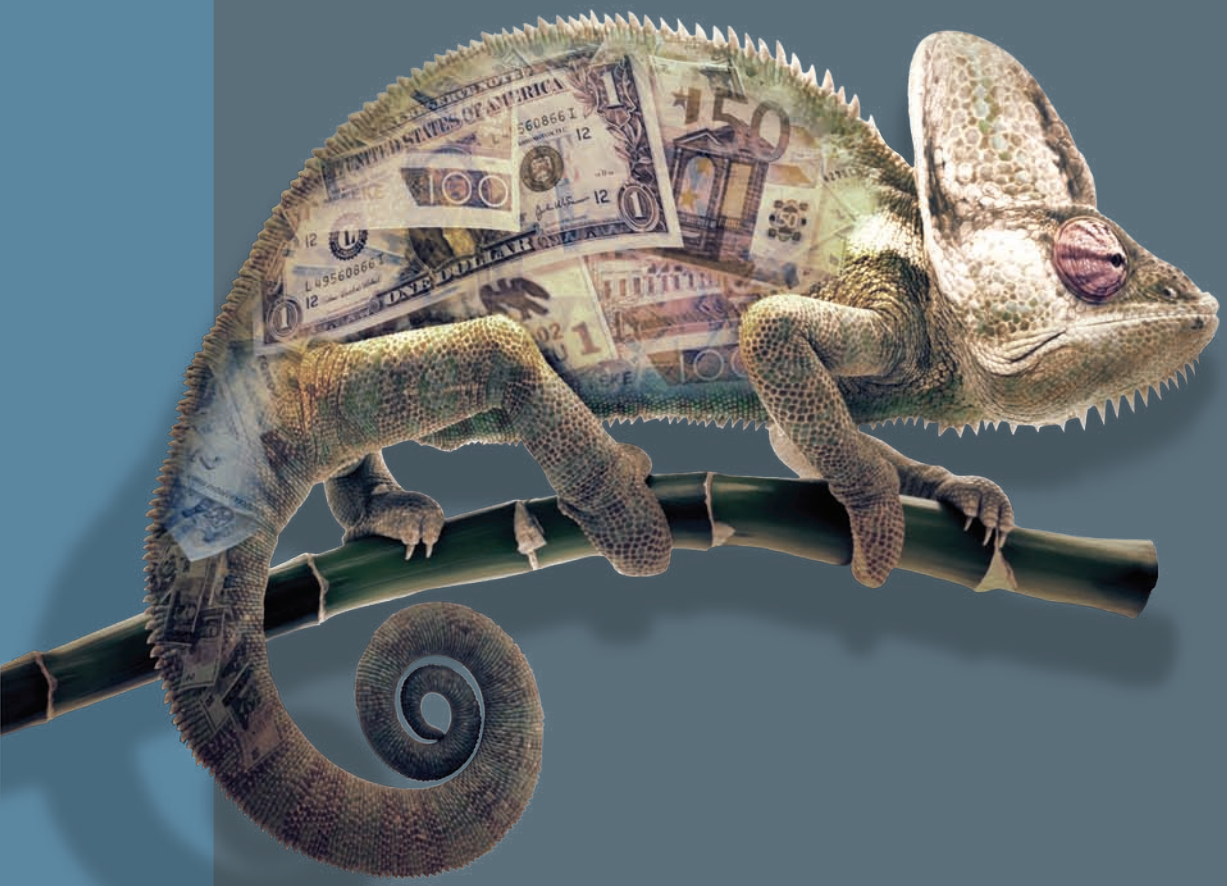
shadow power



Assessment of Corruption and Hidden Economy in Southeast Europe

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Southeast European Leadership for Development and Integrity

SHADOW POWER

ASSESSMENT OF CORRUPTION AND HIDDEN ECONOMY IN SOUTHEAST EUROPE

2016

The Southeast European Leadership for Development and Integrity (SELDI) is the largest indigenous anticorruption and good governance initiative of CSOs from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey. SELDI currently includes also partners from Romania and Moldova. SELDI contributes to a dynamic civil society in the region, capable of participating in public debate and influencing the policy and decision-making process in the area of anticorruption and good governance. The initiative established a coalition for the development and endorsement of a regional CSO strategy and action agenda and carries out good governance monitoring. SELDI raises public awareness and advocates reformist policies through Regional Good Governance and Anti-Corruption Policy Forums.

This report provides a civil society view of the state of corruption and hidden economy in Southeast Europe. It has been prepared by the SELDI Secretariat (Center for the Study of Democracy) after extensive consultations with SELDI partners. The report reflects the findings of the *Corruption Monitoring System (CMS)* 2016 and the *Hidden Economy Survey* 2016 in the SELDI countries. Dr. Alexander Stoyanov and Dr. Alexander Gerganov from Vitosha Research, Bulgaria, and Dr. Todor Yalamov from the Sofia University have provided methodological guidance of the CMS implementation on corruption and hidden economy respectively. The report is based on two regional background studies prepared by SELDI: *Energy Governance and State Capture Risks in Southeast Europe* and *Hidden Economy and Good Governance in Southeast Europe*. CSD would like to acknowledge the comments provided by the participants during the SELDI Policy Workshop: Strengthening Resilience to Corruption and State Capture in Southeast Europe on June 14, 2016 in Brussels.

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CONTENTS

LIST OF FIGURES

LIST OF TABLES

LIST OF BOXES

LIST OF ACRONYMS

BiH	Bosnia and Herzegovina
CMS	Corruption Monitoring System
CSO	civil society organisation
CSD	Center for the Study of Democracy
EC	European Commission
ELEM	Macedonian Power Plant
EPCG	Electric Power Company of Montenegro
EURALIUS	European Assistance Mission to the Albanian Justice System
NA	no answer
OECD	Organisation for Economic Cooperation and Development
OPDAT	Office of Overseas Prosecutorial Development Assistance and Training Program of the U.S. Department of Justice
SEE	Southeast Europe
SELDI	Southeast Europe Leadership for Development and Integrity
SOE	state-owned enterprise

EXECUTIVE SUMMARY

The current report, prepared by the Southeast European Leadership for Development and Integrity (SELDI) – the largest indigenous good governance initiative in SEE – makes an important contribution to the regional approach to anticorruption. It provides a civil society view of the state of corruption and comes in the wake of the 2014 SELDI comprehensive assessment of the various aspects of the legal and institutional anticorruption environments of nine SEE countries. In 2016, SELDI followed up on these assessments with **an update of corruption monitoring** and a special focus on **state capture in the energy sector** and the **corruption–hidden economy nexus**.

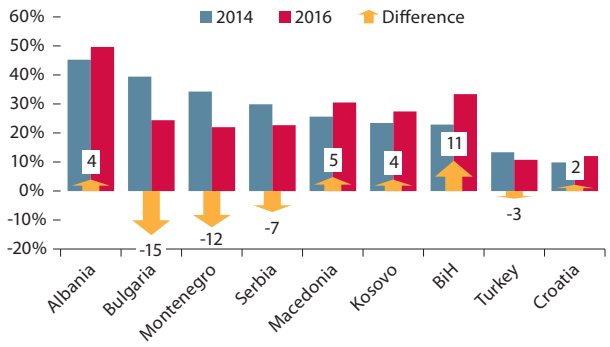
The report underscores the need for broader political action for reform, which seems blocked or narrowing across the region. Inside pressure for such action has been suffocated by economic necessity and/or ethnic divisions, and the ossification of political and economic establishments. Outside pressure, delivered mostly by the European Union, has been seen as wanting in relation to the size of the problems in the past couple of years due to a succession of internal and external crises.

Spread and dynamics of corruption 2001 – 2016

In none of the countries in the region has there been a clear and sustained policy breakthrough in anticorruption, although efforts to deliver technical solutions and to improve the functioning of the law enforcement institutions, mostly with support from the EU, have continued and even intensified in some cases. This has led to further slow decline in administrative corruption levels but at the expense of waning public support for reforms and of declining trust in national and European institutions.

SELDI's *Corruption Monitoring System* (CMS) – its analytical tool for measuring corruption – has identified three trends in the dynamics of corruption in the region:

Changes in corruption pressure by country 2014 – 2016*



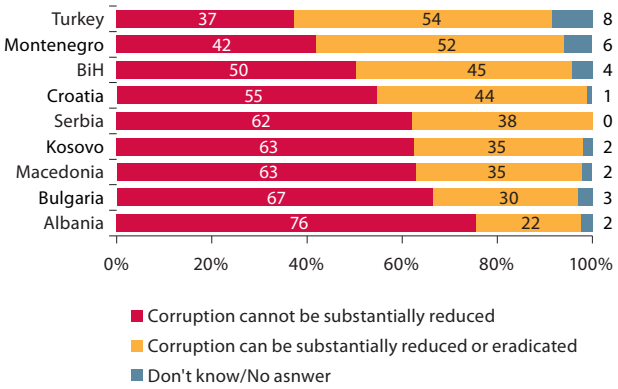
* *Share of citizens reporting to have experienced demands for bribes from public officials.*

Source: *SELDI Corruption Monitoring System, 2016.*

- Since the early 2000s when SELDI started its monitoring the **overall levels of corruption** in the SEE countries **have gone down,** and **the public has become more demanding of good governance.**
- Yet, **progress has been slow and erratic**, and corruption continues to be both a major preoccupation for the general public and a common occurrence in the civil service and senior government. Specifically, in the 2014 – 2016 period **corruption pressure** – the primary quantitative indicator for the levels of corruption in a country – has relapsed in some countries, but the overall improvement in the region was negligible.
- The combination of stubbornly high rates of rent-seeking from corrupt officials and rising expectations for good governance related mostly to EU ac-

cession aspirations in SEE have **shaped negatively public expectations about potential corruption pressure**. More than half of the population of the SELDI countries believe it is likely to have to give a bribe to an official to get things done. This indicates that **the restoration of trust in institutions would be much more difficult** than the mere reduction in the levels of administrative corruption.

Public estimates of the feasibility of anticorruption policies, 2016



Source: *SELDI Corruption Monitoring System, 2016.*

As a result, **public trust in the feasibility of policy responses to corruption** – a critical ally to successful anticorruption reforms – which reflects the share of the population who believe in the anticorruption efforts of their governments **has stayed below the 50% threshold in 2016** for all SEE countries but Montenegro and Turkey. This further exacerbates the unwillingness of politicians to engage in anticorruption policies, and shows the need for a broad-based social movement to sustain an anticorruption focus.

The overall conclusion from the 2016 round of the SELDI CMS is that the **policies which target corrupt behaviour at administrative level and those seeking to change trust in government need to be pursued in concert**. If not complemented by strengthened public demand for integrity in government and sustained improvement in economic well-being, stricter enforcement of penal measures cannot have a sustainable effect. Law enforcement would likely be seen either as useless repression when targeting lower government levels alone or as political witch-hunt when intermittently directed at higher levels. Conversely, intensifying awareness-building measures would only fuel cynicism and resignation in the public if it is not accompanied by visible efforts for cracking down on (high-level) rent-seeking officials.

The state of the hidden economy in SEE in 2016

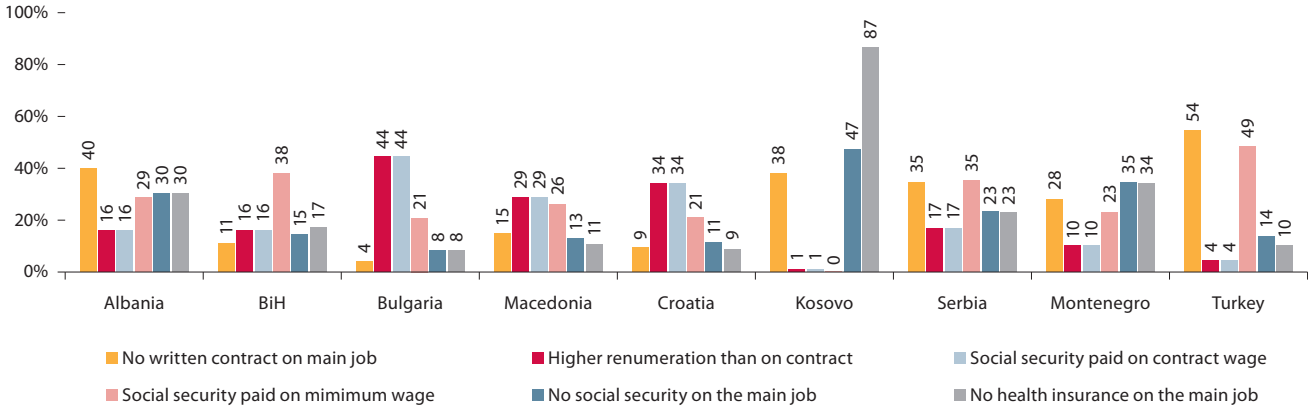
Given that anticorruption policies alone are unlikely to produce wide societal support unless they are imbedded in economic reform and increase in prosperity, a **broadening of the anticorruption debate** from sheer law enforcement **towards more economic grounded rationale**, such as addressing the nexus between corruption and hidden economy, is needed. According to the SELDI Hidden Economy Survey and other sources the hidden sector occupies between a quarter and a third of the SEE economies.

A critical factor in tackling corruption and the hidden economy is **the overall business environment**. While most SEE countries fare well in terms of nominal indicators, such as the size of tax rates or ease of registering a business, administrative corruption and state capture – of which there is ample evidence – allows **incumbent webs of political and business networks** to effectively control access to government law and policy making, rendering the institutions defining the business environment exclusive and unpredictable. A considerable **tax gap** in SEE also hinders both economic development and good governance. Tax evasion, which is made possible, among other things, by bribery and inefficiency in the tax authorities, denotes lack of trust in a country's economic viability and undermines the quality and size of the public services. The SELDI CMS has consistently

shown that for all SEE countries tax and customs officials are ranked among the occupations with highest risk of involvement in corruption.

As a result, **hidden employment remains highly present in SEE**, creating risks of the exclusion of sizable shares of the workforce from the rule of law and placing the informally employed in a vulnerable position with respect to rent-seeking officials and to illegal business interests. The considerable social embeddedness of hidden employment in SEE, as evidenced by SELDI's 2016 Hidden Economy Survey, excludes large swathes of the labour force from the protection of government regulation and diminishes support for the rule of law. This perpetuates the hidden economy – corruption vicious circle.

Shares of the different types of hidden employment in SEE



Source: *SELDI Hidden Economy Survey, 2016.*

State capture in the energy sector

The current report follows up on a 2014 SELDI policy recommendation and takes a closer look into one of the critical corruption risk rectors – energy. Because SEE governments own, regulate and/or oversee virtually all aspects of the energy sector, any form of bad governance there reverberates throughout the economy and society. Among the most critical energy governance deficits in SEE which breed corruption are the **mismanagement of the state-owned energy enterprises (SOEs)**, the **irregularities in the public procurement contracts** and **the slow progress in liberalising and de-monopolising the energy sector**.

In the energy sector in SEE the monopoly rent cannot be sustained over the long term without the corrupt involvement of politicians as both key enterprises and the regulators are still controlled by the governments. Therefore, SEE countries need to **liberalise energy trade and services** in order to reduce the risk of corruption stemming from collusion between state-owned or private monopolies and government. However, the adoption of the EU Third Energy Package in SEE is usually followed by lax enforcement since this requires an overhaul of the whole energy system, including entrenched state capture networks. This creates the risk of yet another case of sabotaged reforms, which citizens see as **façade change** without the realisation of the underlying governance benefits.

Towards a reform agenda

The main thrust of anticorruption efforts in the region should be directed at **tackling high level political corruption and state capture.** Additionally, anticorruption efforts in the region should be zoomed in at the level of public organisation, to follow up on the quality of implementation of numerous formally adopted anticorruption policies and plans and close the implementation and efficiency gaps. Three key areas need to be prioritised by governments in the region, regional initiatives, and European institutions in order to be able to achieve breakthrough at least in the mid-term:

- **Effective prosecution of corrupt high level politicians and senior civil servants** is the only way to send a strong and immediate message that corruption would not be tolerated. Regional formats such as the Regional Cooperation Council should take a much more active role in promoting performance-related anticorruption reforms in cooperation with EU member states from the region, EC directorates general specialised in justice and home affairs, and EU Delegations on the ground.
- **The European Commission should expand its direct engagement with civil society organisations in the region**. For internationally supported reforms to become sustainable, they need to gain wider public acceptance and CSOs are indispensable for this to happen. The involvement of CSOs is a way of guaranteeing that the accountability of governments to donors and international organisations does not take precedence over accountability to local constituencies.
- **Independent corruption and anticorruption monitoring mechanisms** need to be sustained on national and regional level in order to provide robust data and analysis and integrate both **corruption diagnostics** and **anticorruption policy evaluation**.

Governments in the region should also design comprehensive **strategies for tackling the hidden economy** in parallel to the ones devoted to anticorruption, which should be linked to the ultimate goals of inclusive, dynamic economic convergence to the EU, including through:

- Tracking the performance of regulatory and compliance bodies affecting the business environment.
- Implementing the Eurostat methodology for non-observed economy adjustments to GDP.
- Conducting regular tax gap assessments and sequencing of reforms on tax gap areas.
- Introducing policies facilitating the formalisation of whole economic value chains.

