were reprimands. In contrast, 337 out of the 450 cases in Montenegro resulted in fines, as did all of the cases in Albania, suggesting that Albania and Montenegro have the most repression-based systems.

Figure 17.11. **Number of sanctions (including warnings) applied for conflict-of-interest related violations (2016)**
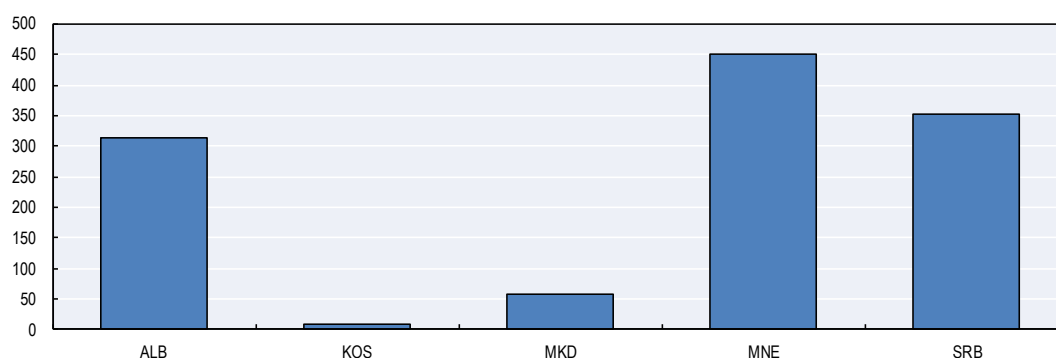
Note: Data for the Former Yugoslav Republic of Macedonia from 2015. Data for Bosnia and Herzegovina were not available.

Source: Data provided by the governments. Kosovo: ACA (2017), *Annual Report January – December 2016*, http://akk-ks.org/repository/docs/ANG-9._Raporti_Vjetor_2016_versioni_final_shqip_477475.pdf; Serbia: Anti-corruption Agency (2017), "Izveštaj o Radu za 2016. Godinu" [Work report 2016], www.acas.rs/wp-content/uploads/2017/03/Izvestaj-o-radu-2016-za-net.pdf?pismo=lat.

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The SEE economies all provide guidance to officials on how to manage conflicts of interest. This guidance includes publications and/or opportunities to ask questions. For example, Albania has published the *Explanatory and Training Manual for Preventing Conflict of Interest*; the *Guideline on the Declaration of Assets and Prevention of Conflict of Interest*, which covers all public servants; as well as guides on preventing conflict of interest in particular sectors such as tax administration, customs administration, public procurement and local governments.

The Former Yugoslav Republic of Macedonia has also published a variety of guidance notes on managing conflicts of interest. Serbia has published guidance notes which look more broadly at integrity, and Montenegro has published rulebooks. Kosovo and Bosnia and Herzegovina (at the state level) have limited or no guidelines. The Commission for the Prevention of the Conflict of Interest in Government Institutions of the Republika Srpska has published guidelines on the application of particular provisions of the relevant law.

Whistleblower protection is at an early stage of development

All of the SEE economies have adopted whistleblower protection laws: Kosovo in 2011, Bosnia and Herzegovina at the state level in 2013, Montenegro in 2014, Serbia in 2015, the Former Yugoslav Republic of Macedonia in 2015, and Albania in 2016. The Republika Srpska also adopted a law in 2017. As these dates show, this is a recent trend. Civil society is also becoming increasingly active in the field of whistleblowing; for example, the Southeast Europe Coalition on Whistleblower Protection was established in 2015.

The degree to which these laws are being implemented varies. In Kosovo, for instance, there is significant scope to increase public knowledge about the existence of a whistleblower law. Both government and non-government representatives contacted for this assessment also admitted that the Law on Protection of Informants was ineffective due to a lack of adequate implementation and oversight mechanisms.

Some OECD countries have implemented proven good practice mechanisms to protect whistleblowers' anonymity as much as possible (such as Austria's reporting hotline, Box 17.1); these may serve as an inspiration to the SEE economies.

