

Anti-corruption efforts in the Western Balkans

SUMMARY

Widespread corruption is a major shared challenge for Albania, Bosnia and Herzegovina (BiH), the former Yugoslav Republic of Macedonia, Kosovo, Montenegro and Serbia. It is a phenomenon that poses a threat to the EU's core values, such as democracy, the rule of law and respect for human rights, and undermines good governance and economic development. For these reasons, anti-corruption reform is among the key requirements for EU accession.

The prospect of EU integration has proven to be a strong incentive for undertaking reform. The Western Balkan countries have taken a number of anti-corruption steps, such as adapting legislation and establishing dedicated anti-corruption institutions with both preventative and repressive competences. They are also parties to all relevant international conventions. The Commission, as well as various international organisations, has measured annual progress in that respect, and the EU has supported anti-corruption efforts financially and through sharing expertise. Yet, the latest 2016 assessments show that corruption continues to permeate the region. Although the legal and institutional framework is largely in place, and the EU has prioritised good governance reforms in the pre-accession process, the concrete results achieved on the ground are disproportionately low, and political will to improve them is to a great extent insufficient.

Addressing corruption requires long-term work at many levels (regional, national and local) and involves multiple stakeholders. A more informed and demanding public, a civil society with a strengthened role in monitoring policies in corruption-prone areas, as well as visible economic progress and improved business environment are other necessary elements for achieving sustainable results.



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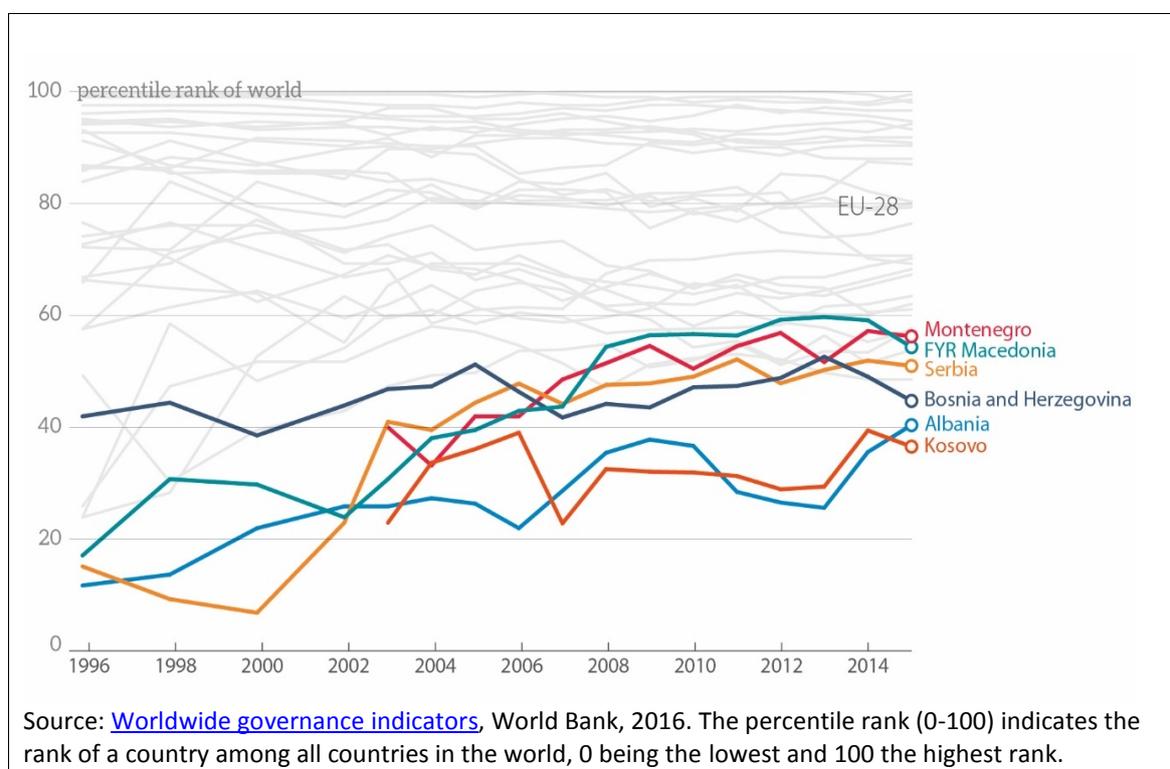
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Background: corruption in the region

According to Freedom House's [2016 report](#), since 2010 the average democracy score in the Western Balkans region has been steadily declining. In [2017](#), Freedom House reiterates that progress towards democratic standards is being replaced by more worrying developments, not least in the area of corruption. Defined as '[abuse of entrusted power for private gain](#)' by Transparency International (TI), corruption is a phenomenon that undermines democracy and impacts on societies in a variety of ways, and it has economic, political, social and cultural dimensions.