Delivering effective anticorruption and state capture solutions in SEE hinges on the involvement of dedicated, dynamic civil society organisations. This includes **furthering CSOs' own integrity and good governance**: SELDI will develop a Civil Society Strategy and Joint Strategic Programme for Good Governance and Anti-Corruption 2020, which will serve as guidance for action for the whole anticorruption community in SEE. CSOs in the region should direct their efforts both at bolder political action and at devising effective mechanisms to support and include new and emerging grass-roots movements.

FOREWORD

To say that considerable work has been done to understand the sources and dynamics of corruption in the countries of Southeast Europe might be an understatement. Yet, most of it has focused at the national level, without much interaction between the government and non-governmental actors, and with not enough understanding of the regional dynamics and the benefits from cross-country comparisons. The European Union itself has chosen the government-to-government platform and an annual country by country assessment, which has clearly further disillusioned citizens with enlargement both within the Union and in the region. Civil society organisations, in particular those active in the area of rule of law and good governance, have been abandoned in no man's land viewed as ineffective nuisance in achieving change by the donors' constituencies abroad, and branded as foreign agents by corrupt governments at home. The Southeast European Leadership for Development and Integrity (SELDI) has proposed an indigenous regional civil society platform trying to engage reformist-minded government officials in the region, the European Union institutions, and diverse international and regional stakeholders to further good governance reforms in Southeast Europe. This work also includes furthering CSOs' own integrity and good governance: SELDI will develop a Civil Society Strategy and Joint Strategic Programme for Good Governance and Anti-Corruption 2020, which will serve as guidance for action for the whole anticorruption community in SEE.

Yet, despite all the efforts, and the signs of improvement since 2001 when SELDI first introduced its corruption monitoring in the region, there seems to be unanimous agreement that corruption is here to stay in the region, that in the past two years the situation has worsened in some cases at least, and that the EU membership outlook for the region has clouded. The situation in the region changed dramatically in 2016, with the turmoil in Turkey and the migration crisis, clouding most other developments. The fallout of chilling relations between the EU and Turkey has been felt across the region, as these relations seem to have provided an additional alternative narrative to EU enlargement after these of Russia and China. Yet, these narratives have failed to acknowledge that anticorruption has never been so high on the agenda globally, as political leaders everywhere have tried to return the trust of citizens in public institutions. People in the Western Balkans have continued to be pressed by economic hardships such as poverty, low income, and unemployment, as well as ethnic divisions forcing them to turn a blind eye to corruption. This requires a new drive to sensitise citizens on the dimensions and everyday costs of corruption, and how these relate to their well-being and the political choices they make. At policy level, the European Union needs to develop new instruments to tackle more insidious forms of corruption like state capture and to improve its ability for political action. Events in Macedonia recently or in Bosnia and Herzegovina over the longer-run have demonstrated that the current instruments at the disposal of both citizens and the European Union for achieving sustained change are weak.

In 2014, SELDI carried out a comprehensive assessment of corruption in Southeast Europe (SEE) covering the various aspects of the legal and

institutional environments of nine countries, outlining the characteristics and challenges of state capture, and measuring actual levels of corruption.[1] SELDI's approach to anticorruption is specific and actionable, seeking to bridge analysis and policy design, and link it to civil society capacity building for good governance. Thus, as a follow-up to the recommendations of its 2014 analysis, SELDI has worked in the region to try to deliver specific civil society driven anticorruption reforms. In the current report, SELDI provides an update of corruption monitoring in the region and focuses on state capture channels in the energy sector, and on the corruption-hidden economy nexus, and how it affects the economic well-being of the region. The present report makes a contribution to policy-relevant knowledge in three areas, which explicate better the complexity of corruption and the challenges to anticorruption policies in SEE:

- Measurement of the **spread of corruption** and analysis of the social context in which it proliferates in 2016 as well as dynamics for the past two years. The results of this measurement have practical value both for further research into the nature of corruption and for anticorruption measures targeted at its various manifestations. It allows civil society community in SEE to continue pushing for reform based on empirical data. SELDI has combined its analysis with the development of a *Civil Society Strategy and Joint Strategic Programme for Good Governance and Anti-Corruption 2020*. The *Corruption Monitoring System* provides an important benchmark on corruption pressure prevalence over time and across countries in SEE. This is completed by the unique diagnostics and local understanding by civil society organisations from all SEE countries.
- Analysis of the most insidious form of corruption – state capture[2] – in a critical sphere of the economy. **Energy** is a sector of major significance not only for economic development but also for political stability and security.[3] This is true both within states, as well as for Europe as a whole. With these considerations in mind, this report examines the impact of corruption and state capture on the governance of the energy sector and identifies key drivers and consequences of mismanagement. It shows how the capture of national energy policy-making hurts citizens' prosperity and the countries' economic outlook.
- Assessment of the state and developments in the economic equivalent of corruption – the sector where work is performed and goods produced and exchanged outside official government statistics and regulations. The **hidden economy** could be seen as the growing medium where the divergence of norms and actions flourishes.[4] The report examines the links between the hidden economy and corruption related to employment, taxation and the general business environment. It detects the key drivers and consequences of the hidden economy and how its vicious circle with corruption affects the well-being and development perspectives of the region.

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1 SELDI. 2014. *Anti-Corruption Reloaded: Assessment of Southeast Europe*. Center for the Study of Democracy: Sofia.

2 The analysis of state capture is based on a CSD and SELDI Working Paper *State Capture Diagnostics Roadmap* and an expert workshop discussion held in Istanbul in December 2015.

3 For a detailed review of the topic please see SELDI's online report *Energy Governance and State Capture Risks in Southeast Europe: Regional Assessment Report, 2016*.

4 For a detailed review of the topic please see SELDI's online report *Hidden Economy and Good Governance in Southeast Europe: Regional Assessment Report 2016*.

1 THE STATE OF CORRUPTION IN SOUTHEAST EUROPE

1.1. THE NATURE OF CORRUPTION IN SOUTHEAST EUROPE

Much has been made of the spread of corruption in the countries of Southeast Europe, with most of the discussion centred on understanding what fuels it and estimating its consequences. Less appreciated is the fact that because of its **extent** it has become of a different **kind**. Instead of a mere accumulation of individual cases, corruption is now perpetrated through crony networks; rather than an act of "abuse", it is becoming a common social practice. In some countries, it is threatening to turn into the default mode of transaction in public services. Even in the countries with the lowest bribery levels – Croatia and Turkey, where around 10% of individuals report being involved – corruption could have breached a kind of epidemiological threshold where the policies of containment become more urgent than the policies of enforcement.

This **creeping "normalisation" of corruption** presents a particular conundrum for anticorruption policy making. Most such policies – especially those on the law enforcement side – have been designed to deal with incidental occurrences of bribery or more sophisticated types of corruption. Law enforcement and inspection institutions are generally premised on the assumption that violations of rules are the exception; they can only function effectively on this assumption. In a context of endemic, even normalised corruption, therefore, enforcement is faced with a kind of law of diminishing returns.[5] The major risk of runaway corruption is that it is very difficult to roll back entirely within the rule of law without threatening to compromise broader democratic and market economy principles.[6]

The implications are even beyond anticorruption. If left unaddressed, a growing disagreement between actions and norms, between actual and prescribed behaviour undermines the basic integrity of a society. This kind of governance decoupling then creates opportunities for authoritarian tendencies.[7] The problem of the rule of law cannot be resolved without deciding on the ownership of the law. Resigned that official rules are there to be broken, a society grows increasingly indifferent to the process of capture of government and legislature by oligarchic groups. This capture can only be sustained by further centralisation of government power.

Corruption is vital in this process of centralisation. In order to support increasing authoritarian tendencies by senior government, junior officials are given some licence to extract rents from households and businesses. Thus, the retail market of corrupt administrative services becomes closely linked to the wholesale purchase of government policies and judicial verdicts. Corrupt politicians in SEE try to find a measure in the petty corruption they tolerate – too much predation by bureaucrats could trigger discontent in society; too little, and the bureaucrats might no longer partake in the authoritarian grip on society. Among other effects, this trend also hampers efforts to measure corruption because less political freedom and fear of reprisals might prevent the public from disclosing corruption attitudes and experience.

Another difficulty for integrity reforms in the highly corrupt environment of Southeast Europe is the identity of the reformist constituency. Given that half of the public in the SELDI area consider corruption the second gravest problem facing their country, the social base of anticorruption should be sufficiently broad and committed. Conventional anticorruption wisdom has it that corruption in government affects the poor disproportionately. Yet, the conspicuous absence of civic discontent among minorities, unemployed, pensioners and other vulnerable groups suggests that they may have found other ways of coping with

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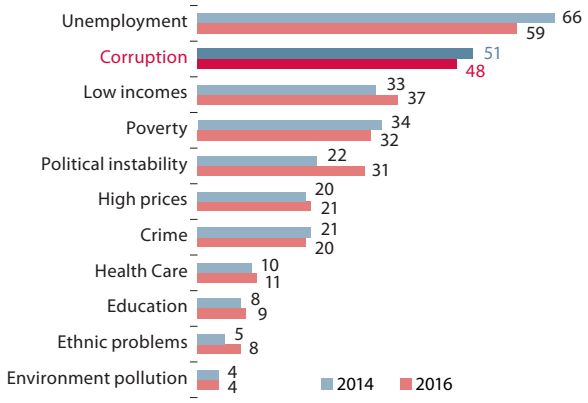
5 The 2016 Corruption Assessment Report for Bulgaria of the Center for the Study of Democracy indicated that there were over 400 inspection and enforcement agencies whose only effect seems to be to enhance the opportunities for the extraction of illegal rents by public officials (CSD. 2016. *State Capture Unplugged: Countering Administrative and Political Corruption in Bulgaria*. Sofia, p. 22).

6 The risks are evident in the praise often awarded to reformist governments dismissing corrupt judges or police *en masse* – an act of bad governance applied in the name of good governance.

7 This was evident to Rousseau in the 18th century when he warned that "the less the particular wills correspond to the general will, that is, customs with laws, the more should the repressive power be increased." (Rousseau, J.-J. 1998. *The Social Contract or Principles of Political Right,* Wordsworth Editions Unlimited: Ware, p. 59.).

Figure 1. Ranking of major concerns by the public, SEE regional average, 2016 (%)



Source: *SELDI Corruption Monitoring System, 2016.*

rent-seeking pressure. In fact, support for manifestly corrupt autocrats in the region has all too often come precisely from those who bear the social and economic cost of corruption. The few corruption-related protests of any significance – such as in Bulgaria in 2013 and in Macedonia in 2016 – were driven by urban middle classes rather than marginalised groups. This seems to underscore the importance of broader political action for reform, which seems blocked or narrowing in space across the region in the 2014 – 2016 period. Inside pressure for such action has been suffocated by economic necessity and/or ethnic divisions, and the ossification of political and economic establishments. Outside pressure, delivered mostly by the European Union has been on the decline or compromised in the past couple of years by the Union's internal weaknesses, as well as by the increase in geopolitical tensions in the region coming primarily from Russia.

1.2. RELEVANT RECENT DEVELOPMENTS

Most of that conventional wisdom, therefore, may need to be reconsidered in the case of SEE. Much criticism – most of it justified – has been levelled at the governments of the countries in the region for failing to introduce any meaningful anticorruption measures. In addition to the absence of genuine commitment to integrity reforms by their political establishments, these countries have been faced with the somewhat paradoxical nature of anticorruption in the context of transition. While anticorruption efforts aim at establishing stability and predictability in public services and the governance environment in general, transition is by default – in fact, at its very best – a kind of destructive creation. Integrity government relies on general social cohesion and stable and shared notions of fairness, but it is exactly these that are thrown into confusion by massive political, social and economic transformation. In none of the countries in the region has there been a clear sustained policy breakthrough in anticorruption since 2012, though efforts to deliver technical solutions and to improve the functioning of the law enforcement institutions, mostly with support from the EU have continued and even intensified. This has led to continued decline in administrative corruption levels but at the expense of waning citizens' support for reforms and of declining trust in national and European institutions.

It is instructive, therefore, to look at the kinds of anticorruption developments that have taken place in the SELDI countries in 2014 – 2016. None of these, unfortunately, rise to the magnitude of the task at hand:

- In Albania, the government adopted an *Anticorruption Strategy 2015-2020* which emphasises the need for both efficiency and accountability of the public administration. The implementation of the public administration reform continues to be of concern, in particular with regard to structural laws and administrative acts, such as the preparation of secondary legislation. "Areas of intervention" have been identified with respect to judicial reform. A reform package was drafted through a multi-stakeholders consulting process, as well as thanks to specialised international bodies, such as EURALIUS and OPDAT, expected to provide a roadmap for bringing integrity to the Albanian justice system at least within the long run, i.e. within the next 10 years.
- Kosovo's Anti-Corruption Agency started exercising its powers for random verification of a fifth of the asset declarations of public officials. There has also been a modest increase in the number of prosecutions and indictments in high level corruption cases.
- Since 2015, Macedonia has been wrapped in a corruption-related wiretapping scandal, that despite ongoing investigation has struck the public with wide-reaching state capture and mass abuse of all branches of power. The political and institutional crisis was temporarily settled with the Przino Agreement with support of the EU and the US. The Agreement introduced a Special Public Prosecutor, which has managed to undertake

several investigations against top level government and party officials but no ultimate results have been visible. While political agreement on holding new elections in late 2016 has restored some calm to the country, there is wide-spread disillusionment that the general elections would produce any tangible change in anticorruption.

- In January 2016, Montenegro established an Agency for the Prevention of Corruption with a broad mandate to oversee the enforcement of anticorruption legislation. The Special Prosecution Office has had some successes through several financial investigations against companies and dozens of individuals related to the multimillion-euro fraud in the municipalities of Budva, Kotor, Herceg Novi and Podgorica. Montenegro has been seen as the most advanced in the anticorruption reforms in the region as it has also managed to secure NATO membership but allegations over state capture continue to plague the country.
- In Serbia, the process of adoption and implementation of the EU acquis, which started in 2014 is expected to have an impact on reforms. A new *Law on the Anticorruption Agency* is being drafted to address deficiencies in the previous legislation. In the 2016 parliamentary elections, a civic movement running on an anticorruption platform ("Enough is enough") passed the 5% threshold and entered parliament. Yet, while there have been seemingly decisive anticorruption moves related to the country's formal start of EU negotiations, the Serbian government has continued to delay important technical actions in anticorruption supported by the EU.
- A major recent development in BiH was the adoption of a *Reform Agenda* – a comprehensive agreement on the main plans for socio-economic and related reforms, including anticorruption, of all levels of government – and ratification of the *Stabilisation and Association Agreement*. The Agenda envisages the adoption of an anticorruption strategy and the introduction of effective prevention and monitoring structures in line with relevant international standards and respective of constitutional competencies at all levels of authority.

In Kosovo and BiH the international community may have an unusually strong involvement in driving integrity reforms, but an international dimension has also been present in these efforts in the other countries. In Southeast Europe, the shortage of determination on anticorruption reforms by domestic political leaders has all too often been redeemed by the prospects of joining the European Union. This is especially significant given the current dilemmas facing the Union, which, among other things, may impact on how good governance issues feature in future relations with candidate countries. The European Commission has drawn some lessons from its conditioning of anticorruption in the accession of Bulgaria and Romania and has adopted a new approach to enlargement negotiations. It explicitly positions rule of law issues, including the fight against organised crime and corruption, as the centrepieces of EU's enlargement policy. The new approach provides for the judiciary and fundamental rights, and justice, freedom and security to be tackled early in the enlargement process, and reaffirms the need for solid track records of reform implementation to be developed throughout the negotiation process, with the aim of ensuring sustainable and lasting reforms.[8]

1.3. SPREAD AND DYNAMICS OF CORRUPTION 2001 – 2016

If corruption in SEE is beyond the odd bribe or the occasional rigged tender, understanding its scope and dynamics requires a gauge which gives both a broad overview and is capable of zooming in on specific sectors or practices. Introduced in the early 2000s, SELDI's *Corruption Monitoring System* (CMS) has been monitoring and analysing corruption levels in Southeast Europe for over 15 years.[9] The CMS registers the actual level of corruption at a given moment, tracks trends and analyses public attitudes, experiences and expectations. It is particularly suitable to the SEE environment where bribery is common enough to be measured by a population survey. Comparing these various measurements can illuminate the amenability of corruption to changes in other aspects of the political, economic and social environment. The CMS visualises faults in the governance make-up of a country which

[8] European Commission. 2011. *Enlargement Strategy and Main Challenges 2011 – 2012*. Communication from the Commission to the European Parliament and the Council. COM(2011) 666 final; Council of the European Union. 5 December 2011. Press Release, 3132nd General Affairs Council meeting.