Box 17.1. **Good practice: Reporting hotline in Austria**

In 2013, the Federal Ministry of Justice in Austria launched a portal to enable individuals to report wrongdoing. After reviewing the measures of anonymity provided by this virtual disclosure system, the user is directed to select the type of wrongdoing that best fits the information they would like to disclose, according to the following options: corruption, white-collar crime, welfare fraud, financial crime, fraudulent accounting, capital-market offences and money laundering.

Upon selecting the most suitable option, the user is invited to submit their information. The technical setup of the portal ensures that investigators from the Public Prosecutor's Office against Corruption and White-Collar Crime are not able to trace submissions or identify the discloser, rendering the system an anonymous method of communication. To ensure that anonymity is guaranteed, disclosers are required to choose pseudonymous user names when setting up their secured mailbox. The anonymity of the information disclosed is maintained using encryption and other security procedures. Disclosers are also asked not to enter any data that might give any clues to their identity and to refrain from submitting their report on a device that was provided by their employer. Following submission, the Office of Prosecution for Economic Crime and Corruption provides the discloser with feedback and the status of their disclosure via a secure mailbox. If there are issues left to be clarified regarding the case, the questions are directed to the discloser through anonymous dialogue.

Source: Adapted from OECD (2016a), *Committing to Effective Whistleblower Protection*, http://dx.doi.org/10.1787/9789264252639-en.

Albania and the Former Yugoslav Republic of Macedonia have taken steps to implement their whistleblower laws. For example, Albania has appointed responsible units in every institution which has more than 80 employees. However, there is little information in any of the economies about the actual practice of whistleblower protection and the effects of the laws, perhaps because the laws have only been adopted recently.

Three economies provide quantitative evidence on whistleblower activity. In Montenegro in 2016 the Corruption Prevention Agency received nine requests for whistleblower protection. Of these, seven cases have been resolved. The agency granted three people

whistleblower status, while in the other four cases, it issued negative opinions on the people reporting suspicions of corruption (Corruption Prevention Agency, 2017). In Bosnia and Herzegovina, the Agency for the Prevention of Corruption and Co-ordination of the Fight against Corruption reported it had received 16 requests for whistleblower protection. It granted this status to 3 of the requesters, 12 cases did not meet the conditions for granting the status and 1 case was still under review as of 31 December 2016 (APIK, 2017). In Serbia, in September 2016 the court of first instance made 1 judgement in favour of a whistleblower, along with 12 temporary measures for return to previous workplaces (Government of the Republic of Serbia, 2016).

Some of the economies' laws have specific limitations. For example, the Law on Protection of Whistleblowers of Bosnia and Herzegovina does not cover whistleblowers from entity-level institutions or the private sector. Excluded individuals occasionally report corruption and then find out that they are not protected. Montenegro is an example of the sensitivity surrounding decisions to grant or deny whistleblower status. Here there is confusion about how protection for whistleblowers is applied. In addition, as protection has been refused in a number of cases, this may strain public trust in the mechanism of whistleblower protection. Deeper analysis would be required to determine whether the main deficiencies rest with overly restrictive legal provisions in Montenegro, implementation practice within the agency, or merely the communication about the process.

Among OECD countries, Korea's clear sanctions for retaliation against whistleblowers in its Protection of Public Interest Whistleblowers Act is a good example to follow (Box 17.2).

The way forward for preventing and managing conflicts of interest and whistleblower protection

To ensure further progress in preventing and managing conflicts of interest, the SEE economies could **evaluate the effectiveness of the available sanctions for conflicts of interest** in order to determine whether the less repressive approaches, such as those used by the Former Yugoslav Republic of Macedonia, Kosovo and Serbia, lead to the best results. One option would be to gather information on comparable conflicts of interest over several years and assess whether the occurrence of conflicts of interest declined and whether certain types of cases decreased more than others. If the number of cases remained consistently high, further steps to make the policy more effective could be needed.

Bosnia and Herzegovina should **develop guidelines for the public sector on how to recognise and evaluate conflict-of-interest situations** and to manage them. These guidelines could include a checklist to help public officials or civil servants assess whether they are in a conflict-of-interest situation.

Bosnia and Herzegovina, Kosovo and Montenegro should **do more to raise awareness of whistleblower protection** to ensure that the public knows what measures are available to protect them, and under what circumstances. They should disseminate as widely as possible (e.g. online) an easily understood list of the situations in which people are entitled to protection.

