Corruption — still a major problem in several Western Balkan countries

SUMMARY
The United Nations' 2003 Convention against Corruption (UNCAC) starts by noting that corruption 'undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish'. To a varying extent, all countries are susceptible to the phenomenon of corruption (EU Member States not excluded). Factors such as social and economic development, political background and culture, among others, define how deep rooted it is in a given state.

The Western Balkans (WB) is a region with a history of corrupt practices, one usually perceived as vulnerable to corruption. With the exception of Kosovo,* all countries from the Western Balkans – Albania, Bosnia and Herzegovina (BiH), the former Yugoslav Republic of Macedonia, Montenegro and Serbia – are parties to UNCAC. Without exception, they are faced with widespread corruption – one of the key challenges as regards their aspirations for European integration. They have each made different progress towards EU membership, but share similar difficulties in the fight against corruption. Notwithstanding the assistance from the EU in the framework of the enlargement process, the results they have achieved so far have similarly been assessed as limited.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

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This briefing has been produced on request of a member of the European Economic and Social Committee, in the framework of the Cooperation Agreement between the Parliament and the Committee.
In its 2003 Communication 'On a comprehensive EU policy against corruption', the European Commission defines corruption as 'an abuse of power for private gain'. Corruption can take many forms (bribery, nepotism, fraud or embezzlement, for example) and can occur at different levels: 'grand'/political corruption (impacting the legislative process and policy-makers) and 'petty'/administrative corruption (affecting civil servants and individual citizens). Economic corruption is also an important form of corruption, affecting the business and investment environment.

Corruption in the WB is perceived as 'far from being transitory' and closer to the norm, than the exception, according to Roberto Belloni and Francesco Strazzari. Despite the efforts of the region's governments to curb it by adopting legislation, it persists, and penetrates all layers of public and private life. A 2011 United Nations Office on Drugs and Crime (UNODC) report concludes that it is seen as one of the main causes hindering the region's socio-economic development, as well as its EU accession process. Results from the same report show that people place corruption among the top three problems facing their countries. A 2014 Clingendael report describes the WB as a region 'that has lost itself in crime and corruption'. Apart from deeper historical reasons, researchers argue that one specific reason for this may be its relatively recent dual transition: from war to peace, on the one hand, and from communism to democracy, on the other. The Clingendael report identifies three factors that favour corruption: history, geography and ethnicity/religion. It describes inadequate legislation, the weak rule of law and the lack of a strong civil society as a legacy of communism. According to this report, the geographical position on transit routes and the closely knit network of ethnic communities favour trafficking and smuggling (activities with high profit margins, creating a niche for corrupt practices).

International actors in the fight against corruption

Corruption has become a global concern in recent decades. The United Nations (UN), the Organisation for Economic Co-operation and Development (OECD), the Council of Europe (CoE), the EU, as well as NGOs such as Transparency International (TI), are among the most prominent international actors to address corruption on a global level. The CoE's Group of States against Corruption (GRECO), set up in 1999, monitors compliance with anti-corruption standards. Its evaluation reports and the OECD's monitoring can be regarded as key tools for assessing countries' progress in this area.

Some of the key international anti-corruption instruments are:

- 1997 UN Declaration against Corruption and Bribery in International Commercial Transactions
- 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions
- 1997 CoE Twenty Guiding Principles to Fighting Corruption
- 1999 CoE Criminal Law Convention Against Corruption
- 1999 CoE Civil Law Convention Against Corruption
- 2003 UN Convention against Corruption

Under the EU's 2003 'Ten principles for improving the fight against corruption in acceding, candidate and other third countries', current and future EU Members are required to fully align with the EU acquis and ratify and implement all main
international anti-corruption instruments they are party to. The WB states are party to all of the above instruments, except the OECD’s Anti-Bribery Convention.