[9] Designed by the Center for the Study of Democracy, the CMS has been recognised by the UN as a best practice in corruption monitoring. Introduced at a time when corruption measurement was confined to public perceptions, the CMS transformed monitoring by introducing a measure of the victimisation of individuals by corrupt officials and an assessment of the prevalence of corrupt transactions in a society. The CMS methodology is described in SELDI. 2014. *Anti-Corruption Reloaded: Assessment of Southeast Europe*. Center for the Study of Democracy: Sofia, pp. 135-145.

may otherwise be invisible to the naked political eye in two ways:

- by comparing actions with attitudes and measuring the frequency of illegal transactions in public services;
- by shedding light on the collision of universal, official norms with specific social values and attitudes.

In addition, several features make the SELDI CMS valuable for both researchers and policy practitioners:

- It provides data for cross country comparisons, as well as in-depth study of the spread of corruption within countries.
- It indexes the dynamics of corruption – thereby allowing policy makers to track general improvement or deterioration at the country level – while also gauging subtle changes in specific types of social behaviour or beliefs.

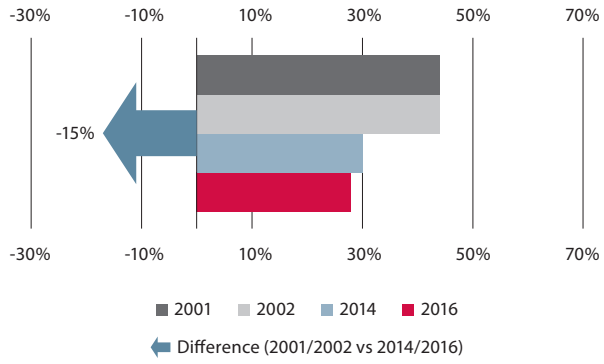
This latter quality is particularly important because corruption may be a straightforward crime under penal legislation but in the SELDI countries it is also a complex maze of social relations involving considerations of trust, fairness, power, competition, etc. As would be obvious from the evidence below, such complexity makes the task of policy makers a tricky one as they sometimes need to accommodate contradicting expectations or account for inconsistent attitudes. It is imperative, then, for a genuinely intentioned anticorruption policy – especially one that prioritises prevention over enforcement – to proceed from as detailed as possible a picture of the social context in which corruption originates. Such knowledge is among the few advantages that reformist politicians can have over corrupt ones.

1.3.1. Overall levels

In 2016, the CMS was applied in the nine SELDI countries – Albania, Bosnia and Herzegovina (BiH), Bulgaria, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey.[10] The findings indicate that while there are considerable differences between the most and least corrupt countries, the overall level of corruption is sufficiently high for it to be of serious concern to the stakeholders of good governance. In terms of dynamics, the CMS finds that the **general levels of corruption** in the SELDI countries **have gone down and citizens have become more demanding of good governance since the early 2000s.**

The key measure in the SELDI CMS of the corruptness of government services is **corruption pressure** – the incidence of implicit or explicit rent-seeking by public officials in their dealings with members of the public. The 2016 CMS round found that pressure had slightly abated but only if measured over a long period (since the early 2000s; Figure 2). While this is not a major improvement, the general trend is unmistakable.

Figure 2. Corruption pressure is abating, albeit slowly*



* *Average share of those reporting to have experienced demands for bribes (pressure) from public officials in Albania, BiH, Bulgaria, Croatia, Macedonia, Montenegro and Serbia. The difference is calculated by averaging the 2001 and 2002 surveys in one pair and 2014 and 2016 in another.*

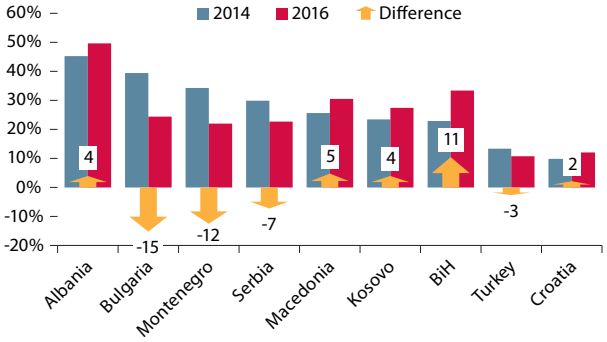
Source: *SELDI Corruption Monitoring System.*

Progress has been slow and erratic, and corruption continues to be both a major preoccupation for the general public and a common occurrence in the civil service and senior government. With respect to **corruption pressure**, the general trend illustrated in Figure 2 is contrasted with much greater variability both within and between countries in the comparison between the findings of the 2016 and 2014 CMS rounds (Figure 3).

The more tangible reductions have notably taken place in countries under more EU scrutiny but also with fairly high levels of corruption pressure – such as Bulgaria (and EU member) or Montenegro (the closest EU hopeful from the Western Balkans at the moment). However, overall small improvements have been insufficient to turn the tide on corruption in the SELDI countries and it remains very high. On average, corruption pressure

[10] The fieldwork of the fourth round of the SELDI CMS (the previous ones were done in 2001, 2002 and 2014) was conducted in the period January-February 2016 by interviewing an overall of some 9,000 respondents in their native language. Unless otherwise specified, CMS findings in this report refer to members of the public aged 18 and over.

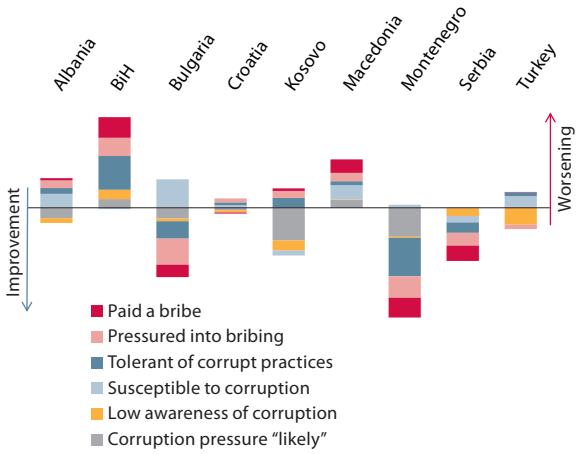
Figure 3. Changes in corruption pressure by country*



* *Share of those reporting to have experienced demands for bribes from public officials.*

Source: *SELDI Corruption Monitoring System.*

Figure 4. Overall changes in corruption levels (2016 vs 2014)



Source: *SELDI Corruption Monitoring System.*

is 25.9% – hardly a percentage decline since 2014, when the regional mean was 27.1%.

Such aggregate measures have their usefulness for general political assessments but need to be broken down into specific aspects if they are to inform policy making. Being a crime of opportunity makes corruption dependent on a multitude of factors shaping the behaviour of individuals, businesses and public officials. Figure 4 visualises the combined dynamics of six variables in the CMS[11] which measure the key aspects of corruption behaviour:

- how likely does the public believe rent-seeking pressure from officials would be;
- how tolerant is the public of the various corrupt practices;
- the share of those who fail to identify otherwise mainstream corrupt practices as "corruption" (have "low awareness" of corruption);
- the share of those pressured by public officials into bribing;
- the share of individuals who would become corrupt in a hypothetical situation of being offered a bribe as a public official (susceptibility);
- the share of individuals who report having paid a bribe in the preceding year.

As noted above, in an environment where corruption is a common occurrence its various proxies are not necessarily in unison. Thus, while in countries such as BiH, Macedonia, Montenegro or Serbia all aspects of corruption either improve or deteriorate together, in others developments are mixed. Notably, where all components change in unison, this is accompanied by tangible changes in behaviour (more/less involvement in bribery); where results are inconclusive, behaviour has hardly changed. There are some outliers, such as susceptibility in Bulgaria, suggesting a shift in attitudes towards normalisation of corruption that could be the result of years of rent-seeking pressure without sustained counterbalancing force. At the same time, Bulgarians also declare the lowest tolerance to corruption in SEE suggesting that a normalisation trend is potentially reversible, as there is still an appreciation of integrity values. Results in Turkey and Kosovo are also mixed, mostly as regards attitudes, rather than behaviour. These seeming inconsistencies have important implications for the broader anticorruption effort as they imply that support for reforms should be groomed rather than assumed.

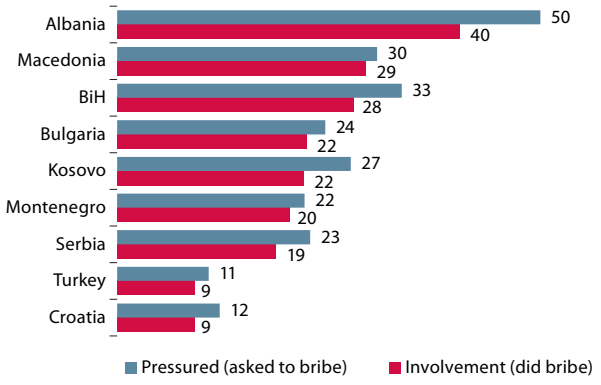
1.3.2. Experience with corruption

It merits, therefore, that the analysis zooms in on each of these aspects of corruption. As mentioned, the advantage of the SELDI CMS is that it compares actual experiences with the professed attitudes of the public. **Corruption pressure and involvement are based on the actual experiences of citizens** from the SELDI countries with corruption and reflect the overall corruption environment in a quantitative manner. This allows comparability both across countries and in time. With respect to pressure, regardless of whether such pressure was experienced in isolated contacts with public officials only or in most of the contacts a person had with the public officials of the country, these cases are interpreted as instances of corruption pressure. Further, a good measure of corruption needs to

[11] These are explored in more detail below.

illuminate both sides of the corruption transaction – the public service and the private interest. Thus, the SELDI CMS juxtaposes the **level of pressure from public officials** with **self-reported involvement in corruption transactions by private individuals**. This includes not only money (cash), but also gifts and favours. Even isolated cases of one of the three forms of bribery during the year preceding the survey are considered as corruption incidents (involvement in corruption). Since actual transactions are highly correlated with pressure, the CMS usually considers the latter as the **primary quantitative indicator for the levels of corruption** in a country.

Figure 5. Corruption pressure compared to involvement in corruption, 2016 (%)



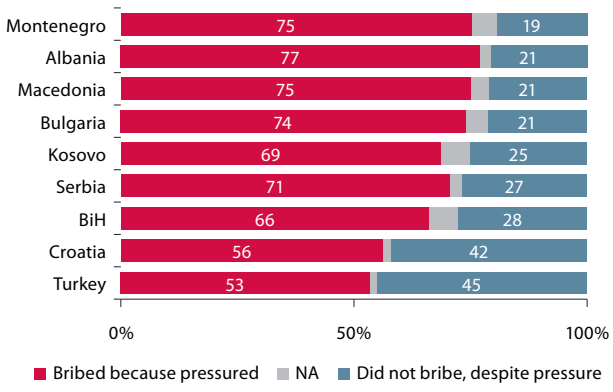
Source: *SELDI Corruption Monitoring System, 2016.*

Overall differences between countries – considerable, as is evident from Figure 5 – might be significant politically but are not very useful for policy design, since the points of difference (social, economic, political, cultural, historic, etc.) are so numerous. From a policy making perspective, much more interesting is **what drives a wedge between pressure and yielding to it.** Typically, countries with high corruption involvement and pressure are also marked by low resilience to demands for bribes (most of the members of the public who were asked for a bribe gave one). Apparently, high incidence of resistance – i.e. not giving in to rent-seeking pressure – cannot be sustained over the long term.

When zooming in on specific behaviour, differences between countries could become somewhat more illuminating. Montenegrins, for example, although being involved in bribery half as often as Albanians (Figure 5), have a comparable propensity to yield to bribery demands from officials (Figure 6).

Important as the frequency of corrupt transactions is, their vehicle is also a significant factor. Bribery is often defined in terms of money changing hands, and in some cultures gifts or the exchange of favours[12] are not considered bribes. The SELDI CMS shows that there are some **major differences between the countries in terms of the preferred means of bribery** (Figure 7).

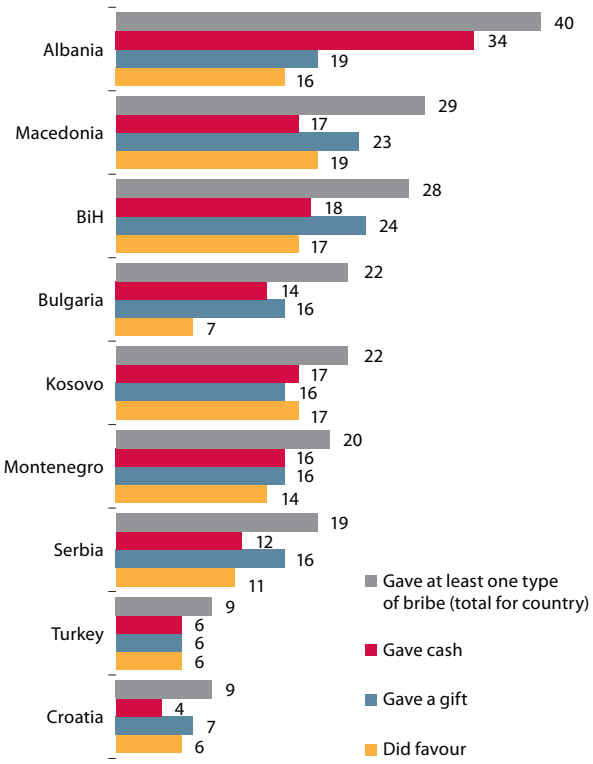
Figure 6. The integrity footprint: the ratio of rebels to compliers, 2016*



* *Among those pressured into bribing.*

Source: *SELDI Corruption Monitoring System, 2016.*

Figure 7. The medium of corruption, 2016 (%)*



* *Shares for money, gifts and favours do not add up to the total involvement percentage because often various means of bribery are used at the same time.*

Source: *SELDI Corruption Monitoring System, 2016.*

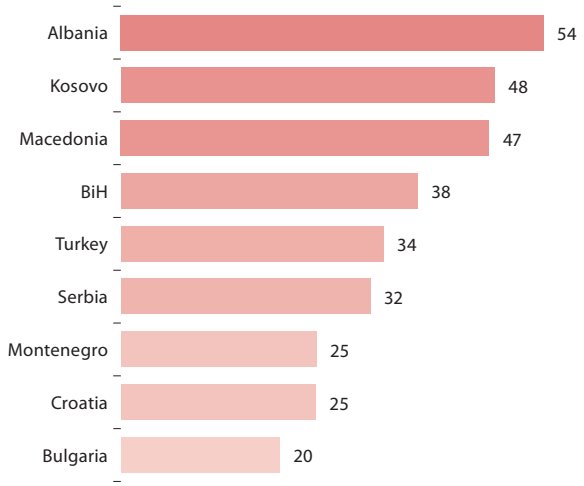
[12] It is no small linguistic matter that in some South Slavic languages there is no distinction between *service* and *favour*.

While in Albania money is by far the most often used means of bribery (34% compared to 20% giving gifts and 17% doing favours), in most of the SELDI countries gifts are given more often than money. Many people in SEE still do not consider gifts or favours to be bribes. For example, 34% of the SEE respondents do not believe that "giving a gift to a doctor so that he/she takes special care of you" is an example of corruption.

1.3.3. Attitudes towards corruption

Making policy-relevant assessments of a clandestine activity such as corruption requires a certain amount of ingenuity of the method of monitoring. SELDI's CMS is capable of superimposing an assessment of the attitudes of the public on corruption-related issues on the picture of their self-reported experiences. Comparing what people do with what they believe allows the CMS to identify inconsistencies – which point to the entrenchment of corruption as a social practice – as well as estimate the level of trust in public institutions and the potential for genuine support of anticorruption measures.

Figure 8. Tolerance levels by country, 2016 (%)*



* *Share of those who find it acceptable for elected politicians and civil servants to accept gifts, money, favours or hospitality in return for solving one's personal problems.*

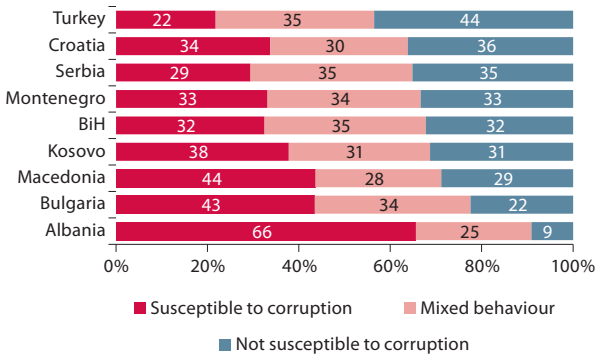
Source: *SELDI Corruption Monitoring System, 2016.*

The fickle nature of attitudes warrants that they be examined in more detail in order to understand their role in shaping the anticorruption climate. Of primary influence among these is the level of toleration towards the various types of corrupt practices. Corruption is most often discussed in utilitarian terms (it stunts growth, distorts markets, etc.) but it is its ethical dimension that dominates public attitudes. Therefore, **the extent to which it is considered (in)admissible is important for the kind of soft enforcement of integrity rules that is particularly lacking in SEE**. Such an informal enforcement is especially valuable in environments where hard enforcement cannot keep up with the proliferation of corrupt practices.