Bosnia and Herzegovina should **consider extending whistleblower protection to include the private sector**. More generally, the Federation of Bosnia and Herzegovina should introduce a legal framework for whistleblower protection, which could define whistleblowing, specify the conditions under which individuals would be considered to be whistleblowers, provide measures to protect them and outline how they can access effective remedy if their whistleblowers' rights are violated.

Box 17.2. **Good practice: Sanctions for retaliation against whistleblowers in Korea**

According to Korea's Protection of Public Interest Whistleblowers Act, any person who falls under any of the following categories shall be punished by imprisonment for not more than two years or by a fine not exceeding KRW 20 million (Korean won, approximately USD 19 000): 1) a person who implemented disadvantageous measures described in Article 2, subparagraph 6, item (a) [Removal from office, release from office, dismissal or any other unfavourable personnel action equivalent to the loss of status at work] against a public interest whistleblower; and 2) a person who did not carry out the decision to take protective measures that had been confirmed by the Commission or by an administrative proceeding.

In addition, any person who falls under any of the following points shall be punished by imprisonment for not more than one year or a fine not exceeding KRW 10 million:

1. A person who implemented disadvantageous measures that fall under any of Items (b) through (g) in Article 2, Subparagraph 6 against the public interest whistleblower [(b) disciplinary action, suspension from office, reduction in pay, demotion, restriction on promotion and any other unfair personnel actions; (c) work reassignment, transfer, denial of duties, rearrangement of duties or any other personnel actions that are against the whistleblower's will; (d) discrimination in the performance evaluation, peer review, etc. and subsequent discrimination in the payment of wages, bonuses, etc.; (e) the cancellation of education, training or other self-development opportunities; the restriction or removal of budget, work force or other available resources, the suspension of access to security information or classified information; the cancellation of authorisation to handle security information or classified information; or any other discrimination or measure detrimental to the working conditions of the whistleblower; (f) putting the whistleblower's name on a blacklist as well as the release of such a blacklist, bullying, the use of violence and abusive language toward the whistleblower, or any other action that causes psychological or physical harm to the whistleblower; (g) unfair audit or inspection of the whistleblower's work as well as the disclosure of the results of such an audit or inspection; (h) the cancellation of a license or permit, or any other action that causes administrative disadvantages to the whistleblower].

2. A person who obstructed the public interest whistleblowing, etc. or forced the public interest whistleblower to rescind his/her case, etc. in violation of Article 15, Paragraph 2.

Source: Republic of Korea (2011), *Act on the Protection of Public Interest Whistleblowers*, No. 10472, Chapter V, Article 30 (2) and (3), www.acrc.go.kr/en/data/2.0.Act%20on%20the%20Protection%20of%20 Public%20Interest%20Whistleblowers.pdf.

Montenegro should **clarify the uncertainties among the public about whistleblower protection** in order to remove any doubt over whether whistleblowers will be protected and to rebuild trust. Analysis may be needed in order to determine if this would mean improving legal provisions, implementation practice at the Agency for Prevention of Corruption, or communication.

Anti-corruption enforcement bodies and regional co-operation

Investigation and prosecution are two of the main anti-corruption functions. Implementing an effective anti-corruption policy requires a complex combination of expertise, knowledge and skills. Therefore, a degree of specialisation is needed within law enforcement in the anti-corruption field (OECD, 2013). Corruption also often

involves transactions between several economies. An effective fight against such practices can therefore depend on co-operation between several jurisdictions in the form of mutual legal assistance, joint investigations, and so on.

The anti-corruption enforcement bodies and regional co-operation sub-dimension comprises two qualitative indicators (Figure 17.12):

1. The **anti-corruption law enforcement bodies** indicator assesses the existence and operation of specialised law enforcement bodies. It considers whether they were established through consultations with key public and private stakeholders; whether they are adequately staffed and funded; whether staff receive training on handling complex corruption cases; and whether their financial and operational independence is ensured.