The European Union: addressing corruption

EU anti-corruption framework: milestones
The EU has repeatedly taken measures to fight corruption in its many forms. Some of the most important documents candidate countries have to comply with include:

- **2003**: Communication *'On a comprehensive EU policy against corruption'*
- **2006**: *'Action Oriented Paper on Improving Cooperation, on Organised Crime, Corruption, Illegal Immigration and Counter-terrorism, between the EU, Western Balkans and relevant ENP countries'*, in which the Council invited the WB countries to develop and implement national anti-corruption action plans and create independent bodies for the prevention, investigation and prosecution of corruption
- **2010**: European Parliament's *Anti-Corruption Declaration*
- **2011**: Commission's *Anti-Corruption Package*
- **2011**: Commission's report on the modalities of EU participation in the Council of Europe GRECO
- **2014**: Commission's (first) *Anti-Corruption Report*

Financial support
To support anti-corruption measures in the WB, the EU provides pre-accession assistance under various programmes and projects. This started under the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) programme, from 2000 to 2006. Financial and technical help continued under the Instrument for Pre-accession Assistance (IPA). For the 2007-13 period, IPA had a budget of some €11.5 billion; its successor, IPA II has €11.7 billion for the 2014-20 period. Indicative Strategy Papers (2014–20) are in place for all the beneficiaries from the Western Balkans: Albania, BiH, former Yugoslav Republic of Macedonia, Kosovo, Montenegro, and Serbia.

Some data on funds spent can be found in a **2013 European Parliament Report**:

<table>
<thead>
<tr>
<th>Country</th>
<th>Total EU pre-accession assistance (in €)</th>
<th>Payments as of 31/12/12 (in €)</th>
<th>Number of projects</th>
<th>Status of projects</th>
<th>to be started</th>
<th>ongoing</th>
<th>completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>3 500 000.00</td>
<td>3 184 112.00</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>4 553 791.00</td>
<td>1 878 730.36</td>
<td>16</td>
<td>1</td>
<td>9</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>Croatia</td>
<td>9 684 397.12</td>
<td>3 753 821.95</td>
<td>9</td>
<td>2</td>
<td>2</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>former Yugoslav Republic of Macedonia</td>
<td>14 647 000.00</td>
<td>1 182 000.00</td>
<td>5</td>
<td>3</td>
<td>0</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Kosovo</td>
<td>6 500 000.00</td>
<td>1 394 670.10</td>
<td>4</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Montenegro</td>
<td>6 391 722.00</td>
<td>2 690 106.00</td>
<td>5</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Serbia</td>
<td>3 383 317.64</td>
<td>1 976 567.16</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>55 160 227.76</td>
<td>16 060 007.57</td>
<td>45</td>
<td>10</td>
<td>17</td>
<td>18</td>
<td></td>
</tr>
</tbody>
</table>

EU conditionality: lessons learnt
The EU plays an active role in the fight against corruption through its membership conditions, applied in the enlargement process. It uses them to ensure that aspiring member states reform their policies in line with EU norms. Previous experience (Bulgaria and Romania) made the EU reflect on conditionality's effectiveness before and after accession, and showed that 'backsliding' is possible at a later stage. The case of Croatia showed that judicial reform takes time and should start as early as possible.
Although the 1993 'Copenhagen criteria' remain the basis for accession, the 'lessons learnt' had an impact upon the conditions applied to Balkan countries. The criteria for 'good governance', namely the rule of law, an independent judiciary, media freedom, and anti-corruption measures, have gained importance. This led to the requirement to 'front-load' the rule of law chapters – chapter 23 (judiciary and fundamental rights) and chapter 24 (justice, freedom and security) – in the negotiation process with the Western Balkans. Montenegro is the pioneer: it opened these two chapters early, while they are expected to be the last to be closed.

**Measuring corruption**

To evaluate the dimensions of a so-called 'victimless crime', can be hard. Different mechanisms are in place, e.g. GRECO's evaluations, the OECD Working Group on Bribery's assessments, the World Bank's Control of Corruption index, TI's Global Corruption Barometer. TI's Corruption Perception Index (CPI), based on experts’ perceptions about the level of corruption in the public sector, is another widely used ranking. According to it, all WB countries have a high corruption score (figure 1) and while ratings have improved slightly in some of them, the region as a whole remains among those with the poorest ratings in Europe.