This measure is a case in point about the divergence between actions and attitudes: while high levels of administrative corruption usually coincide with higher levels of acceptability, a much lower tolerance in Bulgaria than in Turkey (a country of considerably lower bribery incidence than Bulgaria) points to the potential of attitudes to diverge from practice. This is likely created by the role of the media and civil society, as well as by the strength of the external pull effect exercised by the European Union. Lower tolerance to corruption might also play an important political role, as it normally indicates higher readiness to protest and to vote political elites out, adding pressure on the political establishment to continue policy changes.

In order to further probe the consistency of these attitudes, the SELDI CMS explores the reactions of private individuals to two hypothetical situations – a) accepting/rejecting a bribe that was offered if one were a public official; b) giving in to a demand for a bribe by a corrupt public official whom one has approached with a major problem.[13] Testing corruptibility in this way turns the spotlight on the probity of the individual and thus sheds light on the degree to which integrity is valued. The results of the **measure of susceptibility to corruption** show that the public in countries with similar rates of bribery have different structure of predisposition to corrupt behaviour.

Figure 9. Susceptibility to corruption by country, 2016

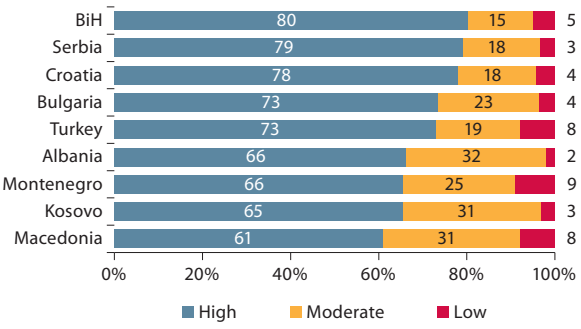


Source: *SELDI Corruption Monitoring System, 2016.*

[13] Denying a bribe in both situations is interpreted as not being susceptible to corruption, accepting/giving a bribe in both is interpreted as susceptibility, while giving/taking a bribe in one of the situations and not in the other is mixed behaviour.

With the exception of the two outliers – Turkey and Albania – the differences among countries in the susceptibility index are not as pronounced as in the other corruption proxies. Susceptibility is in fact closely related to actual experiences – not only those who are susceptible are exposed to corruption pressure much more often, but among those experiencing pressure, the susceptible citizens are much more likely to yield and give a bribe: only 18% of those susceptible to corruption who were asked for a bribe refused to give one, while more than half (51%) of the not susceptible who were asked for a bribe refused to give one. Therefore, the combination of higher corruption pressure, experienced by the susceptible public and lower corruption resilience among them leads to even larger difference in the actual corruption transactions between the two groups.

Figure 10. Rates of identification of common corruption practices, 2016*



* *Legend: high – all or most of the common corruption practices are identified as such; moderate – many are identified but some are considered "normal practices"; low – few practices are identified as corruption.*

Source: *SELDI Corruption Monitoring System, 2016.*

Self-professed corruptibility focuses on bribery – a straightforward form of corruption. More subtle – and thus insidious – forms may not present such clear-cut ethical dilemmas. Still, **any anticorruption effort relies on a shared understanding of "corruption"** as an obvious and uncontentious breach of rules and trust. Any ambiguity, therefore, would erode the cohesiveness of the anticorruption constituency. With these considerations in mind, the SELDI CMS also gauges the **level of public awareness of various forms of corruption** (Figure 10).

While the share of people capable of recognising all corruption practices is optimistically high across the region, it is those in the "moderate" segment that should be the target group of anticorruption awareness efforts. As with the findings on the other corruption related attitudes, here also the results differ substantially from the levels of the experience indicators. Bosnians and Croats, for example, have similar levels of identification of corrupt practices while having substantially different rates of involvement (Figure 5). At the very least, these findings point to the **potential for mobilisation of support for anticorruption measures** as people would know it when they see it.

1.3.4. Public estimates of the spread of corruption

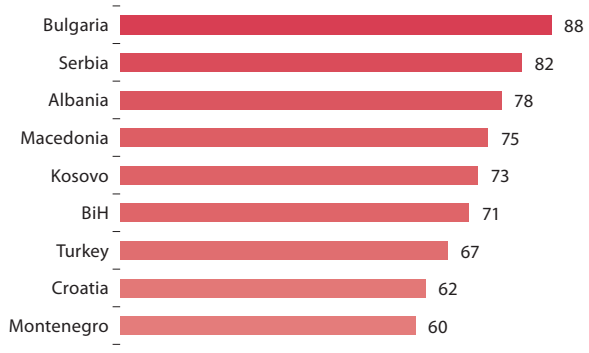
In addition to looking into attitudes and actions specific to the corruption transaction, anticorruption policy also needs to be aware of the broader context of the **predominant mode in which the public thinks about governance**. This includes the expectations of the public – specific to corruption, as well as more broadly about government – and their perceptions[14] about the general integrity reputation of politicians and civil servants. To this end, the SELDI CMS evaluates several additional aspects of governance-related attitudes among the public.

When asked whether it is likely to have to give a bribe to an official (money, gift or a favour), more than half of the population of the SELDI countries believe it is (Figure 11). The highest percentage of the perceived likelihood of corruption pressure is observed in Bulgaria and Serbia, where more than 80% of the participants in the survey believe pressure to be likely. The smallest percent is in Montenegro, but even there nearly 2/3 of the population perceive pressure to be likely. This indicates a change in attitudes and that the restoration of trust would be much more difficult than the mere reduction in the levels of administrative corruption. It is also a sign of the understanding of the public in these countries that law enforcement and administrative measures alone would not be enough to curb the more complex corruption phenomena, such as state capture but would require sustained political action and drive for change.

The **feasibility of policy responses to corruption** is another measure which reflects the share of the population who believe in the anticorruption efforts of their governments. The high share of those who think that corruption cannot be substantially reduced

[14] Corruption perceptions – estimates, opinions, beliefs – are often disapprovingly contrasted with "corruption reality". In this way, critics imply that they are in the know of this "reality" and can tell that it differs from popular opinions about it. In fact, claims about such a gap are themselves estimates or educated expert guesses.

Figure 11. Estimates of the likelihood of corruption pressure, 2016 (%)*

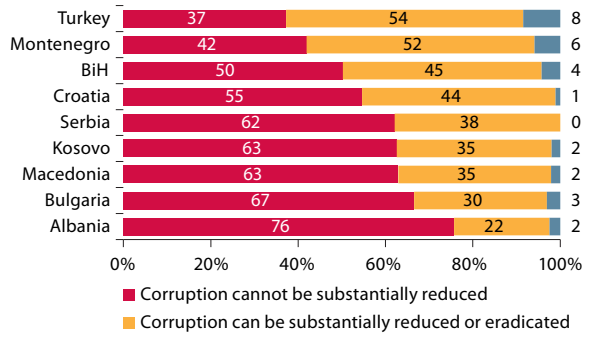


* *Share of those considering corruption pressure "very likely" and "likely", excluding "not very likely" and "not likely at all."*

Source: *SELDI Corruption Monitoring System, 2016.*

shows that anticorruption policies are failing at least in the minds of voters. This is the case, for example, in Bulgaria and Albania where more than 2/3 of the public believe that nothing can be done to reduce corruption (Figure 12). In only two countries in the region there seems to be trust in society that corruption can be reduced – Turkey and Montenegro, which is yet another indication of the intricacy of having anticorruption as a political credo. It pays off in terms of getting elected to office but it is unlikely to produce results, which can serve as re-election arguments. This further exacerbates the unwillingness of politicians to engage in anticorruption policies, and shows the need for a broad-based social movement to sustain an anticorruption focus. In this respect, the role of the EU can be to help sustain and leverage such social movements through added support to civil society and bolder political action.

Figure 12. Public estimates of the feasibility of anticorruption policies, 2016



Source: *SELDI Corruption Monitoring System, 2016.*

Such levels of **resignation and lack of confidence in government** might help account for some of the apparent incongruities in the attitudes discussed above. For example, in the Bulgarian context of lack of certitude in the ability of the government's measures to reduce corruption it becomes clear why very low acceptability (Figure 8) is combined with pretty high susceptibility (Figure 9) – once it is believed that corruption is the norm, individuals become more willing to give/accept a bribe even if they do not approve of it in principle. These incongruities are also indicative of the **limitations of the current EU government-to-government approach** of applying mostly technical measures to counter corruption, which seem to be viewed both by EU and SEE voters as just another form of support for the establishment. Apparently these need to be aided by action on political criteria for accession and broader-based growth promoting policies.

A much discussed aspect of corruption-related perceptions are **public estimates of the level of corruptness of public officials**.[15] Table 1 visualises the share of those who believe that most or all of the officials in question are involved in corruption. The perceptions of citizens about particular groups of officials (or professional groups) as well as their estimates about particular public organisations, can help locate vulnerabilities at the level of different sectors of government or society. They need to be interpreted, however, in their broader sense as a verdict on the whole system of governance. Thus, while they represent a **simplification of popular discontent**, this discontent needs to be further disambiguated in order to explain **why blatantly corrupt parties and politicians in SEE keep getting re-elected.**

With some degree of approximation, it could be said that the more senior the public official, the more corrupt they are considered by the public – with few exceptions **MPs, party leaders and ministers come out worst in the public mind** in SEE. People view corruption as a problem of power and not just as a technical gap in law enforcement capacity, which underscores the importance of sustained action against high level corruption.[16] This judgment largely coincides with the findings of experts, anticorruption watchdogs and international organisations – that state capture at the highest government level is a particular problem in SEE. These attitudes, however, should be evaluated in

[15] Corruptness of officials is assessed through typical perception questions. The public are asked "how far is corruption proliferated among the following groups" ("almost everybody is involved", "most are involved", etc.) or "what is the degree of corruption proliferation" in key public organisations.

[16] This was the first and foremost recommendation of SELDI in its 2014 report *Anti-Corruption Reloaded: Assessment of Southeast Europe*. Center for the Study of Democracy: Sofia.

Table 1. Estimated corruptness of public officials and other occupations, 2016

Officials	Estimated involvement, regional average
Political party and coalition leaders	68%
Members of parliament	67%
Ministers	67%
Local political leaders	66%
Customs officers	64%
Judges	61%
Officials at ministries	59%
Public prosecutors	58%
Tax officials	57%
Municipal councillors	57%
Police officers	56%
Municipal officials	56%
Lawyers	56%
Investigating officers	53%
Administration officials in the judicial system	53%
Doctors	52%
Businesspersons	51%
University officials or professors	42%
Bankers	36%
NGO members	34%
Journalists	34%
Teachers	19%

Source: *SELDI Corruption Monitoring System, 2016.*

the context of the more detailed findings of the SELDI CMS, which indicate a fair amount of equivocation in the opinions and actions of the general public. It should be noted, that the imagery of a minority of powerful rogues preying on a vast community of honest and hardworking citizenry is a populist fallacy.

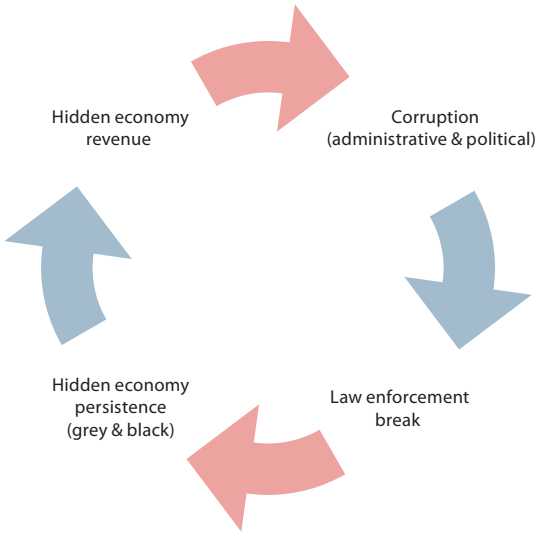
Country variations in the ranking of the corruptness of officials are significant in appreciating the role of the broader web of relations between social groups on governance-related attitudes. Thus, for example, while on average **businesspersons** are fairly low down the corruptness league, in less corrupt countries they are particularly mistrusted – in Croatia they are considered more corrupt than the police and on a par with tax officials, while in Turkey they are believed to be more dishonest than party leaders. Conversely, in countries of higher incidence of bribery, such as Albania, only NGO members, journalists and teachers are seen as less corrupt than entrepreneurs. This has serious policy implications as to the **likelihood of indigenous private sector support for anticorruption efforts** in the countries in the region, which is an often heard mantra in international anticorruption discourses. It is a further indication of the erosive impact of corruption not just on trust in democratic institutions but also in the functioning of the market economy, both fundamental values in the EU accession process.

The overall conclusion from the 2016 round of the SELDI CMS is that the policies which target corrupt behaviour at administrative level and those seeking to change trust in government need to be pursued in concert. If not complemented by strengthened public demand for integrity in government and sustained improvement in economic well-being, stricter enforcement of penal measures cannot have a sustainable effect. Law enforcement would likely be seen either as useless repression when targeting lower government levels or as political witch-hunt when intermittently directed at higher levels. Conversely, intensifying awareness-building measures would only fuel cynicism and resignation in the public if it is not accompanied by visible efforts for cracking down on rent-seeking officials.

2 GROWING IN THE SHADOWS: THE STATE OF THE HIDDEN ECONOMY IN SEE IN 2016

If the corruption of government cannot be properly evaluated without accounting for the degree of correspondence – or lack of it – between official rules and prevailing social norms and values, neither can it be understood without reference to its doppelgänger in the economy. As with bribery, the hidden economy emerges where there is a tension between the formal intentions of laws and regulations and the daily choices of individuals and businesses. A persistent and sizable hidden economy also signals institutional inefficiency. Corruption appears at the juncture where the formal and informal economies meet, where businesses and individuals pay an informal rent or capture institutions to stay hidden, incompliant or to facilitate cheaper and smoother legalisation of their products or services.[17]

Figure 13. The vicious circle of corruption and hidden economy



Source: *Center for the Study of Democracy.*

The vicious circle between **corruption and hidden economy** harms economic growth through fuelling unfair competition, providing a pool of cheap talent for hire for **black and grey businesses**, and perpetuating a large amount of unaccounted for financial and other resources.[18] The CMS findings for 2016 presented above have confirmed that anticorruption policies alone are unlikely to produce wide societal support and voter sympathy in SEE unless they are imbedded in economic reform policies and increase in prosperity.[19] This requires a **refocusing of the anticorruption debate** away from sheer law enforcement **towards more economic grounded rationale**, such as addressing the nexus between corruption and hidden economy. These should ultimately be linked to broader measures of economic catching up such as convergence indicators, which should be preferred to input indicators such as open government or doing business in the medium to long run as gauges of economic reform success.

As evident from Table 2 (next page), the scope of business practices hidden from government view in SEE is sufficiently large to expect them to have an impact on other illicit activities. While there are different assessments of the exact size of hidden economy, it clearly provides ample resources for administrative and political corruption to flourish.

"Hidden economy," however, is a broad concept encompassing undertakings varying from the fairly benign (where only minor regulations are circumvented) or even beneficial (e.g. self-subsistence economic activities) to the outright pernicious (e.g. the various criminal markets).

This range has generated its corresponding set of analytical adjectives – from the "non-observed" to the "informal" and even "black" economy. Consequently, the involvement of corruption also varies along the continuum of hidden practices. This chapter will look into the interplay between these two phenomena with an emphasis on three components of the hidden economy, which have been identified as most harmful to economic and social development:

a) the business environment, which is the broadest gauge of opportunities for economic prosperity, and is seen as affected both by administrative

[17] CSD. 2011. *The Hidden Economy in Bulgaria and the Global Economic Crisis*. Center for the Study of Democracy, Sofia.

[18] CSD. 2015. *Financing of Organised Crime*. Center for the Study of Democracy, Sofia. See also CSD. 2010. *Examining the Links between Organised Crime and Corruption*, Center for the Study of Democracy, Sofia.

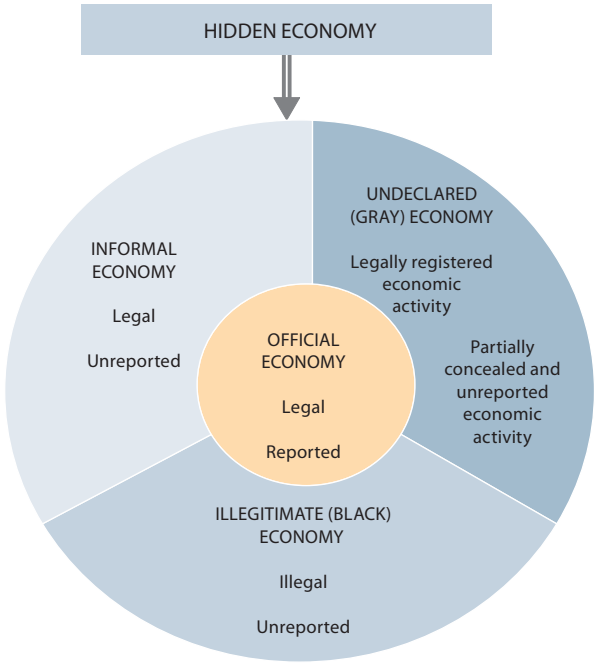
[19] The inverse link between GDP and corruption has been well documented in literature. For a more comprehensive recent review see Mungiu-Pippidi (ed). 2013, 2014 and 2015. The Anticorruption Report; *Volume 1: Controlling Corruption in Europe*, *Volume 2: The Anticorruption Frontline*; and *Volume 3: Government Favouritsm in Europe*, Barbara Budrich Publishers, Berlin.