The World Bank's [governance indicators](#) and Transparency international's [Corruption perceptions index](#) have repeatedly shown that corruption is widespread in this region, generally placed among the most poorly rated in Europe (see Figure 1).

Figure 1 – Control of corruption in the Western Balkans



The latest European Commission enlargement [reports](#) and the US Department of State's [Human Rights Practices 2016 reports](#) confirm the persistent nature of corruption in the Western Balkans, which remains a serious problem. A [2016 TI report](#) on the national integrity systems in the Western Balkans and Turkey highlights the fact that the fight against corruption is failing. This comes at a time when combating the phenomenon is no novelty and the region is already developing its [fourth generation](#) of anti-corruption strategies, as a 2015 evaluation of the Regional Anti-corruption Initiative points out. In its 2016 report, TI highlights the 'phenomenon of state capture ... coupled with a lack of cooperation and coordination among state actors'. According to the report, weak justice and law enforcement, captured political systems, and media and civil society under threat have led to a situation in which anti-corruption policies are not fully enforced, and 'corruption in public office goes largely unsanctioned'.

This briefing aims to highlight the importance of anti-corruption efforts in the pre-accession preparation of the countries aspiring to join the European Union (EU) and the steps they have already undertaken, but also the many gaps that remain to be filled.

Fight against corruption: key in the EU accession process

Corruption, as a phenomenon undermining core democratic values, the stability of institutions and economic growth, is a direct threat to meeting EU accession requirements, often referred to as the '[Copenhagen criteria](#)'. To meet these standards, candidate countries need to improve their political, economic and administrative standards. Thus, since the 1990s when the central and eastern European states applied for EU membership, the fight against corruption has been [a key issue for accession](#). The candidate states need to follow the [key anti-corruption measures](#) applicable to EU Member States and stemming from the EU legislative framework, as well as the guidance provided by relevant international organisations, such as the United Nations, the Council of Europe and the Organisation for Economic Co-operation and Development.

The Western Balkans: relevance of anti-corruption efforts

The Western Balkans present a more or less uniform picture when it comes to their consistently high corruption levels. This can be attributed to region-wide [causes](#) such as the geographical situation, the 1990s' armed conflicts, sanctions and embargos on former Yugoslavia, the flourishing of smuggling channels, the legacy of communism and the post-communist transition period. All of these combined have fuelled the spread of corruption and its becoming a mainstream social practice. The Centre for the Study of Democracy, a Sofia-based public policy institute, pointed out already in [2003](#) that the region's major difficulty lies in the 'systemic nature' and 'institutionalisation' of corruption. In 2016, the message has not changed: [systemic corruption](#) remains problematic, according to a recent report of Southeast Europe Leadership for Development and Integrity ([SELDI](#)), an anti-corruption coalition of civil society organisations.

Anti-corruption measures in the framework of the EU accession process

The EU's enlargement policy has evolved through the years and as a result, certain [fundamental issues](#) have been given priority in the accession process, including the fight against corruption. [Lessons learnt](#) from previous enlargement rounds have drawn attention to the importance of the EU's pre-accession leverage and have helped refine the EU's approach to anti-corruption policies.

The prospect of EU accession has been a driver for meeting formal requirements, but less so for implementing adopted measures. In the past, the lack of benchmarks and sufficient time to elaborate and put into practice reforms has obstructed the assessment of corruption-related progress and the achievement of lasting results. The new EU approach consists of providing more time for reforms to unfold, introduces more benchmarks, and shifts the focus from harmonising legislation with international standards to providing tangible results. It envisages opening the relevant 'rule of law' chapters (23 and 24) early in the negotiation process, and closing them last. Making reforms clearer and including [interim benchmarks](#) has also been part of the adjustments. Closing benchmarks are to be set only once there has been substantial progress across the board, including on the track record of implementation. The EU has also increasingly tried to strengthen the role of civil society in the rule of law reforms as the best suited actor to advocate for them, and monitor their putting into practice.