**Figure 1 – Corruption Perception Index scores for Western Balkan countries, 2010-14**

<table>
<thead>
<tr>
<th>Country</th>
<th>Rank 2010</th>
<th>Rank 2012</th>
<th>Rank 2014</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Former Yugoslav Republic of Macedonia</td>
<td>64/175</td>
<td>69/176</td>
<td>62/178</td>
<td>45</td>
</tr>
<tr>
<td>Montenegro</td>
<td>76/175</td>
<td>75/176</td>
<td>69/178</td>
<td>42</td>
</tr>
<tr>
<td>Serbia</td>
<td>78/175</td>
<td>80/176</td>
<td>78/178</td>
<td>41</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>80/175</td>
<td>72/176</td>
<td>91/178</td>
<td>39</td>
</tr>
<tr>
<td>Kosovo</td>
<td>110/175</td>
<td>105/176</td>
<td>110/178</td>
<td>33</td>
</tr>
<tr>
<td>Albania</td>
<td>110/175</td>
<td>113/176</td>
<td>87/178</td>
<td>33</td>
</tr>
</tbody>
</table>

NB A country or territory's score indicates the perceived level of public-sector corruption on a scale of 0 (highly corrupt) to 100 (very clean). A country or territory's rank indicates its position relative to the other countries and territories in the index. The 2014 index includes 175 countries and territories.

Source: Transparency International.

**What are the Western Balkans doing: country overview**

Albania, the former Yugoslav Republic of Macedonia, Montenegro and Serbia have candidate status for EU membership, and Montenegro and Serbia started their accession negotiations in 2012 and 2014, respectively. BiH and Kosovo are lagging behind. BiH expects the entry into force of its Stabilisation and Association Agreement (SAA) with the EU in June 2015, while Kosovo expects to sign its SAA later in 2015. All are committed to their EU future and to bringing their national legislation into line with the acquis communautaire, but the progress achieved in fulfilling the political and economic criteria is uneven. In its 2014 progress reports, the Commission stresses that
corruption (along with limitations on press freedom, organised crime, dysfunctional institutions, among others) is undermining EU membership prospects. The six reports reveal recurrent issues: they indicate 'little progress in advancing reforms to reduce corruption', low or 'no track record of convictions' on corruption cases, and 'an early stage in the fight against corruption'. A common requirement is the adoption of an appropriate legal framework (on whistle-blower protection, rights to access information, asset declarations, a sound penal code, etc.) and a national action plan for the fight against corruption. Effective anti-corruption agencies and strategies, measures for prevention and raising awareness, addressing conflicts of interest, among others, are actions the EU seeks for countering corruption.

Albania
Albania, along with Kosovo, ranks as the most corrupt in the WB (see figure 1). Its citizens perceive corruption the second most important problem after unemployment. The 2014 progress report and the Commission's June 2014 report on Albania's progress in the fight against corruption and organised crime and in the judicial reform show political will exists, but also a need to step up anti-corruption efforts. The Government has taken an all-encompassing approach to the issue, including a wide range of institutions. In May 2014, a Roadmap on the key priorities (five altogether) was adopted, fighting corruption being one of them. On 20 March 2015, Albania approved the National Strategy on Anti-Corruption 2014-20 (built on three pillars: prevention, conviction and raising awareness) and the 2015-17 Action Plan. An EU project on the Anti-corruption Assessment Framework in Albania (ACFA) was carried out from April 2014 to January 2015, analysing the current set up of Albanian institutions working in the area. A positive step is the appointment of a National Anti-Corruption Coordinator and setting up a network of anti-corruption focal points in all line ministries. In early 2015, the Government deployed a single portal for denouncing corruption cases. Other developments include the establishment of an Anti-Corruption Unit in the Serious Crimes Prosecutor’s Office (September 2014), adopting amendments to the public procurement law (December 2014), revision of the Criminal Procedure Code (first draft expected in June 2015) and drafting the Whistle-blowers Protection Act (expected in June 2015). The seizure or confiscation of illicit assets deriving from corruption offences was made legally possible and the number of corruption cases referred for prosecution by the State Police has increased. In March 2015, the Ministry of European Integration published a report, reflecting all these and more recent developments related to the five key priorities. To tackle its 'biggest challenge for integration', Albania still has a lot of work to do, including in-depth judicial reform and building a solid track record of investigations, prosecutions and final convictions in corruption cases.