2. The **regional co-operation and mutual legal assistance** indicator focuses on the legal framework and practice of data exchange and mutual legal assistance (MLA) in corruption cases, the role of the central authority in receiving and providing MLA, as well as the monitoring and evaluation of regional co-operation in curbing corruption.

On average, across both indicators, the six SEE economies score 2.3 in this sub-dimension. Performance against the specific indicators is discussed in the sections which follow.

Figure 17.12. **Anti-corruption enforcement bodies and regional co-operation: Sub-dimension average score and indicator scores**
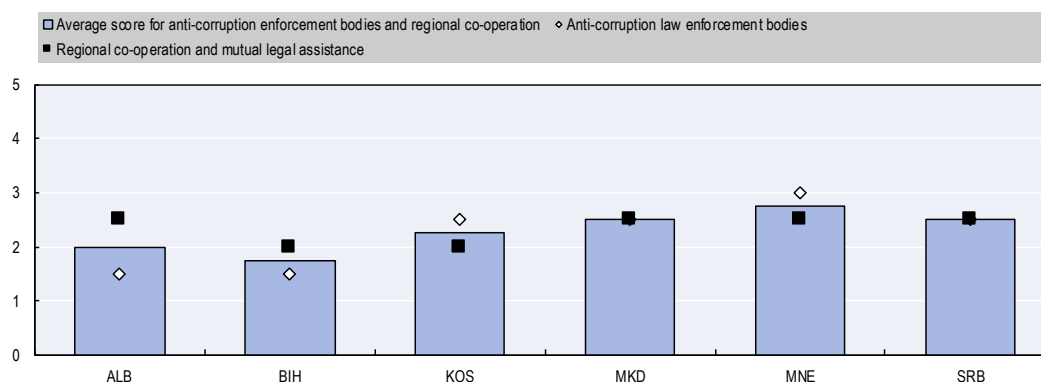
Note: The entities of the Republika Srpska and the Federation of Bosnia and Herzegovina were not assessed for the regional co-operation and mutual legal assistance indicator because several of the criteria are not applicable at the sub-national level. See the methodology chapter for information on the *Competitiveness Outlook* assessment and scoring process.

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Anti-corruption enforcement bodies exist but independence, resources and enforcement powers could be improved

According to Article 36 of the United Nations Convention against Corruption, governments shall "ensure the existence of a body or bodies or persons specialised in combating corruption through law enforcement. Such body, bodies or persons shall be granted the necessary independence to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks" (UN, 2004).

As the scores indicate, the six economies have generally designated anti-corruption law enforcement bodies that specialise in corruption investigation and prosecution (Figure 17.12). Several of the economies are taking steps to establish new bodies.

Currently none of the SEE economies have criminal investigation bodies which are dedicated to the fight against corruption. However, all of them have some specialised law enforcement and often have several units within their police forces responsible for investigating corruption.

For the most part, other than the general police safeguards, police investigative units do not have special safeguards against undue interference. A recent comparative study found that "These units are, however, typically embedded in the larger police force or the ministries of interior which deprive them of the institutional autonomy that is required for a specialised anticorruption institution" (Shentov, Stefanov and Todorov, 2014).

Montenegro and Bosnia and Herzegovina have established bodies that are partially outside the ordinary police hierarchy and lines of accountability. In Montenegro, the Special Police Department deals with those crimes which fall under the competence of the Special Prosecutor's office (organised crime, money laundering, terrorism, war crimes and high-level corruption). At the state level, Bosnia and Herzegovina has the institutionally separate State Investigation and Protection Agency, which operates on the basis of a separate law and contains the Section for Prevention and Detection of Financial Crime and Corruption. In most of the SEE economies, the public prosecutor contains departments or special prosecutor's offices with mandates that include corruption.

Several of the economies are continuing to develop their institutions. In Albania, a law adopted in 2016 envisages the establishment of the National Bureau of Investigation, the Special Prosecutor's Office, and the Anti-Corruption and Organised Crime Courts. These bodies were in the process of being set up at the time of assessment. In the Federation of Bosnia and Herzegovina, the Law on Suppression of Corruption and Organised Crime was adopted in 2014 and envisages specialised units in the Federal Prosecutor's Office and the Supreme Court. At the time of assessment, these institutions were also being set up. The Republika Srpska adopted the Law on Suppressing Corruption, Organised Crime and the Most Serious Forms of Economic Crime in 2016 and has established a special department in the Public Prosecutor's Office for these crimes. In Serbia, according to the Law on Organisation and Jurisdiction of State Bodies in Combating Organised Crime, Terrorism and Corruption, adopted on 23 November 2016, a new specialised anti-corruption unit will be formed in the Ministry of Interior Affairs.