Prevention as part of anti-corruption measures

In its [2014 EU anti-corruption report](#), the European Commission admits that an effective policy response to corruption cannot be reduced to a standard set of measures, as a 'one size fits all' solution would mean disregarding states' national contexts. However, it outlines the most relevant issues to be addressed in each country. [OECD](#) states that repressive actions alone are not enough to tackle corruption; a variety of measures is needed to prevent its occurrence. The Council of Europe's [Twenty guiding principles](#) highlight the need for prevention of corruption, public awareness and promotion of ethical behaviour.

The [UN Convention Against Corruption](#) sets global standards in corruption prevention and, based on it, anti-corruption policies aim at achieving transparency and integrity in the public service, adequate whistle-blower protection, and management of conflicts of interest and asset declarations. They also promote the adoption of codes of ethics and ethics training for public officials, and facilitate access to information of public importance. Properly regulating public procurement, and financing of political parties and electoral campaigns, carrying out judicial reform, and preventing corruption in the private sector are also priority areas. Measures in corruption-prone areas such as healthcare, taxes, education, police, customs and local self-government are also often included in individual national strategies and action plans.

EU support in fighting corruption

The EU supports the aspirant countries' anti-corruption efforts with technical expertise under various projects, and financing through its [Instrument for Pre-accession Assistance](#). It also cooperates with international bodies like the Council of Europe's Group of States against Corruption (GRECO), and regularly assesses progress.

The 2015 [thematic evaluation on IPA support to the fight against corruption](#) found that, overall, the relevance of EU anti-corruption interventions has been good. In 2016, the '[meta-audit](#)' of the European Court of Auditors (ECA) also assessed the EU's financial support as broadly effective in strengthening the region's administrative capacity, but underlined that funding for key areas, including the fight against corruption, had been relatively limited. Yet, despite major national obstacles, such as complex political and institutional structures, especially in Bosnia and Herzegovina (BiH) and the former Yugoslav Republic of Macedonia (FYR Macedonia), and lack of absorption capacities (lack of staff), there have been visible results. Most of the anti-corruption funding has gone to strengthening institutions, developing capacities (training), systems and tools (public procurement databases, codes of conduct), and awareness-raising.

In Albania, the EU-funded [anti-corruption framework assessment](#) and [EURALIUS IV](#) projects were core to its ongoing judicial reform. Kosovo benefited from improved legal frameworks for anti-money-laundering, political parties financing and declaration of assets. The [EU support to the Rule of Law](#) 2014-2017 project assisted capacity-building in Montenegro. In a [2014 special report](#) on pre-accession assistance to Serbia, the ECA highlighted the successful contribution to the drafting of a revised anti-corruption strategy and action plan. Less satisfactory are the results in BiH, which can largely be attributed to its highly politicised and fragmented institutions, which constrained collaboration between IPA beneficiaries. In FYR Macedonia, the impact of IPA funds has also been hampered by the lack of a proactive approach from the relevant bodies, which led the EU to consider imposing [sanctions](#), such as cutting disbursement of IPA funds.

Western Balkans' national and joint anti-corruption measures

The Western Balkan countries have declared their commitment to fighting corruption and have taken [key steps](#) in that respect. All of them are [parties](#) to the major international conventions of relevance and members of GRECO, which monitors compliance with the CoE's anti-corruption instruments. They have national anti-corruption strategies in place and a relatively developed legislative and institutional framework (see Table 1).

Table 1 – Western Balkans countries' anti-corruption bodies and strategies

Country	Main preventive anti-corruption body	National Anti-Corruption Strategy
Albania	National Coordinator for Anti-Corruption (NCAC)	Inter-sectoral Strategy against corruption 2015-2020
BIH	Agency for the Prevention of Corruption and Coordination of the Fight against Corruption	Strategy for the Fight against corruption 2009-2014/RS Strategy of Fight against Corruption 2013-2017/FBiH Anti-Corruption Strategy 2016-2019
FYR Macedonia	State Commission for the Prevention of Corruption	State Programme for Prevention and Repression of Corruption and State Programme for Prevention and Reduction of Conflict of Interests (2016-2019)
Kosovo	Kosovo Anti-Corruption Agency (KAA)	Anti-corruption strategy 2013-2017?
Montenegro	Agency for the Prevention of Corruption	National Strategy for the fight against corruption and organized crime (2010-2014)
Serbia	Anti-Corruption Agency	National Anti-Corruption Strategy 2013-2018

Source: [RAI anti-corruption institutional framework](#), 2016.