Bosnia and Herzegovina
A UNODC report shows corruption as the fourth most important problem for BiH, after unemployment, the performance of the Government and poverty. The 2014 Commission progress report notes acute corruption in the entire public sector, especially as regards service delivery and access to employment. Political patronage networks are widespread and influence all levels of government. The 2014 citizens' protests revealed the need for visible reforms with real impact. Consequently, the EU
expanded its Structured Dialogue on Justice with BiH to additional 'rule of law' matters, including the fight against corruption. On the positive side, at entity level, Republika Srpska adopted a new strategy for the fight against corruption and an action plan for the 2013-17 period. Under the roadmap for EU visa liberalisation, BiH adopted a 2009-14 Anti-Corruption Strategy, and in 2010 established an Agency for Corruption Prevention and Coordination of the Fight against Corruption. The recent adoption of the Whistle-blower Protection Act is also a step forward in preventing corruption. The 2014 'Compact for Growth and Jobs' also identifies corruption as an obstacle to BiH's economic development and calls for adherence to the rule of law. Overall, the legal framework is largely in place. However, implementation is seen as inconsistent and ineffective, and a lack of political will for reform is noted. Because of BiH's state structure, separate judicial systems, overlapping responsibilities and difficult coordination are issues affecting the judiciary. A signatory to most major international treaties to fight corruption, BiH's compliance with GRECO's recommendations was assessed as 'globally unsatisfactory' in GRECO's third 2014 evaluation report.

The Former Yugoslav Republic of Macedonia

The 2014 Commission progress report and GRECO's fourth evaluation report on corruption prevention in relation to members of parliament, judges and prosecutors acknowledge that the country has a well-developed legal anti-corruption framework. The State Commission for the Prevention of Corruption, established in 2002, is the main guardian of primary anti-corruption laws (on the prevention of corruption and conflicts of Interest and on free access to public information). As part of the government's ongoing anti-corruption measures, amendments were made to the Criminal code and the Electoral Code (to address comments by OSCE/ODIHR on election campaigns financing). The Law on Management of Confiscated Assets was extended in scope and the Ministry of Interior’s Anti-Corruption Unit was upgraded to the 'Sector for the Fight against Corruption'. Corruption, however, persists and despite the formal measures taken, enforcement of legislation and the results remain 'largely invisible to the public'.

Reforms of the judiciary – perceived as the most corrupt sector in the country – are needed, as well as strengthening the independence of several other public institutions, such as the State Audit Office, the Media Regulatory Body, the Public Broadcasting Service, the Ombudsman Office, the Public Prosecutor, the Anti-Corruption Commission, the State Electoral Commission, and the Commission for Protection from Discrimination. A drop in convictions for corruption-related offences has also been noted, and the overall capacity of the courts to deal with corruption is assessed as weak. Political party and election-campaign funding are seen as insufficiently addressed. The implementation of the Law on Free Access to Public Information needs to be improved. Capacity building and raising citizens' awareness remain on the agenda. The fight against corruption is further hampered by the limited freedom of expression and the latest wire-tapping scandal, showing alleged corruption in the government.

Kosovo

Kosovars rank corruption as the most important problem after unemployment, and addressing it remains a top priority. As in neighbouring countries, the legal, policy and institutional frameworks are in place. A package of laws (on declaration of assets, conflicts of interest, whistle-blower protection, public procurement and the financing of political parties) has been adopted. The existing institutional structure includes Kosovo's Anti-Corruption Agency (KAA), functional since 2007; Kosovo's National Anti-Corruption Council, chaired by the President (a consultative coordination body); the Special
Prosecutors Office of Kosovo, established in 2010, and the office of the National Coordinator on Combating Economic Crime within the Kosovo Prosecutorial Council, established in January 2014. The policy framework consists of the Anti-Corruption Strategy 2013-17 and its respective Action Plan, structured around seven priority areas and 31 different objectives. To date their implementation remains low, according to available KAA monitoring reports. The 2014 Commission progress report indicates the country is still at an early stage in the fight against corruption and has 'no track record' of convictions on corruption cases. Corruption is problematic in many areas, including public procurement, and national institutions need to build their capacities to take on high profile cases from the EU Rule of Law Mission in Kosovo (EULEX).