Table 2. Shadow economy estimates (% of GDP)

	'99	'00	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13
Turkey	32.7	32.1	32.8	32.4	31.8	31.0	30	29.5	29.1	28.4	28.9	28.3	27.7	27.2	26.5
Croatia	33.8	33.4	33.2	32.6	32.1	31.7	31.3	30.8	30.4	29.6	30.1	29.8	29.5	29.0	28.4
Romania	34.3	34.4	33.7	33.5	32.8	32.0	31.7	30.7	30.2	29.4	29.4	29.8	29.6	29.1	28.4
Albania	35.7	35.3	34.9	34.7	34.4	33.9	33.7	33.3	32.9	-	-	-	-	-	-
Bulgaria	37.3	36.9	36.6	36.1	35.6	34.9	34.1	33.5	32.7	32.1	32.5	32.6	32.3	31.9	31.2
Macedonia	39.0	38.2	39.1	38.9	38.4	37.4	36.9	36.0	34.9	-	-	-	-	-	-
BiH	34.3	34.1	34.0	33.9	33.5	33.6	33.3	32.9	32.8	-	-	-	-	-	-
Serbia	-	-	33.2	32.7	32.1	32.0	31.6	31.2	30.7	30.1	30.6	30.1	-	-	-

Source: *Various sources.*[20]

Figure 14. The architecture of the hidden economy



Source: *Center for the Study of Democracy.*

corruption and by state capture;

b) hidden employment, which creates risks of the exclusion of sizable shares of the workforce from the rule of law and places the informally employed in a vulnerable position with respect to rent-seeking officials and to illegal business interests;

c) tax evasion, which is made possible, among other things, by bribery and inefficiency in the tax authorities; it denotes lack of trust in a country's economic viability and undermines the quality and size of the public services that the government can afford to offer to its citizens.

2.1. BUSINESS ENVIRONMENT

In Southeast Europe, business overregulation – mostly concerning registration, licensing and permit regimes implementation – constantly generates various barriers to market entrants and higher costs of doing business. This drives entrepreneurs in the informal sector and/or compels them to resort to bribery. It also creates the mechanisms through which political and business networks capture markets and state institutions to enjoy preferential treatment and monopolistic rents even though formally markets might look competitive.[21] In a downward spiral this then justifies further regulation and administrative barriers.[22]

The correlation between corruption and the hidden economy cannot be properly understood without reference to the broader framework for doing business, including laws and regulations. The quality of this framework is affected by a number of factors; in SEE a chief concern among these is **state capture**, as a result of which regulations and laws are influenced by private interests or a more complex web of political and business networks, which effectively control access to government law and policy making. A major hindrance to the ease of doing business and a facilitating factor for

[20] Data for 1999 – 2007 (except Serbia) from Schneider, F., Buehn, A. and Montenegro, C.E. 2010. 'New Estimates for the Shadow Economies all over the World', World Bank Policy Research Working Paper 5356; data for Serbia from Schneider, F., Krstić, G., Arsić, M. and Ranđelović, S., 2015. What Is the Extent of the Shadow Economy in Serbia? In *Formalizing the Shadow Economy in Serbia* (pp. 47-75). Springer International Publishing; all other data from Schneider, F., 2013. Size and Progression of the Shadow Economies of Turkey and Other OECD Countries from 2003 to 2013; Some New Facts. *International Economics Journal*, 2(2), pp. 83-116.

[21] CSD. 2016. *State Capture Unplugged: Countering Administrative and Political Corruption in Bulgaria*. Sofia.

[22] SELDI. 2014. *Anti-Corruption Reloaded: Assessment of Southeast Europe*. Center for the Study of Democracy: Sofia, p. 91.

Table 3. Position of SEE countries on major economic environment related rankings

Indicator	Ease of Doing Business	Economic Freedom	Global Competitiveness Index	Average annual per capita real GDP growth rate 2001 – 2015
Albania	97	59	93	4.4
Montenegro	46	65	70	3.3
Kosovo	66	84	-	3.3
Macedonia	12	47	60	3.3
Bosnia – Herzegovina	79	108	111	3.0
Serbia	59	77	94	3.0
Turkey	55	79	51	3.2
Bulgaria	38	60	54	3.9
Croatia	40	103	77	1.2
Romania	37	61	53	4.1

Source: *The World Bank, Heritage Foundation, and World Economic Forum.*

corruption is the volatility of the regulatory environment. On the one hand, many of the SEE governments have sought to assure international investors and donors by introducing simple for administration flat tax systems. On the other, the administration of taxes remains cumbersome with lack of sophistication in addressing specific business characteristics, such as R&D and innovation. Changing regulations due to emerging problems still happens haphazardly in SEE, within the year without any consultation, thus undermining the predictability of the business environment in general.

In Albania, state capture is considered a serious issue concerning the procurement system, privatisation, and economic monopolies in strategic sectors of the economy.[23] According to recent studies,[24] two out of five businesses consider the application of laws as unfavourable while only less than 1/5 consider it favourable. BiH has a multi-tiered legal framework that is often considered duplicative. Laws are not always adopted transparently, while their implementation is haphazard and contradictory in the different entities. Given the overlapping jurisdictions and the lack of a central source of information it is difficult for businesses to be updated with the new regulations.[25] Serbia has faced continuous suspicious practices related to state capture, such as the overnight agreement on constitutional proposals, with no proper public debate,[26] the nurturing of 'representatives' of influential businesspersons in many important executive authorities, to secure favourable treatment and for protecting their interests.[27] In Montenegro state capture is to be found particularly in the privatisation of state-owned enterprises.[28] In Macedonia it is manifested through regulations designed to provide discretionary authority to institutions for decision making and fines, by providing authorities with powers to pressure political opponents and take control over companies or entire economic sectors.[29] Nine out of ten Macedonian businesses declared that the influence on the government by powerful business groups which aim to protect private economic interests in Macedonia is high.[30] In BiH, enterprise managers consider policy and regulatory aspects of state capture the biggest problem for businesses.[31] Kosovo, as the newest country in the region, has higher risks of state capture than other SEE

[23] Transparency International Albania. January 12, 2014. *TIA presents the results of the Corruption Perceptions Index(CPI) 2013.*

[24] Amcham, Business Index 2014 – 2015, Albania, http://www.amcham.com.al/amcham-business-index-2014-2015/

[25] U.S. Department of State. 2015. 'Investment Climate Statement – Bosnia and Herzegovina 2015.

[26] Centre for European Policy Studies. 2007. 'State Capture and Widespread Corruption in Serbia', CEPS Working Document No. 262.

[27] International Communications Partners. January 2013. 'The Struggle against Monopoly'. *Weekly Analysis and Forecasts.*

[28] Council of Europe. 2015. 'Basic Anti-Corruption Concepts, A training manual', p. 17.

[29] European Policy Institute and Institute of Social Sciences and Humanities. 2015. 'The EU revisits Macedonia: chances for a new approach?'

[30] Center for the Study of Democracy & Center for Research and Policy Making. 2015. 'Monitoring the Hidden Economy in Macedonia: Trends and Policy Options', Center for Research and Policy Making, Skopje.

[31] World Bank. 2005. 'Bosnia and Herzegovina, Diagnostic Survey of Corruption', p. 3.

countries, as it combines weaker judiciary and other checks and balances institutions and higher reliance on government regulations and fiscal support; a third of businesses consider informal negotiations with tax officials to be normal practice.[32]

While some countries in the region have been able to score high on more formal indicators of business environment, most notably Macedonia on the ease of doing business, the overall performance of the region both in terms of business environment and of creating economic opportunity for its citizens has been insufficient to trigger the economic base of anticorruption. Average annual per capita real GDP growth since 2001 has stayed at or below 4%, which might be enough to keep voters moderately unhappy but which is far from the broad-based economic growth seen historically in countries which have achieved sustained anticorruption reforms, such as Estonia, South Korea, Singapore or Chile. The lack of such economic breakthrough in SEE in the past two decades means it is unlikely that the vicious circle of corruption and hidden economy would be broken by the virtuous loop of economic growth and good governance without any major effort on the part of the key stakeholders – the governments of the region, civil society and the European Union.

2.2. HIDDEN EMPLOYMENT

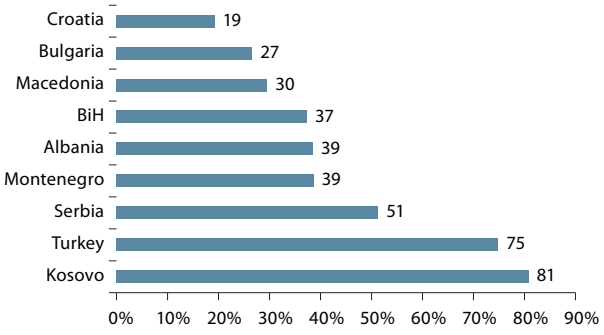
Informal hiring is a form of employment victimisation, which is practiced at the expense of both public finances and the individual worker. The hidden labour market is driven by a variety of factors, both legal – such as the government's taxation and social welfare policies – and illegal, such as corruption pressure on business. Once companies are pushed to compete through corrupt means they impose these on their workers through undeclared hiring and poor labour conditions, which further perpetuates informality and leaves ample resources for corruption payments in the hands of companies and individuals. The considerable social embeddedness of hidden employment in SEE, as evidenced by SELDI's 2016 round of CMS, excludes large swathes of the labour force from the protection of government regulation and diminishes support for the rule of law. Unemployment in all countries of the Western Balkans has stayed stubbornly high and in the double-digits domain, encompassing about a third of the labour force in Macedonia and in Kosovo, and more than a quarter in Bosnia and Herzegovina, which coupled with the subdued economic environment and high corruption pressure in the region has caused continuous emigration towards the EU, including in the hidden economy.

Despite considerable interest in studying the hidden economy, there had been no recent comparable data on hidden employment for SEE. SELDI filled this gap by its 2016 CMS round. The findings of this round of monitoring proceeded from a broader definition of the hidden economy in which a person is counted as being in the hidden economy if engaged in at least one of six hiding practices:

- No written contract with the employer on the main job;
- The actual remuneration for the month preceding the survey was higher than the one written in the contract with the main employer, but was agreed verbally with him/her;
- There is no social security on the main job;
- The base for the social security paid is at the minimum wage, although the actual salary is higher;
- The base for the social security paid is the amount written in the contract and not the actual received, which is higher;
- There is no health insurance on the main job.

In some countries of the region some of these criteria are not applicable if there is a labour contract (mandatory social and health security); in others, the ability of tax authorities to control whether a particular part-time contract should go along with social and health insurance payments if the contracted person had not been paid above a certain threshold varies. This leaves room for discrepancies and avoiding social and health

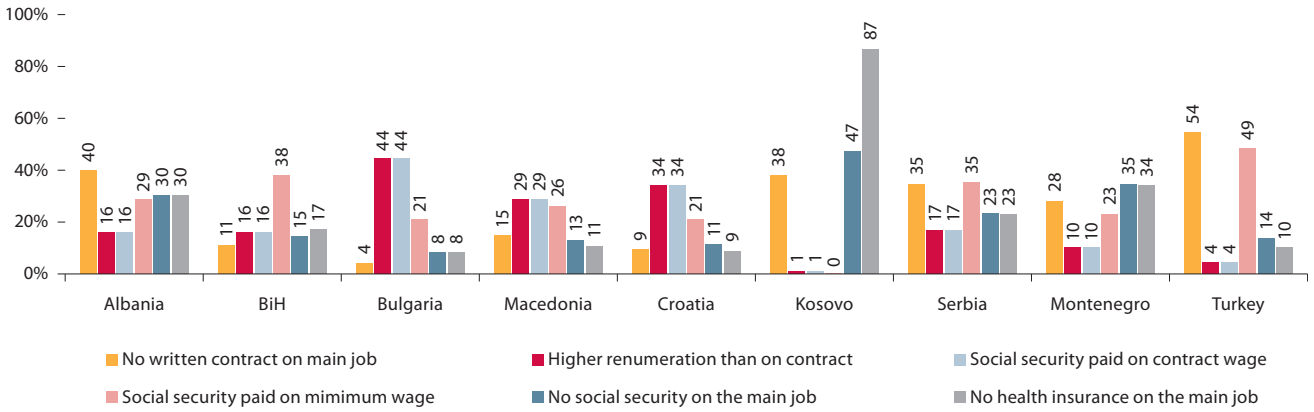
Figure 15. Employed in the hidden economy in SEE, 2016 (% of the employed in a main paid job)



Source: *SELDI Hidden Economy Survey, 2016.*

[32] UBO Consulting. 2014. 'The Municipal Competitiveness Index Report 2014', p. 28.

Figure 16. Shares of the different types of hidden employment in SEE, 2016



Source: *SELDI Hidden Economy Survey, 2016.*

insurance contributions, even if the income is declared and income tax paid.

Hidden employment in the SEE countries is not only at different levels, but there are different patterns of hiding, which calls for different solutions. More than half of all hidden Turkish employment, for example, is of individuals without formal contracts; the main reason for this is evasion of social security contributions, which seems tolerated by the authorities. In Serbia, Kosovo and Albania more than a third of those in hidden employment do not have labour contracts. Bulgaria, which addressed this practice some time ago by a combination of mandatory contract registration and subsequent inspections, enjoys a low rate of only 1% of employed and 4% of those in hidden employment being without labour contracts.[33]

Virtually all (87%) Kosovars in hidden employment completely withhold health insurance contributions. This correlates with the fact that Kosovars – especially those in smaller villages – are quite unsatisfied by access to healthcare, the quality of health services, and prevailing corruption.[34] Similarly, the other countries with severe problems in funding healthcare through dedicated taxes are Montenegro and Albania, where a third of those in hidden employment do not pay health and social security contributions at all. Relatively better off in this respect is Bulgaria, although the amounts collected are not enough to provide quality healthcare services for all. Healthcare, is probably one of the most vivid examples how corruption erodes trust in public institutions, fuelling the hiding of health care contributions further diminishing the governments' ability to fund the ever increasing bills in this domain.

In Turkey, almost half of those employed in the hidden economy pay social security contributions on the minimum wage and save on the difference to the full salary actually received; between 35% and 38% of those in the hidden economy in Serbia and BiH do the same. These are considerable resources which then compete on the unregulated private sector market or are used for bribing one's way to better healthcare, undermining social cohesion and trust in the process.

Being in hidden employment is sometimes a matter of choice, but more often is influenced by a person's immediate social milieu (Figure 17). When the social networks of those hiding some aspects of their employment grow sufficiently, they develop their own tax morale – an attitude to tax paying which justifies their enrolment in the hidden economy. Individuals employed in the hidden economy in SEE are slightly younger, male (62%) and tend to know more people who are in a similar position. This age and gender structure indicates that it is precisely those who are supposed to be responsible for the long-term viability of the system in SEE that prefer to stay away from it the most, which can also be considered an indication of protest against corrupt and poorly functioning government services.

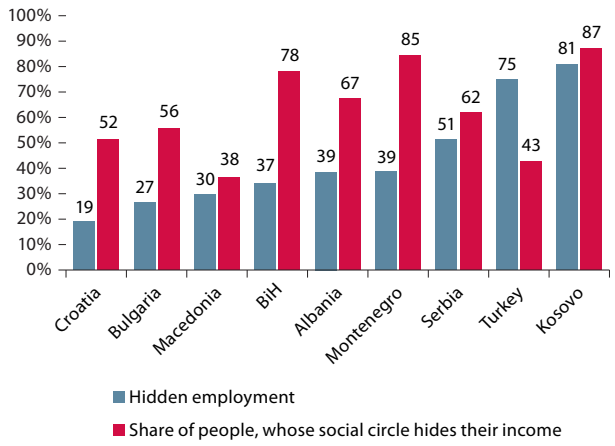
An important dimension of hidden employment practices is their embeddedness in social and peer networks. According to the SELDI Hidden Economy Survey 2016 sixty-two percent of the unemployed in SEE know people who hide at least some part of

[33] CSD. 2006. *On the Eve of EU Accession: Anti-Corruption Reforms in Bulgaria*, Center for the Study of Democracy, Sofia.