In recent years, and in view of the fact that Montenegro and Serbia have opened their rule of law chapters with the EU, the anti-corruption quest has gained more visibility, and has also exposed the gaps that remain to be filled. Shortcomings relate mainly to the lack of real results and effective implementation and enforcement of the laws. The national institutions involved are weak, and sensitive issues are addressed with little determination, which is indicative of the level of political will. According to SELDI, the progress in the fight against corruption remains 'slow and erratic', and improvements – 'negligible'.

The European Commission's 2016 enlargement reports

In November 2016, the European Parliament hosted a [round table](#) on the anti-corruption agenda for south-east Europe, following the publication of the 2016 European Commission enlargement reports. According to the 2016 reports on the Western Balkans, most countries have good legislation for preventing corruption, and should be able to investigate and prosecute corruption, but results remain poor. The Commission underlined that 'corruption remains prevalent in many areas and continues to be a very serious problem'. The main difficulty is the lack of sufficient political will to implement and enforce the legislation in practice. Undue political influence and limited human and financial capacities hamper the work of anti-corruption bodies. Their track record needs to be improved across the region, as well as the transparency and accountability of funding for political parties and campaign financing. The Commission also urges more systematic launching of financial investigations, and introducing measures to prevent corruption in the private sector, and in local government. Last but not least, it urges much higher involvement of civil society in the anti-corruption agenda.

At the above-mentioned EP round table, SELDI also presented the key findings of its 2016 regional anti-corruption report, '[Shadow Power](#)'. The report highlights a slow-down in anti-corruption progress and a creeping feeling of disillusionment, and growth of the hidden economy across the region. It points out that anti-corruption policies should be coupled with economic reforms and increase in prosperity, and the link between corruption and hidden economy should be explored further.

Albania

Albania's EU-related agenda revolves around [five key priorities](#), and the fight against corruption is one of them. In the [2016 SELDI Corruption monitoring system](#), Albania features as the south-east European (SEE) state with highest corruption pressure on citizens. GRECO's [2016 report](#) assessed that out of its latest ten recommendations, Albania has satisfactorily dealt with only one.

The Commission's [2016 report](#) noted some progress in, and in the level of preparation for, fighting corruption. The positive steps include the adoption of new laws on whistleblower protection and on creation of a specialised independent anti-corruption body. The progress with the [justice reform](#), key to EU accession, is also an important development. Albania passed constitutional amendments and a set of laws (including the 'vetting law' for excluding criminal offenders from public posts) that restructure its judicial system and create specialised institutions for the fight against organised crime and corruption. Work on related laws and by-laws is ongoing, including revision of the criminal procedure code. Albania has also developed an [online portal](#), and a mobile text-message feedback mechanism in hospitals and real estate registration offices for anonymous reporting of corruption in the public institutions.

The Commission recommends Albania improve its track record of investigations, prosecutions and convictions in corruption cases at all levels, amend legislation on interceptions and surveillance, and on political party finances, particularly relevant in view of the upcoming 2017 general elections. Albania has to address its weak administrative capacity, improve transparency in the public administration, and access to public information. Anti-corruption efforts are also a priority at the local level.

Bosnia and Herzegovina (BiH)

GRECO's [2016 report](#) sees corruption as one of the most pressing challenges in Bosnia and Herzegovina. It points out that BiH's 'fragmented and uncoordinated institutional framework and, more decisively, the lack of firm political will to push forward a far-reaching anti-corruption agenda', have repeatedly delayed effective implementation of the existing legislation and policies. BiH has a complex legal framework due to its [multiple levels of governance](#). Besides the state level, it is composed of two entities – the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS) – and the autonomous Brčko District, each with separate legal frameworks. Anti-corruption strategies are in place at state and entity levels.

In its [2016 report](#), the Commission saw some progress in the adoption of action plans on corruption at various levels of governance, but it concurs with GRECO that administrative impediments and lack of coordination are obstacles to their efficient implementation. In 2015, BiH adopted a socio-economic [reform agenda](#), which also envisaged drafting an anti-corruption strategy and the introduction of effective prevention and monitoring structures, respecting constitutional competences at all levels of authority. The [legal framework](#) has seen some changes, with amendments at entity level. The Federation of BiH adopted amendments to its criminal code, the law on conflict of interest, and on political parties' financing. Republika Srpska adopted a law on suppression of corruption, organised crime and the most serious forms of commercial crimes. The laws on whistleblower protection and public procurement remain to be fully applied, and the track record of final convictions (none in 2016) in high-profile corruption cases needs to be improved.