The State Investigation and Protection Agency of Bosnia and Herzegovina is the only specialised criminal investigation agency that is based on a separate law and has a special legally prescribed open procedure for selecting its leadership. The Director, Deputy Director, Assistant Director for the Criminal Investigative Department and Assistant Director for the Internal Control Department are all appointed by the Council of Ministers based on the proposals of the Selection Commission.

Various studies have expressed doubts about the independence of law enforcement bodies in fighting corruption in the region. For example, the National Integrity Assessment of Albania states that "in practice, the Police is highly politicised. Massive staff turnover follows government changes and continues, though to a lesser degree, during the same administration" (Transparency International, 2016). Public prosecutors in Albania have made public claims about political pressure in high-profile cases (Halo and Llubani, 2016). A report about the Former Yugoslav Republic of Macedonia states that

"the independence of the police is jeopardized by close relationships between police officers and the ruling political parties" and "there are concerns regarding the independence of the [public prosecutor] in practice, especially in terms of its independence from political influence" (Taseva et al., 2016). Doubts about proper adherence to the rules can give rise to suspicions about these bodies' independence. For example, in Kosovo an NGO published claims about a member of the Kosovo Prosecutorial Council who reportedly stayed in post beyond the legally prescribed time (KLI, 2016), and about public prosecutors being transferred to the Special Prosecutor's office in circumvention of existing procedures (KLI, 2017).

No precise evaluation is possible on whether law enforcement outputs such as the number and type of investigations, prosecutions and sentences are adequate in the fight against corruption. There is no benchmark for the number of prosecutions and convictions that are "needed". However, the general assessments that have been made are rather critical of enforcement results across the six SEE economies, especially against high-level corruption.

The European Commission describes the achievements using words such as "low overall [track record], especially regarding corruption cases involving high-level officials" (Albania), "no final convictions in high-profile cases in the reporting period" (Bosnia and Herzegovina), and "still very few final convictions for high-level corruption" (Serbia) (EC, 2016a).

Even the more positive assessments are worded with caution. For example, according to the European Commission, although in the Former Yugoslav Republic of Macedonia "the track record of investigations, prosecutions and convictions is strong on corruption offences committed by lower-level officials, it remains very weak on high-level corruption". It noted that the number of investigated and prosecuted high-level cases had increased in Kosovo. Montenegro received the seemingly most favourable assessment regarding its fight against high-level corruption: "As regards the development of track records in investigation, prosecution and final conviction in corruption cases some results have been reached also in high-level corruption cases" (EC, 2016a). However, even in Montenegro observers note a large number of acquittals, cases being dismissed due to statutes of limitation and a mild sentencing policy (Calovic Markovic et al., 2017).

Limited and sometimes insufficient resources are common challenges for the law enforcement bodies of the six SEE economies. The Former Yugoslav Republic of Macedonia has identified the need to improve law enforcement agencies' technical resources to increase their operational efficiency, and has initiated projects to address this need. According to government information, only 143 of the 194 job positions in the regional internal affairs departments of the Public Security Bureau have been filled and 5 posts remain to be filled in the Anti-corruption Unit of the Public Security Bureau.

In Kosovo, a low budget and insufficient resources have been blamed for the alleged inefficiency of the Special Prosecutor's office (Serhati et al., 2016). At the beginning of 2017, allegedly only half of the 18 prosecutor posts in the Special Prosecutor's Office were filled (KLI, 2017).

A regional co-operation framework is in place but monitoring is weak

The international character of many corruption transactions and the opportunities to hide the proceeds of corruption outside the jurisdiction where a particular corrupt act took place mean that economies need to be able to co-operate to help counter large-scale corruption.