Montenegro
Montenegro has a better CPI rank and is the only country to have opened negotiations on chapters 23 and 24, with reforms of the legal and institutional framework against corruption the focus. The existing anti-corruption bodies include the Directorate for Anti-Corruption Initiative, the State Audit Institution, the Commission for Control of Public Procurement Procedure, the Public Prosecution Office, the High Court and the Commission for Prevention of Conflict of Interest. A National Commission was set up to monitor the implementation of the 2010-14 Strategy on Anti-Corruption and Organised Crime. Creating a new independent Anti-Corruption Agency is expected to improve the capacity of these institutions. It is included in the November 2014 Bill on Prevention of Corruption, the adoption of which is one of five priority measures in the context of the EU negotiation process. Civil society organisations have participated actively in providing support throughout the legislative process, particularly MANS (the Network for Affirmation of the NGO Sector). Throughout 2014, it monitored implementation of the fight against corruption and organized crime and work on chapters 23 and 24. Nevertheless, corruption is present and the 2014 progress report points to 'limited' results. The current pace in fulfilling the EU’s conditions, especially with regard to anti-corruption policies, may lead to a slowdown in the integration process. The report draws attention to political party financing and the misuse of public office and public funds during elections. This is also stressed as problematic in the 2014 GRECO evaluation report, although the overall assessment is that Montenegro has dealt 'in a satisfactory manner' with 12 of the 14 recommendations of the previous report. It has yet to develop a solid track record of investigation, prosecution and final conviction in corruption (high-level) cases and the systematic use of the power to seize and confiscate assets. To keep its pioneer position, the country is to pursue lasting reforms, effective implementation and broader impact of its anti-corruption measures.

Serbia
The 2014 Serbian Government declared anti-corruption measures one of its priorities and recently presented action plans for chapters 23 and 24, in the hope of opening negotiations on them soon. The 2014 Commission progress report notes a 'strong political impetus to fight corruption'. Serbia’s new National Anti-Corruption Strategy for the 2013-18 period, accompanied by an Action Plan with specific measures and activities, aims to address issues that remained unresolved from its previous 2005 strategy. One of the objectives is establishing good governance in public affairs management, based on transparency, clear procedures and responsibilities of the relevant institutions. Extending and detailing the competences of the Anti-Corruption Agency, so that it can better address issues of conflict of interests, verification of accuracy and completeness of assets and income declarations, are other pending tasks.
A comprehensive regulation of the protection of whistle-blowers was long delayed. The recently adopted Whistle-blowers Protection Act (in force in June 2015), is a step forward. Another attempt to limit the opportunities for corruption and create a better business environment is the passing of the Law on Inspections Oversight. Despite these examples, the implementation of the national strategy has yet to match the strong political impetus. Future areas for improvement include involving stakeholders in reforms, developing a solid track record of investigation, prosecution and conviction, and getting final convictions in high-level corruption cases – ‘rare’ at present.

Regional initiative to fight corruption
Initiated in 2000 as the 'Stability Pact Anti-Corruption Initiative (SPAI)', renamed in 2007 'Regional Anti-Corruption Initiative (RAI)', this regional organisation unites nine countries in their efforts to curb corruption in south-eastern Europe (only Kosovo is not a member). RAI currently maintains the Integrity Experts Network, dealing with conflicts of interest and declaration of assets. Together with UNODC it participated in the implementation of two CARDS projects: 'Assessment of corruption and crime in the Western Balkans' and 'Development of monitoring instruments for judicial and law enforcement institutions in the Western Balkans'.

Both elusive and pervasive, corruption has a grip on the region. To combat it remains one of the most important tasks for the governments of the Western Balkans. The EP has regularly urged the countries from the WB region to step up their efforts in the fight against corruption. This message was confirmed in Parliament's recent resolutions on the 2014 progress reports, adopted during the March and April 2015 plenary sessions.

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