The recommendations to BiH include setting up prevention bodies, where not done yet, and amending legislation in the areas of conflicts of interest, asset declarations and protection of whistle-blowers. BiH also needs to ensure tougher penalties for corruption-related crimes. It is currently undergoing a non-compliance procedure in the framework of GRECO's [third evaluation round](#), which deals with the criminalisation of corruption offences and the transparency of party funding. In its [2017 resolution](#) on BiH, the EP regrets that the declared political commitment to combat corruption did not lead to real results. The EP calls for effective scrutiny of political party and electoral campaign financing, transparent public sector employment and ending corruption in the public procurement cycle.

The former Yugoslav Republic of Macedonia

Despite a fairly developed legislative and institutional framework, FYR Macedonia has been backsliding in recent years. In 2015, a corruption-related wiretapping scandal sunk the country in a [deep political crisis](#), from which it has not yet recovered. The leaked tapes raised serious allegations of high-level political corruption and mass abuse of power. The EU stepped in as mediator between the political parties, and helped them to reach the '[Przino agreement](#)'. Based on an expert report, the Commission adopted [urgent reform priorities](#) for the country. In line with the Przino agreement, a Special Public Prosecutor was appointed to deal with the leaks, and has launched investigations against top-level officials. Other state bodies have not proven to be cooperative. In April 2016, the [President's attempt](#) to pardon 56 individuals charged or allegedly involved in the wiretaps reinforced public distrust, and showed a serious lack of political will to engage effectively against corruption.

GRECO's [2016 report](#) stated that out of 19 recommendations, the country has implemented satisfactorily only three. The Commission, in its [2016 report](#), assessed that no progress had been made in the fight against corruption. It noted a significant slowdown in both prevention and repression activities, due to political interference in the work of relevant bodies, and a falling number of investigations, prosecutions and convictions, especially in high-level cases. No substantial sanctions were imposed for breaches of political party and election campaign financing regulations, despite 2015 amendments to the electoral code. Another shortcoming that was outlined was that civil society functions in an unfavourable environment. The Commission insists on follow-up to its urgent reform priorities, which require giving autonomy to the relevant bodies, ensuring transparency, merit-based appointments and independence of public officials and improving the track record on fighting corruption.

Kosovo

One of the [EU requirements](#) before Kosovo can be granted visa-free travel in the Schengen area is an improved track record in the fight against corruption. Although Kosovo is at an early stage in this fight, the Commission's [2016 report](#) notes good progress with the setting up of a multi-disciplinary investigative team, headed by the Special Prosecution Office, and the introduction of a tracking mechanism for high-profile corruption cases. This has led to an increased number of investigated and prosecuted cases, but the track record still needs to be improved. Kosovo's legal framework has been further aligned with the EU *acquis* by amending the law on declaration of assets for senior public officials and gifts for all public officials, and the law on public procurement.

Kosovo is urged to amend, first, the legal framework on public officials charged or convicted of serious or corruption-related crime; second, its law on conflict of interest;

and third, its audit of political party finances for 2013-2016 as well as to ensure that financial reports are published. Corruption in the north of Kosovo, the fragmented institutional setup with overlapping remits and tasks, and lack of cooperation, as well as the non-transparent and unaccountable public administration are further areas of concern. Civil society is also too weak to have an impact on decision-making, thereby preventing democratic progress.

Montenegro

Montenegro, whose negotiation talks with the EU are at the most advanced stage, and which expects too to [become a NATO member](#), also continues to be plagued by corruption. In 2013, it opened the 'rule of law' chapters, 23 and 24. As a result, its most relevant strategic anti-corruption document is the [action plan on chapter 23](#). Its objectives are based on the recommendations from the preceding [EU screening report](#). Some recent evaluations, such as the [2015 GRECO report](#), the Commission's [2016 report](#) and the January 2017 action plan's [semi-annual implementation report](#) concluded that Montenegro has taken constructive steps to meet EU accession requirements, but also noted delays. Adopting laws on prevention of corruption, on seizure and confiscation of assets, a new [strategy for public procurement 2016-2020](#), adopting secondary legislation and amending multiple laws, including the criminal procedure code, are some of the successes reached. Others include the setting up of a Special Prosecution Office for the fight against corruption and organised crime in 2015, and the new agency for the prevention of corruption in 2016. The fact that civil society is regularly involved in the oversight of strategic documents is frequently pointed to as a positive development. Additionally, in 2016, a first final and enforceable judgment in a high-level corruption case (against a former mayor of Budva) was issued.