The legal framework and the institutional arrangements for regional co-operation are generally well established across the region (Figure 17.12), but monitoring and evaluation of co-operation in corruption cases is yet to be introduced. All of the economies assessed, except Kosovo, are parties to a number of international conventions that allow data exchange and mutual legal assistance (MLA) in corruption cases. These include the United Nations' conventions against corruption and transnational organised crime; European conventions on extradition, mutual assistance in criminal matters and the transfer of proceedings in criminal matters; and the Criminal Law Convention on Corruption. Although Kosovo is not party to most international conventions, it unilaterally applies international treaty standards (EC, 2016b). The six SEE economies have also entered bilateral agreements to facilitate co-operation.

All of the economies have designated their ministries of justice as the central authority for sending and receiving MLA requests. However, evidence on activity in this area is fragmentary. Since January 2016, Montenegro has had a fully operational information technology system, LURIS, to monitor judicial co-operation cases (EC, 2016c). Serbia has also introduced the same system. Albania and the Former Yugoslav Republic of Macedonia have no case/data management system for MLA requests, however (OECD, 2017). None of the economies have yet provided evidence that they are monitoring and evaluating regional co-operation in curbing corruption.

Data on the percentage of granted MLA requests remain scarce. As part of the assessment process, the Former Yugoslav Republic of Macedonia provided the number of judicial co-operation requests in criminal matters (1 418 incoming requests and 1 137 outgoing requests in 2015, down from 2 252 and 2 856 respectively in 2014). Data provided by the Ministry of Justice of Kosovo show 12 715 requests and 8 989 responses in the period January 2014 to March 2017, but do not state how many of these cases relate to corruption.

Serbia reported that MLA requests in corruption cases are always marked as urgent and most of them are successfully satisfied. However, in 2016, the European Commission wrote that:

> Serbia needs to step up measures to allow direct co-operation between Serbian and foreign courts and centralise receipt of requests to courts for international judicial cooperation. The necessary infrastructure and database should be put in place for replying promptly to requests for mutual legal assistance and ensuring better statistics on their monitoring, as well as applying the mutual recognition principle. In order to improve efficiency, greater capacity and expertise are needed, including language skills. (EC, 2016d)

However, this assessment does not warrant comparison between Serbia's situation and the other economies, some of which could have similar problems.

According to the European Commission in Bosnia and Herzegovina, "The international judicial cooperation legislative framework is in place and functional, yet not always efficient. The relevant department within the Bosnia and Herzegovina Ministry of Justice, which is responsible for implementation of the legislation and adherence to the conventions, is understaffed" (EC, 2016d). It also cites problems including the lack of harmonised case law, and therefore inconsistent implementation of international standards by judges throughout the country. In the period covered by the European Commission report, the court in Bosnia and Herzegovina reportedly "received seven new requests to

provide international legal aid in criminal matters … and completed 10 cases in total" (EC, 2016e).

The dual criminality requirement for corruption cases means that the criminal offence under investigation in the state that requests assistance or extradition must be similar in substance to an offence in the law of the state receiving the request. Albania (for extradition), the Former Yugoslav Republic of Macedonia (for extradition), Montenegro and Serbia apply the dual criminality requirement (OECD, 2016b and information provided by the governments). However, this would not be an obstacle to international co-operation if the definitions of corruption offences were harmonised with international standards.

Efforts have also been made to strengthen regional co-operation on data exchange, which will be consolidated through the anticipated signing of the International Treaty on Data Exchange on Asset Disclosure and Conflict of Interest. Integrity bodies in South East Europe have completed technical negotiations on the treaty, which would enable them to communicate formally with each other in a more effective and efficient manner than currently. At the Trieste Western Balkan Summit in July 2017, the treaty received strong political support among the six SEE economies for commencing the political negotiation process (MFAIC, 2017).

The way forward for anti-corruption enforcement bodies and regional co-operation

The six SEE economies should **view institutional autonomy to be a key success factor in strengthening anti-corruption enforcement and regional co-operation**. In particular, where corruption investigation bodies are located within the regular hierarchies of the police or the ministry of interior, the economies should consider ways to strengthen their institutional autonomy.