[34] Uka, F. and Balidemaj, F. 2013. 'Satisfaction with Healthcare Care Services and Perceptions on Presence of Corruption', UNDP.

their income, so the chances are that they have the knowledge and would feel peer pressured to follow the same pattern of behaviour. Kosovo and Serbia have the smallest gap between self-reported hiding of employment and the prevalence of the practice among their social circle, while Croatia and Montenegro have the widest difference. A correlation which might point to an explanation is that with income inequality – the higher the inequality, the higher the gap (Croatia and Montenegro have more inequality as measured by higher Gini index than Kosovo and Serbia).[35] Turkey displays a reverse gap – more people self-report involvement in the hidden economy than they estimate the involvement of their social circle. Stratification has different network patterns and countries with the same levels of differentiation of income might have different level of connectedness or atomisation of society. At the same time, Macedonia has higher income inequality but lower perceived gap of involvement in hidden employment, which might be explained by the lower degrees of separation in smaller countries where social networks are much more tightly knit even across income differences.

Figure 17. Social embeddedness of hidden employment, 2016*

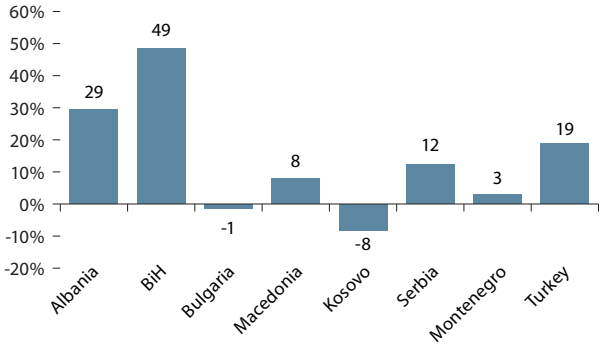


* *The gap between self-reported participation in the hidden economy and the estimation of the involvement of one's social circle. Excluding the share of "Don't know/No answer".*

Source: *SELDI Hidden Economy Survey, 2016.*

In most countries individuals earn more in the formal sector than in the hidden one, despite widespread belief in the opposite. The premium is as high as 50% in BiH and almost a third in Albania. The size of the premium depends on many factors, including the rate of unemployment, the characteristics of the social security systems, and the sectors of employment. In Bulgaria and Kosovo the premium is negative, although in Bulgaria the difference is not statistically significant. This finding suggests that staying in the hidden economy might be a rational choice in some countries (nobody would voluntarily stay at lower wages, other things being equal), thereby pointing to institutional or regulatory deficiencies. Higher remuneration and more formal jobs are linked to educational backgrounds and skills, as workers with advanced degrees are more often found in the formal economy. The finding about the existence of formal economy pay premium is in line with a more detailed study comparing income in formal and informal employment per decile groups in Montenegro.[36] The lowest decile in informal economy earns 36% of the average income of the lowest decile in formal economy. In the upper deciles the gap narrows but informal economy income never exceeds the formal one.

Figure 18. Wage premium in the formal economy vs. the hidden economy, 2016



Source: *SELDI Hidden Economy Survey, 2016.*

Extended periods of employment of sizable portions of the labour force in the informal economy can bring about essential changes to governance attitudes. In-depth longitudinal studies of informal work in Montenegro, for example, showed that 19% of people at hidden employment had worked 15 years and longer in the same jobs[37] (there are no similar longitudinal studies for other Western Balkan countries, but anecdotal evidence confirms the same patterns). Trust in the institutions of government in families who are employed long-term in the hidden economy would be detrimentally low

[35] According to latest available World Bank estimate of the Gini Index it was 44.1 for Macedonia (2008), 40.2 for Turkey (2012), 36 for Bulgaria (2012), 33 for Bosnia and Herzegovina (2007), 33.2 for Montenegro (2013), 32 for Croatia (2011), 29.7 for Serbia (2010), 29 for Albania (2012), 27.3 for Romania (2012), and 26.7 for Kosovo (2013). Higher index values mean higher income inequality.

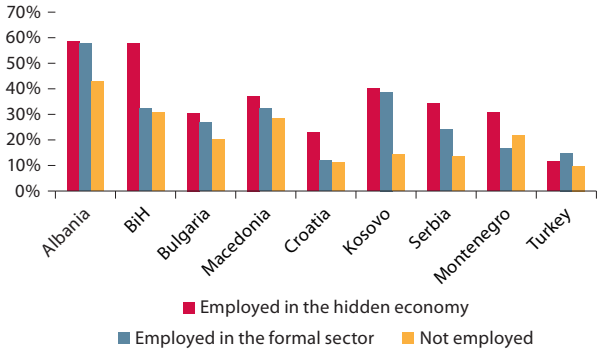
[36] UNDP. 2016. *National Human Development Report for Montenegro, Informal work: from challenges to solutions.*

[37] Ibid, p. 71.

and in certain cases it would transform into an active distrust and opposition, especially if exacerbated by the presence of ethnic tensions in the country. Thus, as with the case of involvement in corruption discussed above, this might lead to a situation where large sections of the public would simply deny conformity to the formal rules.

Hidden employment arrangements place people in vulnerable position. It is not surprising, therefore, that they are more often subject to corruption pressure – both because of work-related incidents (inspections that find out irregularities or corruption initiated by the business) and home related (access to health, access to finance and access to education require social and health security paid, high wages on record, etc.). In the SELDI Hidden Economy Survey 2016, 34% of those hiding employment experienced corruption pressure, compared to 29% of the people in the formal sector. The unemployed are least likely to be asked for a bribe – only 22% of them experienced corruption pressure.

Figure 19. Corruption pressure experienced by those in different employment situations, 2016



Source: *SELDI Corruption Monitoring System, 2016 and SELDI Hidden Economy Survey, 2016.*

The corruption pressure gap between employed in the hidden and the formal economy is not statistically observed in Albania, Kosovo and Turkey (there, the corruption pressure on those in the hidden economy is lower than those in the formal sector). It is possible that the extreme values of corruption pressure in Albania and of hidden employment in Kosovo and Turkey blur the phenomenon. Another explanation could be that some of those in formal employment in Turkey (public administration employment accounts for about 15%) exercise the corruption pressure or that kin and other social networks play a more important role and not the status of employment. In BiH, however, the corruption pressure gap between the two groups is more than 25%.

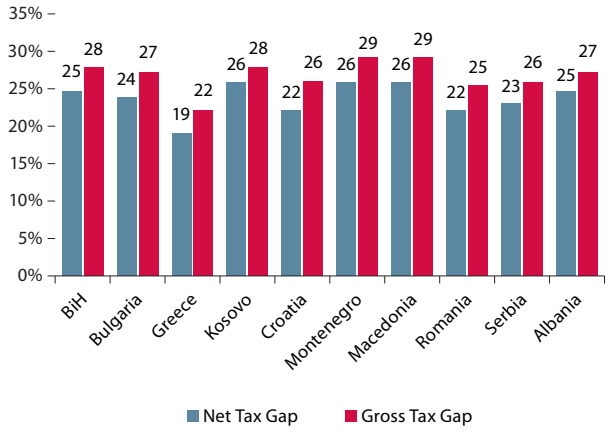
Significant differences are found also in Montenegro (14% difference in corruption pressure), Croatia (11%), and Serbia (10%).

Government policies which facilitate formalisation of clusters of companies relying on complex nexus of social relationships, including informal investment through remittances (like in Macedonia, Kosovo and BiH), might be more effective than labour and tax inspectors going out on raids (which has proven to have only temporary compliance effect, and only adds further corruption pressure leverage).

2.3. TAX COMPLIANCE AND EVASION

Although methodologies to assess the tax gap and its components vary, there is little doubt that a sizable share of taxes due in the SEE countries is withheld through avoidance and evasion. As with hidden employment, this creates an environment fertile for corrupt practices.

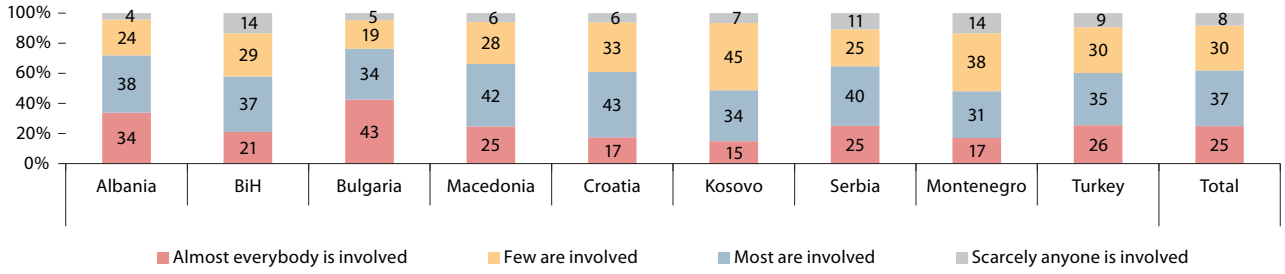
Figure 20. Tax gap estimates in SEE, 2013



Source: *Albanian Taxation Association, 2014.*

From the standpoint of the public, the overall integrity of governance in a country, including the rate of corruption, affects the propensity of individuals and businesses to engage in illegal behaviour such as tax evasion. On the government side, a variety of factors are considered to contribute directly to corruption in tax and customs administrations, including the degree of discretion of tax and customs officials, complexity of tax procedures, the lack of monitoring, the commitment of political leadership to fight corruption,

Figure 21. Estimates by the public of the rate of corruption among tax officials in SEE, 2016*



* *Excluding the share of "Don't know/No answer".*

Source: *SELDI Corruption Monitoring System, 2016 and SELDI Hidden Economy Survey, 2016.*

and the overall environment in the public sector. Tax and customs officers are usually assigned to a specific geographic area of operations. For a particular taxpayer (company), the tax or customs officer is the tax/customs department. This discretion gives tax and customs officers the opportunity to create relationship with companies (taxpayers) that often end in corruption. The CMS has consistently shown that for all SEE countries tax and customs officials are ranked among the highest risk of corruption involvement professions, which is yet another indication of the direct link between corruption and hidden economy.

Lack of resources, mainly human, prevents SEE governments from effectively monitoring tax and customs officers. The absence of monitoring increases the likelihood of tax and customs officers being involved in corrupt practices. The Tax Auditing Service (TAS) in Turkey, for example, is quite understaffed: a total of 9,205 people or 0.6 per 1,000 population as of the end of 2015, while it is 1.3 for France and 1.5 for United Kingdom. Thus, as TAS could perform only a limited number of inspections and investigations companies know that the probability of getting caught at random is minimal, so they are more prone to underreport or overreport their accounts in order to minimise their tax burden.

Table 4. Tax investigations in Turkey

Year	Number of taxpayers*	Number of taxpayers investigated	Ratio
2013	2,460,281	71,352	2.90%
2014	2,472,658	55,284	2.24%
2015	2,527,084	58,676	2.32%

* *Income and corporate tax.*

Source: *VDK Faaliyet Raporu 2015, p. 43.*

In another example, a recent study in Kosovo,[38] found that almost 63% of companies are certain that if they decide to evade taxes they could do so easily without getting caught, presumably relying on the possibility to bribe the inspecting tax officer. The situation is very similar in other SEE countries as well.

Although rates of fines are positively correlated with tax compliance, a high fine level can also backfire if businesses consider the punishment to not be credible; it also makes corruption more likely, as is often the case with heavy regulation. A case in point for the simplification of procedures and transactions is Croatia: over the course of 2013, the government increased its monitoring of cash transactions by introducing online cash registers (the 'fiscalisation project'), which had an obvious impact on higher tax collection compared to 2012 (as a share of GDP). In January 2014, a simplified tax return form was introduced, replacing five existing forms and allowing real-time information on tax payments to be sent to the tax administration.[39] Such projects are good examples of the potential positive links between lowering hidden economy and corruption motivation in sync.

In Macedonia, the data from the reports from the Public Revenue Office hotline for violations showed that tax evasion and non-issuance of cash register receipts were the leading types of violations (78% of all reports). Since 2014, Macedonia has also been applying a measure that establishes a direct connection of fiscal cash registers that gather transactions data in real time from the point-of-sale to the Public Revenue Office.[40]

[38] Riinvest Institute. 2013. *To Pay or Not to Pay: a Business Perspective of Informality in Kosovo*, p. 8.

[39] European Commission. 2014. 'Convergence Report', European Economy series, No. 4.

[40] CSD and Center for Research and Policy Making. 2014. 'Hunting the Shadows – Tax Evasion Dynamics in Macedonia.' Policy Brief No. 33, p. 6.

While Bulgaria (currently and in the past), Croatia and Macedonia (recently) and Albania (planned) focus on technology, Montenegro and Kosovo focus on raising awareness about public finance and tax compliance through various campaigns. Campaigns have aimed at involving the general public in larger scale, soft enforcement of integrity rules. The public, however, seems to be sufficiently aware and sensitive when it comes to corruption among tax officials: a quarter of respondents in SELDI's survey believed that almost all tax officers were involved in corruption and 37% thought that most of them were involved. Customs officers are generally assessed similar to tax authorities with the exception of Albania and Bulgaria, where people believe that corruption in customs is much higher. Among other things, estimates of the corruptness of revenue officials might reflect higher public sensitivities about these particular government services – a consideration to be taken into account when deciding on priority sectors for integrity enforcement measures.

3 POWER OUTAGES: ENERGY GOVERNANCE AND STATE CAPTURE IN SEE

Power corrupts in more than one sense. As SEE governments own, regulate and/or oversee virtually all aspects of the energy sector, any form of misgovernance reverberates throughout the economy and society. Energy has been identified as one of the critical sectors with high corruption and state-capture risks, which should be addressed with priority.[41] The kinds of illegal rents that can be extracted from the energy sector allow special interests to exert such a grip on government decision-making as to subvert wholesale the pursuit of an energy policy to the common good. "A major governance challenge is the lack of political agreement on a long-term national energy [policies] with supporting financial instruments, which would lower the ad-hoc decision making, often related to suspicions of being influenced by private political and economic interests."[42]

Opportunities and resources for illicit practices and/or mismanagement in this sector are ample, whereas internal constraints and external conditionalities remain insufficient to overcome energy security risks and sectorial vulnerabilities. Among the most critical energy governance deficits in SEE are the widespread corruption risks in the **mismanagement of the state-owned energy enterprises (SOEs)**, the **irregularities in the public procurement contracts** and **the slow progress in liberalising and de-monopolising the energy sector**, which isolates the corrupt networks from the disruptive market forces.[43] The failure of allowing more competition in the sector has been reinforced by the negative implications of the EU – Russia economic and geo-political standoff in the region, on the one hand, and by the dependence of political parties on financing from companies operating in the energy sector. The large-scale energy projects across the region have been exploited by local oligarchic groups aiming to increase their wealth at the expense of the national energy policy priorities.

3.1. CORPORATE GOVERNANCE OF ENERGY STATE-OWNED ENTERPRISES

In SEE, the considerable involvement of governments in the economy requires the consistent implementation of corporate governance standards in the management of SOEs. This is necessary to ensure that the companies are profitable, efficiently managed and corruption risks are avoided. The vicious circle of subsidised pricing, energy poverty, energy inefficiency and low investment in infrastructure modernisation can be, if not broken, at least alleviated by imposing sound, transparent and independent management structures and procedures.

Better corporate governance of SOEs leads towards not only company-level, but also state-level benefits.[44] Specifically, governance reform impacts the SOEs' operational performance in the sense that labour productivity, tariffs and, most importantly, the magnitude and quality of services coverage tend to improve if there is a robust legal and ownership framework, professional board and staff, fiscal discipline, a good performance management and monitoring system and a high degree of transparency, both voluntarily (activity reports, disclosures) as well as through audits. Practice has shown that SOEs can actually save money via better governance and can therefore redirect their resources where these are most needed, such as critical infrastructure or projects aimed at increasing energy efficiency.[45] Better governance also means increased revenue for the state through annual dividends "cashed in" from financially strong SOEs.

The regulations and practice of corporate governance of SOEs in SEE fall short of best international standards. For example, a very important indicator of the proper work of CEOs of these enterprises is the process of their hiring. Arbitrary layoffs and employment are a sign of bad public management. Even more problematic are cases indicating connections of CEOs and boards with political parties. In most countries in the region, the boards of directors of energy SOEs are dominated

[41] SELDI. 2014. *Anti-Corruption Reloaded: Assessment of Southeast Europe*. Center for the Study of Democracy: Sofia, p. 19.

[42] CSD. September 2015. *Transparent Governance for Greater Energy Security in CEE*, Policy Brief No. 58, p. 1.

[43] See further SELDI. 2016. *Energy Governance and State Capture Risks in Southeast Europe: Regional Assessment Report*. Center for the Study of Democracy: Sofia.

[44] OECD. 2015. *OECD Guidelines on Corporate Governance of State-Owned Enterprises, 2015 Edition*, OECD Publishing, Paris.

[45] World Bank Group. 2014. *Corporate Governance of State-Owned Enterprises. A Toolkit*, pp. 16-17.

by party appointments – there is evidence of at least 27 political figures having a seat at the energy SOEs boards in the SELDI countries. In many cases, this is a form of reward for senior members of political parties. In Serbia and Albania, for example, it has become a common practice to apportion appointments at public enterprises' boards among political parties after elections as part of power sharing agreements.[46] In Macedonia, the recent wiretapping scandal revealed how the head of the Prime Minister's cabinet allegedly ordered the CEO of ELEM – an electricity producer and wholesale supplier – to employ people from a list prepared by the Interior Ministry.