The practical effectiveness of the above-mentioned measures, however, continues to be put into question. The EU has [continuously criticised](#) the low number of corruption-related convictions, the need to improve the institutions' operational capacity and establish a better record of seizure and confiscation of criminal assets, among others.

Serbia

In July 2016, Serbia also [opened](#) the 'rule of law' chapters, and now faces the need to work on a long-term strategic vision for related reforms. The 2015 [Action Plan on chapter 23](#) is one of its strategic documents. The legal framework for the fight against corruption is broadly in place, with existing laws on conflict of interest, whistle-blower protection, access to information and on financing political activities and public procurement. Despite significant work in adapting the legislation, GRECO's [2015 report](#) underlined a noticeable gap between law and practice. The Commission's [2016 report](#) also warned there had been no progress in the track record of convictions, and that 'anti-corruption effort has yet to yield meaningful results'. The institutions need to deter corruptive practices more credibly, therefore adopting a new law to regulate the work of the Anti-Corruption Agency, the main preventive body, is a key pending task. Serbia needs to ensure that recommendations of its Anti-Corruption Council, the governmental advisory body, are followed up in practice. The [EU's screening report](#) made general recommendations for broader political and institutional ownership of the fight against corruption. Serbia has to establish an initial track record on investigations, indictments and final convictions on high-level corruption, and urgently amend and implement the economic and corruption crimes section of its criminal code. It also needs to better implement laws on political party and electoral campaign financing, and address the issues of conflicts of interest, illicit enrichment, and free access to information.

Regional cooperation: the Regional Anti-corruption initiative (RAI)

On a regional level, anti-corruption efforts are led by the [regional anti-corruption initiative \(RAI\)](#), an intergovernmental organisation that provides a common platform for sharing knowledge and best practices. Five of the Western Balkan states are members, while Kosovo can benefit from the platform due to the 2014 [memorandum of understanding](#) with RAI, signed by the UNDP's Anti-Corruption Programme. RAI's activities (anti-corruption assessment of laws, corruption-risk assessment, and monitoring national strategies), aim to improve regional synergies and ensure high-level political commitment. The [Work Plan 2016–2017](#) envisages actions that complement the targets of the region's [SEE 2020 Strategy](#). The strategic objectives consist of adopting transparent rules, raising public awareness (by supporting research, whistle-blowers and media, and contributing to dynamic civil society) and ensuring verification of conflicts of interest and asset disclosure (by improving data exchange and oversight bodies' capacities).

Future challenges

The systemic nature of corruption in the region makes anti-corruption efforts challenging but also highly relevant for the Western Balkans, and all the more indispensable during their pre-accession phase. Progress overall has been slow, as a 2016 Transparency International [report](#) states, and the main challenge remains the need to fill the gap between formal requirements and declared commitment, on the one hand, and practical implementation, on the other.

The European Parliament, in its 2017 resolutions on the latest enlargement reports, underlines the need for the fight against corruption to be made a priority and the effectiveness of anti-corruption measures to be increased. The EP particularly draws attention to the fact that anti-corruption institutions continue to be [subject to political interference](#) and have limited administrative capacity, and urges the countries to [improve their track record](#) of successful investigations and convictions, in particular in high-level corruption cases, as a message of no tolerance of corruption. The EP also supports the assertion of civil society's role as a dynamic actor, capable of influencing policy and decision-making in corruption-prone areas.

Enlargement remains a [foreign policy priority](#) for the Western Balkans, but it is being complicated by multiple external and internal challenges. To reconfirm its commitment to the region, the EU has lately been paying increasing attention to it. At the March 2017 [European Council](#), the EU reconfirmed the integration prospects of all countries in the region. The High Representative / Vice-President, Federica Mogherini, also [toured the region](#) in March, sending the message that it remains a key priority for the EU. At the same month's Western Balkans Sarajevo Summit, the Commissioner for European Neighbourhood Policy and Enlargement Negotiations, Johannes Hahn, underlined the strategic importance of the Western Balkans, and [urged](#) the countries to step up their cooperation. The local leaders pledged, among other things, to enhance their anti-corruption efforts, in the [joint statement](#) adopted at the meeting.

Continuous EU commitment to the accession process will remain crucial for driving reforms towards broader democratisation. However, the EU is also not spared challenges. It is frequently called upon to re-examine its approach and ability to induce change in the Western Balkans, and consider whether new ways to strengthen ties with the region and increase its credibility are needed.

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