More specifically, the Former Yugoslav Republic of Macedonia and Kosovo should **explore the possibility of introducing additional safeguards for the independence of the criminal investigation units** that specialise in corruption cases, for example considering exempting them from ordinary disciplinary liability mechanisms. Serbia also should ensure that the planned specialised anti-corruption unit in the Ministry of Interior Affairs is afforded adequate institutional autonomy.

The Former Yugoslav Republic of Macedonia, Kosovo and Serbia **should consider options to further increase the openness and competitiveness of the process for selecting the heads of anti-corruption enforcement bodies**, in line with the principles of their respective state systems. They should consider introducing open competitions and assessments of candidates by committees which include representatives from several public institutions.

In addition to greater institutional autonomy, all six economies should **make further efforts to ensure due independence in the processes of investigating and prosecuting corruption**.

The Former Yugoslav Republic of Macedonia and Kosovo should **make particular efforts to fully staff their anti-corruption enforcement bodies** with qualified personnel by actively posting vacancies, inviting qualified individuals to apply and, if necessary, increasing salaries.

Finally, all six SEE economies should **develop better practices to monitor and evaluate international co-operation in corruption cases**. Their ministries of justice should gather statistics on international co-operation proceedings and their results by type of case, including corruption cases as a category.

Conclusions

The six SEE economies have demonstrated tangible progress in the area of anti-corruption. In recent years, they have developed comprehensive anti-corruption policy documents and involved civil society in their preparation and monitoring as standard. Most of the economies have set up dedicated prevention and co-ordination bodies with clear responsibility for co-ordinating the implementation of anti-corruption policy documents. Moreover, there is shared recognition of the need to raise public awareness of anti-corruption issues and train public officials. It is worth highlighting that all of the economies have made practical progress towards this end.

Nevertheless, the six economies continue to face serious corruption challenges, and these merit further action. In order to strengthen their capabilities to counter corruption, the economies should continue to strengthen whistleblower protection with sustained awareness-raising activities and, where necessary, widen the scope of individuals eligible for protection. They should also consider ways to strengthen the institutional autonomy of their corruption investigation units, which currently are placed within regular law enforcement institutions. All of the economies should better monitor and evaluate international co-operation in corruption cases.

Notes

1.   There are four main administrative levels in Bosnia and Herzegovina: the State, the Federation of Bosnia and Herzegovina, the Republika Srpska and the Brčko District. The administrative levels of the State, the Federation of Bosnia and Herzegovina and the Republika Srpska are taken into account in the *Competitiveness Outlook 2018* assessment, when relevant. The Brčko District is not assessed separately.

2.   A score of 0 denotes absence or minimal policy development while a 5 indicates alignment with what is considered best practices. Each level of scoring is updated for the individual indicator under consideration, but they all follow the same score scale: a score of 1 denotes a weak pilot framework, 2 means the framework has been adopted as is standard, 3 that is operational and effective, 4 that some monitoring and adjustment has been carried out, and 5 that monitoring and improvement practices are systematic.

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Annex 17.A1.

Anti-corruption policy: Indicator scores

Table17.A1.1. **Anti-corruption policy: Indicator scores**

	ALB	BIH*	BIH FBIH	BIH RS	KOS	MKD	MNE	SRB
Anti-corruption reforms, policy and implementation								
Corruption risk assessment	1.0	2.0	1.5	1.5	1.5	2.0	2.5	3.0
Corruption proofing of legislation	1.5	0.9	0.5	0.0	1.0	2.0	2.0	2.0
Anti-corruption public awareness and education								
Public awareness and education	2.5	2.0	1.0	2.0	1.0	3.0	3.5	3.0
Anti-corruption enforcement bodies and regional co-operation								
Anti-corruption law enforcement bodies	1.5	1.5	1.0	0.0	2.5	2.5	3.0	2.5
Regional co-operation and mutual legal assistance	2.5	2.0	n/a	n/a	2.0	2.5	2.5	2.5

Note: * Scores for Bosnia and Herzegovina reflect the result of calculation based on the original BIH state-level scores and the scores of the entities. The state- and entity-level scores have been assigned the weights 50%-50%. FBIH – the Federation of Bosnia and Herzegovina; RS – the Republika Srpska; n/a – not applicable.

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