Energy SOEs in the region largely lack transparent rules and effective cost/benefit decision-making procedures while political pressure is exercised for the benefit of crony networks. In some cases, the right corporate governance framework has been set up, but the rules are not effectively implemented. In the case of Turkey, the state is managing SOEs through explicit and direct instructions to CEOs. Besides, the Ministry of Energy and Natural Resources and the parliament maintain control of SOEs through its budget as the ministry has the authority to demand a long-term budget rather than an annual one.

The current system of governance of state-owned enterprises in SEE is prone to abuses of public funds and corruption risks. Sufficient public scrutiny over a comprehensive reporting mechanism is, thus, necessary to increase the transparency of governance and improve the management of SOEs. Many companies in the region have not only failed to publish their annual financial reports for 2014 and 2015, but have also not provided historical data before 2009/2008. Most companies present a bare minimum of financial information and do not provide any detailed narrative overview of their activities or recent management decisions. Financial reports uploaded on webpages lack cash flow statements and/or unconsolidated cash flow information. Instead, companies' balance sheets offer only the final free cash flow for the reporting period. One of the worst identified case studies in the region have been Albanian energy SOEs, which do not publish their financial statements at their websites at all. In addition, most SOEs in the region do not publish a detailed overview of current activities related to their energy projects. Information about the SOEs' public procurement is also scarce. It is often almost impossible to find data about the tenders in a given year as information on many contracts is missing or is considered commercially sensitive under national law.

3.2. CORRUPTION RISKS IN ENERGY SECTOR PUBLIC PROCUREMENT

Public procurement has traditionally been vulnerable to corruption pressures in young democracies especially when it comes to large tenders and lack of competition, which is typical for the energy sector. In it, public procurement plays a substantial role in a number of activities ranging from building large-scale infrastructure to purchasing materials and financial services and awarding consultancy. Energy enterprises are among the largest public procurers in the region both in terms of awarded public procurement contracts, and in terms of spending.

In cases where energy operators are as well contracting authorities, due to the ease of regulatory procedures for sectorial contracting authorities (utilities regulation), corruption may be visible in the extensive use of restrictive procedures (lack of competition/limited access to the market); tailor-made tenders (with highly individualised technical specifications); deviation in implementation of the contracts (mostly works and supplies that are largely consumed by energy providers); failure to meet technical specifications or quality standards described in the terms and conditions of the tender; to fictional contracts (works, goods and services) that were never implemented. Even in cases where competitive bidding processes are used broad (rather than detailed) specifications and manifestly impractical terms and conditions leave scope for post tender negotiations with bidders and consequent bribes.

The major **factors contributing to heightened corruption risks in energy sector public procurement in SEE** can be summarised as follows:

- considerable economic interests at stake, strong political lobbies and substantial share of financial resources involved in the energy sector;

[46] Serbia's Anticorruption Agency has imposed a measure of recommendation for dismissal of the Director of Srbijagas due to conflict of interest. The reason is that he was also the President of the Supervisory Boards of the Banatski Dvor underground gas storage and of joint-stock insurance company Sogaz, as well as Member of the Supervisory Board of Yugorosgaz. In addition, he is the Director of the company South Stream (SELDI. 2016. *Energy Governance and State Capture Risks in Southeast Europe: Regional Assessment Report*. Center for the Study of Democracy: Sofia).

- lack of genuine competition and high monopolisation of individual segments in the energy sector construction, maintenance and engineering firms;
- lack of transparency, public awareness and independent expert assessment plus restricted access to information on national security grounds;
- the technical complexity of the energy sector;
- share of non-competitive public procurement contracts in the energy sector which is systematically higher than the share of competitive contracts for the rest of the economy.[47]

The lack of transparency in the management of public procurement is one of the clearest indicators of compromised governance.[48] Although the data on procurement contracts is publicly available, there is only limited energy-specific public procurement information, which prevents comparisons across sectors and countries. Albania is a typical example, as energy SOEs do not publish sufficient information about the tenders issued. Data on complaints about public procurement mismanagement are more specific but lack detail and do not provide basis for relevant conclusions. Another example is Kosovo, which provides data on companies awarding public procurement contracts, as well as information about the lowest bid and the procurement process, but omits rationale for dismissing losing candidates, whose names are not made public. The information on public procurement in the Serbian energy sector is also limited since aggregate data for the entire sector do not exist in the Public Procurement Office, and due to the Public Procurement Law tenders resulting from international agreements are not mandatory. Similarly, in Montenegro, energy sector-specific data on public procurement is only available through right-to-information requests. The only reports that are being compiled in Montenegro are the individual annual reports of contracting authorities for which there is no legal obligation to be published and the consolidated report for all contracting authorities compiled by the Public Procurement Administration on an annual basis. In addition, in Montenegro the law regulates the procedures up to the contracting stage, while their subsequent implementation is not adequately monitored. The result is unreliable public information, such as the case of the procurement budget of the national energy company EPCG in relation to which the Public Procurement Administration and the company itself publish different figures (Table 5). This raises the question whether the difference in the amounts reported by the government and the state-owned company is the product of unaccounted or squandered funds or simply a sign of negligence.

Table 5. Inconsistency in reporting the public procurement budget of Montenegro's state-owned energy company EPCG in 2012

	Planned budget	Completed budget
EPCG	€141,514,376	€86,168,074
Public Procurement Administration	€174,575,497	€138,216,835

Source: *Montenegrin Public Procurement Portal, (planned budget) and Annual Public Procurement Report of EPCG for 2012 (completed budget).*

3.3. COMPETITION RESTRICTIONS

One common corruption red flag in the SEE region in the energy public procurement domain is the restriction of competition in tendering. The contracting authorities often introduce exemption requirements and define exclusive criteria in order to limit competition in bidding. The exclusion criteria are often tailored to fit the profile of a specific company by influencing the public procurement notice drafting process through the illicit transfer of funds or collusion senior managers in the SOEs.[49] In the case of Serbian intergovernmental agreements, for example, energy contracts could even be exempted from the whole public procurement process.[50] Another case is that of Kosovo's Transmission System and Market Operator, which has awarded 31 contracts from December 2010 to January 2014 under a negotiated procurement procedure without notice, as well as 2 contracts with negotiated procurement procedure

[47] CSD. 2014. *Energy Sector Governance and Energy (In)Security in Bulgaria*, Center for the Study of Democracy: Sofia.

[48] Scarce and unreliable data constitute a major impediment in identifying governance problems and in designing proper policy responses, let alone allow for sound cross-country comparisons. In this respect, one potentially important advantage is a country's voluntary presence in the Open Government Partnership initiative. However, in some participating states, progress has been slow and uneven since this is a non-legally binding commitment made by national governments to each other and their citizens.

[49] Ibid.

[50] An example is the procurement procedure in the Serbian section of the Russian-led South Stream pipeline, which was fully exempted from the public procurement law as it was the result of an intergovernmental agreement between Russia and Serbia.

Table 6. ELEM procurement contracts (2009 – 2014)

No. contracts:	2009	2010	2011	2012	2013	2014	No. contracts ('09-'14)	Total of amount (€)	Share
Open procedure	384	406	362	336	214	209	1911	373,432,008	46.8%
Restricted procedure	13	3	5	1	0	0	22	29,253,698	3.7%
Negotiated procedure without prior publication of a contract notice	39	37	29	82	137	70	394	106,265,053	13.3%
Negotiated procedure with prior publication of a contract notice	3	0	6	3	1	0	13	289,365,123	36.2%
Total	**439**	**446**	**402**	**422**	**352**	**279**	**2340**	**798,315,882**	**100.0%**

Source: *Macedonian Center for International Cooperation (MCIC), own calculations based on the data from the Macedonian Electronic System for Public Procurement.*

after the contract's publication.[51] The same problem was detected in the public procurement procedures of Macedonia's electricity producer and wholesale supplier ELEM (Table 6). Contracts under this type of procedure are practically a "four eyes agreement" concluded between the state-owned companies' officials and private contractors. The implementation does not provide for open and/or equal access for each economic agent, thus hindering competitive bidding.[52] Taking into account the size of these contracts, especially when it comes to large-scale projects, there is a significant corruption risk involved. Contracts of higher-than-market-value prices are often the result of procurement procedures without a public notice. More than 13% of ELEM's public procurement tenders between 2009 and 2014 have been structured in this way, while another 36% are the product of negotiated procedure after the publication of a notice.

Often the opaque environment of public procurement in the energy sector is based on the exclusive criteria for access and safety of energy sites, the effective technology monopoly at the micro level for a number of supplies, the ambiguous legal nature of energy export transactions, the lack of effective financial audits, and the lack of monitoring and control of public procurement efficiency exercised by the energy or any other control body. The share of open procedures where a single tender has been submitted is indicative of the establishment of discriminatory specifications. Open procedures generally attract broad interest and the number of submitted tenders would typically be higher. Yet, even with open tendering, public procurement with single bidding is a serious red-flag for corruption due to at least two factors: a) entry barriers – contracting authorities may have designed the tender specifications to fit the profile of a specific company or a combination of companies (which is more often the case); b) political embeddedness, i.e. insider knowledge and relationships that allow politically connected firms to bid in tenders with difficult or impossible requirements that will later be amended or ignored through low implementation controls.

Another distortion of competition may happen in case the tender criteria are leaked secretly to bidders in an open procedure to help them develop a winning bid, but also to allow other bidders to participate in order to fake competition. The Kosovo Anti-Corruption Agency annulled one tender due to suspicions of bid rigging related to the leaking of tender documents.[53] Based on anecdotal evidence and the monopolisation of contracts in the hands of a few well-connected companies, it can be concluded that a large portion of the public procurement in the energy sector of the region has been predetermined in one way or another.

[51] Public Procurement Regulatory Commission, https://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=2&PCID=-1&CtlID=SearchNotices&stat=2&PPRCMenu_OpenNode=114

[52] Центар за граѓански комуникации. (2014). *Прирачник за фирми за учество во јавните набавки*. Второ изменето и дополнето издание.

[53] Veliu, E. March 27, 2014. Dyshime për kurdisje të tenderit në KOSTT, *Zeri.info*.

Box 1. Challenging procurement decisions in Albanian energy SOEs

The Albanian Electricity Power Distribution System Operator (OSHEE) has been accused by the company GEN-I Tirana for favouring the companies EFT and GSA by providing confidential information and thus allowing them to harmonise their offers. According to GEN-I, OSHEE, EFT and GSA illegally colluded in order to set the power sales tenders organised by the power supplier between January and July 2014. The claims are that EFT and GSA coordinated power purchase bids by bidding a price that is only a few cents below that of GEN-I and other competitors allowing EFT and GSA to capture the largest share of the electricity import market. These uncompetitive and illegal practices have cost taxpayers millions of euros according to GEN-I. Following the complaints of GEN-I, the Competition Authority of Albania launched a probe against OSHEE but later closed the investigation on the case, by outlining that no competition restriction has been identified and suggesting instead audits to OSHEE for the case.

Source: *Republika e Shqipërisë – Autoriteti i Konkurrencës, Komisioni i Konkurrencës, Vendim nr. 388, 14.12.2015.*

3.4. ENERGY MARKET LIBERALISATION

The key prerequisite for state capture risks in the energy sector is the natural market concentration in the sector. Any high concentration of market power creates ample opportunities for state control and the extraction of monopoly rents and related corruption. In the energy sector in SEE the monopoly rent cannot be sustained over the long term without the corrupt involvement of politicians as both key enterprises and the regulators are tightly controlled by the governments. Liberalising, therefore, energy trade and services reduces the risk of corruption and state capture stemming from collusion between state-owned or private monopolies and government.

The EU candidates or potential candidates[54] in SEE have undertaken to reform their energy sectors to adopt the EU energy acquis as part of their accession negotiations. The Western Balkan countries (Turkey is only an observer) are also Contracting Parties to the Energy Community Treaty, which provides the guidelines to the Energy Community organisation aiming to support the adoption and implementation of the EU energy acquis by acting as a regional monitor. The most important aspects of the regulatory reform promoted by the European Energy Community are the liberalisation of the natural gas and electricity markets, the creation of national and regional power and gas exchanges, and the completion of regional energy cooperation projects boosting interconnectedness and preventing supply crises. The reform agenda is largely consistent with the EU Third Energy Package, which aims to unbundle the ownership of power and gas production companies from that of transmission and distribution networks and to establish the regulatory framework for full market liberalisation.

The success of regulatory reform in SEE, however, is jeopardised by an implementation gap between the formal adoption of laws and their effective enforcement. The adoption of the EU energy acquis in SEE is usually followed by lax enforcement since this would require an overhaul of the whole energy system, including entrenched state capture networks. There are currently 15 open cases in the Energy Community dispute settlement mechanism (part of both group and single country cases), indicating that full compliance with the Treaty has been a difficult process. The region's energy sector transformation towards becoming a well-functioning part of the planned European internal energy market is taking place at a very slow pace.

Apart from Kosovo and BiH all other countries have taken steps towards energy price deregulation but have limited their efforts only to the larger industrial energy clients. Below-market household tariffs regulations are typical everywhere apart from Turkey, where household prices are fixed at a level close to the market. In addition to compromised financial stability of the energy SOEs and underinvestment in new infrastructure and modernisation, maintaining electricity and gas tariffs below cost of production has led to the formation of many well-connected

[54] Albania, Macedonia, Serbia, Montenegro and Turkey are EU candidate countries, BiH and Kosovo are potential candidates.

Table 7. State of implementation of the Third Energy Package

Measure	Albania	Bosnia and Herzegovina	Kosovo	FYR of Macedonia	Montenegro	Serbia
Primary Law(s)	Accomplished	Insufficient progress	Progress on track	Significant delay	Accomplished	Accomplished
Complementary Legal Acts	Insufficient progress	Insufficient progress	Insufficient progress	Insufficient progress	Progress on track	Progress on track
Organised Day-ahead Market	Insufficient progress	Insufficient progress	Insufficient progress	Insufficient progress	Insufficient progress	Accomplished
National Balancing Market	Insufficient progress	Significant progress	Progress on track	Insufficient progress	Significant progress	Significant progress
Regional Capacity Allocation	Progress on track	Progress on track	Pending	Critical	Progress on track	Critical
Price Deregulation	Critical	Critical	Critical	Critical	Progress on track	Significant progress
DSO Unbundling	Critical	Critical	Accomplished	Critical	Critical	Insufficient progress
TSO Unbundling	Progress on track	Insufficient progress	Insufficient progress	Insufficient progress	Progress on track	Insufficient progress
NRA Independence	Insufficient progress	Insufficient progress	Insufficient progress	Insufficient progress	Insufficient progress	Insufficient progress
Implementation of Inter-TSO Agreements	/	/	Critical	/	/	Critical

Critical · Significant delay · Insufficient progress · Pending
Progress on track · Significant progress · Accomplished

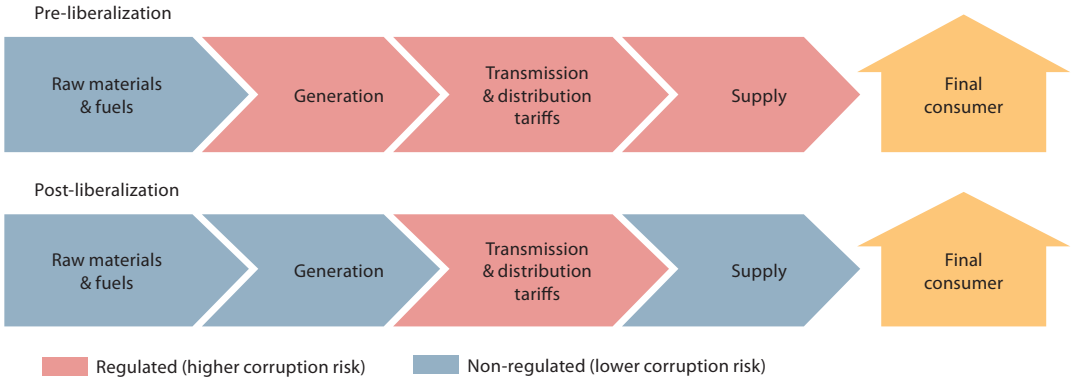
Source: *Energy Community. March 2016. Energy Community WB6 Monitoring, 03/2016.*

rent-seekers who have taken advantage of arbitrage opportunities between regulated and market prices. Case studies of similar practices abound in the region but the most egregious incidents have been recorded in BiH where the general managers of the state-owned power generation companies have colluded on a number of occasions with private traders to sell surplus electricity below the counter at below market prices, hence significantly reducing the SOEs' profits on behalf of well-connected private players.

A key precondition for the success of the Third Energy Package and the decoupling of political from business interests and related corruption is the establishment of a strong independent regulator. Developments in the region, however, are uneven. BiH, for example, does not show any progress in implementing the necessary legislative changes ensuring the independence of the regulatory authority (Table 7). The BiH government nominates the regulatory commission and the parliament approves it but the fragmented political structure of the country, in which there are multiple competing energy regulatory bodies, makes decision-making inefficient and often the product of political bargaining between competing factions.[55] In most of the other countries in the region, the energy regulator is at least functionally and legally independent from the executive branch. However, the problem with the lack of autonomy on staff appointments and budget determination persists, which is often clearly linked to attempts at preserving cosy political and business relations. Kosovo needs to transpose the EU energy acquis in relation to the independence and functionality of the regulator. Although Albania and Turkey have transposed a large part of the energy acquis and have pushed through laws banning former politicians or employees in energy companies to join the management of the regulatory bodies, the two countries' limited progress in key energy sector reforms such as the power market opening in Albania and the de-monopolisation of the gas sector in Turkey raises red flags about potential outside meddling in the regulators' decision-making. It is precisely the role of the regulators to prevent non-market concentration of monopoly power, which is the usual source of corruption and state capture.

[55] Energy Community Secretariat. 2015. *Annual Report 2014/2015.*

Figure 22. Intended effects of liberalisation of the power generation and supply chain



Source: *CSD. 2014. Energy Sector Governance and Energy (In)Security in Bulgaria.*

A common non-compliance practice across the region with regard to the Third Package implementation is the lack of proper unbundling in the power sector. Unbundling – the separation of the generation, transmission, distribution and retail of electricity – is generally intended to ensure access of all players to distribution and transmission systems without discrimination. In SEE, it would have the added effect of disrupting the collusion of politics and the power industry. The SEE countries are unbundled either only on paper, or specific aspects of the unbundling process like the separation of the financial statements or that of the management control are still not in place. The unbundling is a herculean task for the majority of SEE states as clear separation of energy generation and supply from transmission involves the break-up of state-owned energy monopolies, used successfully for masking the financial and regulatory deficits of the system. On the one hand, state-owned energy companies are reluctant to face tougher competition, and on the other, politicians fear the impact from a sudden price liberalisation. Therefore, policy makers in the region are prone to maintain the status-quo and push only for "on-paper" reforms that transform the regulatory framework formalistically.

In order to guarantee the sustainable modernisation and liberalisation of the energy market, comply with EU regulation, and reduce corruption and capture risks the governments in the region should focus on gradually implementing reforms in three main areas:

- ensuring total independence of the regulatory authority, as well as the effectiveness and quality of its decision-making process;
- unbundling of the transmission and distribution system operators in order to enhance competition;
- extending access to the open electricity market to small enterprises and household consumers.

On the other hand, market liberalisation per se will not automatically provide for more competition. An apt example is Montenegro where although the electricity market is opened, private companies are not interested in participating. This is mainly caused by the market dominance of the vertically integrated state-owned company, EPCG, the relatively low price of electricity, the under-developed infrastructure and the size of the electricity market in the country.[56] Hence, the Montenegrin authorities have been resisting the unbundling process claiming that it would compromise the financial viability of the energy sector.

Notwithstanding all disclaimers applying, SEE countries opened their markets on 1 January 2015 in compliance with the Third Energy Package enabling everyone to select an electricity supplier of their choice. Only Macedonia made an ad-hoc decision to delay this liberalisation process by five years, preventing small consumers and households to choose their own electricity supplier. Thus, Macedonia breached the Energy Community Treaty and the Energy Community Secretariat began an infringement procedure against the country. The postponement of the electricity market liberalisation benefitted the incumbent distribution monopoly, EVN, which would have faced increasing competition from newcomers providing better terms to household consumers. This is a yet another case of a SEE government shielding the monopoly of a private electricity supply company at the detriment of competitors and consumers.

[56] Media statement in *Elektroprivreda*, No. 356, Niksic, February 2015.

4 AGENDA FOR CHANGE: POLICY RECOMMENDATIONS

The results from the SELDI *Corruption Monitoring System* and the *Hidden Economy Survey* 2016 presented in the current report have demonstrated that despite some progress in some of the countries in the region **there has not been a breakthrough in tackling SEE corruption in any individual country or regionally**. While EU integration of the region and the ensuing support for anticorruption efforts has generally continued the outlook has dimmed. The uncertainty over EU – Turkey relations amid the frozen governance reforms in the country, the continuing migration crisis and the fallout of the BrExit decision has been particularly worrying. The political and social crisis in Macedonia and the continuing stalemate in Bosnia and Herzegovina have clearly shown the need for new and stronger approaches in tackling governance and delivering anticorruption reforms. SELDI data on corruption pressure, energy governance, and hidden economy proliferation in SEE countries demonstrates that while legal approximation and technical solutions have continued to contribute to lowering administrative corruption, reforms are not irreversible in any of the countries, there has not been any progress in tackling entrenched state capture practices, and governments in the region have failed to deliver broad-based economic growth necessary to support civil society anticorruption efforts.

Solving the corruption challenge in the region would require sustained efforts on many fronts and the involvement of all local and international stakeholders over the long term. The current report reiterates earlier and provides a number of new recommendations to achieve further progress in limiting corruption, bad governance, and state capture in SEE.[57] Among these, several key areas need to be prioritised by governments in the region, regional initiatives, and European institutions in order to be able to achieve breakthrough at least in the mid-term:

Effective prosecution of corrupt high level politicians and senior civil servants is the only way to send a strong and immediate message that corruption would not be tolerated. Bringing crooked politicians to justice has proven effective in strengthening anticorruption measures in Croatia and Slovenia, and has gained ground in Romania in the past couple of years. Success in this direction would require international and regional support, including the involvement of EU member states law enforcement. The experience in Macedonia in the past two years has vividly demonstrated that progress is unlikely without **intensified external pressure from the European Union**. This would require stronger involvement both with local political elites and with local citizens. They should be made better aware of the ultimate benefits of good governance to be able to preclude local politicians and assertive international players, such as Russia, from portraying EU-backed civil society efforts as acting as foreign agents. Regional formats such as **the Regional Cooperation Council should take a much more active role** in promoting performance-related anticorruption reforms in cooperation with EU member states from the region and with EC directorates general specialised in justice and home affairs.

The European Commission should expand its direct engagement with civil society organisations in the region. This is essential for several reasons: a) for internationally supported reforms to become sustainable, they need to gain wider public acceptance and CSOs are indispensable for this to happen; b) involvement of CSOs is a way of guaranteeing that the accountability of governments to donors and international organisations does not take precedence over accountability to local constituencies; c) the effectiveness of international assistance would be enhanced if it utilises the monitoring and analytical skills and advocacy capabilities of CSOs; d) a direct engagement would have the added benefit of preventing civil society being captured by the clientelistic networks of unreformed and often corrupt public administrations. The **EU should expand and empower the instruments it uses to engage with civil society** on anticorruption in the region, making better use of the European Endowment for Democracy, strengthening independent national foundations, and expanding cross-country instruments involving EU and non-EU countries in the region. CMS results have clearly demonstrated that citizens deem local businesses as tightly linked to governmental interests,

[57] For a summary of previous SELDI recommendations see SELDI. 2014. *Anticorruption Reloaded: Assessment of Southeast Europe*. Center for the Study of Democracy, Sofia.

which is likely to continue precluding the local and international business sector in SEE from engaging sincerely and openly in supporting anticorruption efforts. The European Commission and international donors should be aware of this when designing their regional support programmes on anticorruption.

Independent corruption and anticorruption monitoring mechanisms need to be sustained on national and regional level in order to provide robust data and analysis and integrate both **corruption diagnostics** and **anticorruption policy evaluation**. The mechanism should be implemented through national and/or regional civil society organisations and networks, and should be independent of direct national government funding. It should serve as a vehicle for opening up administrative data and enhancing public access to information. Data allowing the tracking of public procurement, concessions, the enforcement of conflict of interest legislation, state aid, budget transfers, the annual performance reports of oversight and compliance agencies, etc., should be made publicly available in a database format, thus allowing big data analysis and the use of monitoring tools.

The **effectiveness of CSOs** in addressing good governance issues in the region depends to a great extent on their capacity to maintain their own governance in order. The risk of civil society capture by special interests, corrupt public officials or elected politicians stems from the opportunity to exploit a number of vulnerabilities of the non-profit sector in the region:

- absence of mandatory transparency procedures;
- ineffective compliance with financial regulations;
- lack of an auditing culture;
- low level of self-regulation and coordination of efforts.

Avoiding civil society capture risks should be part of national anticorruption efforts in Southeast Europe. Civil society organisations in SEE should be aware that according to the CMS findings, the lack of breakthroughs in tackling corruption in the region has led citizens to increasingly see CSOs as part of the status-quo, thus reducing the effectiveness of their efforts. This is a dangerous trend, which calls for action both in the anticorruption domain and within CSOs. In this respect civil society organisations in the region should direct their efforts both at bolder political action and at devising mechanisms to support and include new and emerging grass-roots movements.

4.1. ENHANCING EVIDENCE-BASED POLICY MAKING IN CRITICAL SECTORS

The main thrust of anticorruption efforts in the region should be directed at tackling high level political corruption and state capture. But this should not come at the expense of all other administrative and technical measures undertaken in the past years. They have demonstrated they can contribute to lowering administrative corruption to a certain extent even in the absence of broad political will at the highest political level. All too often, anticorruption policies in SEE have been of a general nature. This means that they have neither been based on precise measurements and anthropological evidence of specific practices, nor translated into mechanisms and protocols that operate in individual public organisations. The design of counteraction measures remains at the general societal level, with few attempts to differentiate between target groups or types of public services. These policies lack the level of sophistication that has been achieved in other fields of public governance. At the same time, the European Union – the largest donor in the region – should clearly rethink its delivery mechanisms, and in particular the ones pertaining to technical assistance. These have been largely seen in the region as ineffective and wasteful, achieving disproportionately little results compared to the amount of resources dedicated to the instrument. The EU should consider linking more tightly overall financial support to progress assessment and priority areas.

Additionally, anticorruption efforts in the region should be refocused at the level of public organisation, which would enhance the quality of design of policies and would allow more precise monitoring of their implementation and effect. Evaluators and policy makers in the SEE countries need to adopt methods which review the anticorruption architecture of individual public sector organisations, such as the MACPI tool.[58] This would also help them use benchmarking and already developed policy templates at the public

[58] MACPI (Monitoring Anticorruption Policy Implementation) is an innovative anticorruption diagnostics and management instrument developed by the University of Trento and the Center for the Study of Democracy for DG Home Affairs. For a detailed description of the instrument and its pilot implementation in Italy and Bulgaria see: CSD. 2015. *Monitoring Anti-Corruption in Europe: Bridging Policy Evaluation and Corruption Monitoring*, Center for the Study of Democracy, Sofia.

Box 2. Monitoring anticorruption policy implementation

MACPI (Monitoring Anticorruption Policy Implementation) is an instrument for mapping and assessing the anticorruption policies implemented in public organisations. It ascertains **whether the corruption vulnerabilities** of a public organisation are **adequately addressed by anticorruption policies** and how effective these policies are. The tool also informs policy makers on the existence of two gaps:

- an **implementation gap** – there is only formal compliance with anticorruption policies;
- a **policy design gap** – corruption vulnerabilities are not addressed by any policy.

A special emphasis in the design of MACPI is placed on defining what an anticorruption policy actually is. While in general such a task might seem trivial, when facing the concrete public organisation it is often difficult to compile a specific list of policies and/or measures. Such a difficulty is due to two groups of problems, which have been discussed in the research literature: a) the variety of corruption definitions and approaches to corruption; b) inconsistencies between general laws and regulations relevant to (anti)corruption and the anticorruption measures and procedures adopted by the concrete public organisation. In addition, public organisations vary greatly in structure, functions and powers and therefore both corrupt practices and anticorruption measures could be considerably different.

The full MACPI cycle consists of two circuits – the **diagnostics** effort and the **policy revision** effort, in which the findings of the first feed into the second. The MACPI diagnostics is intended as a first step of a policy process aimed at (re)designing and implementing effective anticorruption policies. Involvement of the management at all stages of this process is therefore crucial for effective MACPI implementation.

Source: CSD. 2015. *Monitoring Anti-Corruption in Europe: Bridging Policy Evaluation and Corruption Monitoring,* Center for the Study of Democracy, Sofia.

institution level. Such instruments should focus on areas of critical administrative corruption pressure, which include but are not limited to:

- public procurement directorates and units;
- regulatory bodies, entrusted with overseeing critical sectors of the economy such as energy, banking and finance, competition, etc.;
- compliance and control agencies which oversee the day to day compliance with laws, such as tax and revenue agencies, labour inspectorates, health and environmental inspectorates, licensing and permit departments, etc.;
- state-owned enterprises.

Critical sectors with high corruption and state-capture risks, such as the energy sector, should be addressed with priority, including through:

- increasing competition in public procurement;
- improving the corporate governance of state-owned enterprises;
- transparent management of large-scale investment projects;
- enhancing the accountability and independence of energy regulatory authorities.

Improving the governance of the energy sector, including the functioning and management of state-owned energy companies in the SEE region is essential for reducing state capture and achieving progress towards EU integration. It can be attained by implementing the following actions:

- Introduce more transparency and higher corporate governance standards for SOEs in order to reduce political interference in the management of these companies.
- Increase transparency and public access to energy data, especially with regard to data on spending and financial governance of SOEs in the energy sector. Governments in the region should be encouraged to assume commitments to Open Energy Data and Open SOEs Data.
- Introduce compulsory corporate governance standards for energy sector state-owned enterprises following the best international principles such as the *OECD Guidelines on Corporate Governance of State-*

Owned Enterprises.

- Reduce the direct involvement of elected politicians and senior civil servants in the operational management of energy enterprises.
- Introduce international accounting standards in the reporting of energy SOEs such as the international financial reporting standards that increases the transparency of transactions through unified disclosure procedures and allows for an easier comparison of the financial standing of different energy SOEs.

4.2. TACKLING THE HIDDEN ECONOMY

Historically, countries which have managed to achieve a breakthrough from a state of systemic corruption such as the one observed in SEE countries to a state of good governance have benefited from simultaneous broad-based economic growth, which has uplifted prosperity and strengthened citizens' demands for corruption-free public services and institutions. Countries in the region have clearly failed to achieve such broad-based economic growth. The hidden economy, which is a mirror indication of systemic corruption, has continued forming between a fourth and a third of national economies in the region. Tackling these high levels of hidden economy provides a more politically palpable venue for reducing corruption opportunities in SEE. It is also more readily understandable to the main street and resonates more readily with the everyday concerns of citizens in the region such as poverty, unemployment and low incomes. Involvement in the hidden economy is often socially embedded, culturally and educationally predetermined, and not just a matter of a rational choice maximising personal utility. Therefore, effective anti-hidden economy policy would not be simply an economic or fiscal policy, but rather a comprehensive social policy. Governments in the region should design comprehensive strategies for tackling the hidden economy similar to the ones devoted to anticorruption, which should be linked to the ultimate goals of dynamic economic convergence to the EU. Some specific recommendations, which can complement the points from the previous section should include:

- National statistical institutes should implement the Eurostat/OECD methodology for non-observed economy adjustments to GDP and publish timely and comprehensive descriptions of imputations by non-exhaustiveness type and economic sector. Mirror statistics should be used to calibrate international trade statistics and to use as proxy for contraband and trade-related tax evasion.
- Prioritise and sequence reforms on tax gap areas, which have the strongest negative social impact (e.g. evasion of healthcare insurance contributions and quality improvement in Kosovo, missing contracts and social security system in Turkey, excise duty evasion in BiH and Albania). The areas should be widely consulted with businesses and the public.
- Introduce policies facilitating the formalisation of whole economic value chains (or significant long parts of it) and clusters of economic actors and relationships as opposed to focusing on case-by-case legalisation by increased penalties and probability of non-compliance detection.
- In countries where remittances are important source of investments in the hidden economy (Macedonia, Kosovo and BiH) policies should seek to reduce the cost of transfer of remittances and match domestic entrepreneurship development schemes and foreign donor programmes offering special incentives for legalisation of workers abroad.
- Conduct regular tax gap assessments (including per type of tax), following a common methodology and adjust policies according to their findings.

ANNEX

ALBANIA AND KOSOVO

PËRMBLEDHJE EKZEKUTIVE

Raporti në vijim, i përgatitur nga Lidershipi i Evropës Juglindore për Zhvillim dhe Integritet (SELDI) – nisma më e gjerë vendase për mirëqeverisjen në vendet e Evropës Jug-Lindore përbën një kontribut të rëndësishëm në përqasjen rajonale ndaj antikorrupsionit. Ajo siguron një këndvështrim të shoqërisë civile për gjendjen e korrupsionit dhe vjen në vazhdën e vlerësimit gjithëpërfshirës të SELDI-t në vitin 2014 mbi aspektet e ndryshme të mjedisit ligjor dhe institucional kundër korrupsionit në nëntë vendet e Evropës Jug-Lindore. Në vitin 2016, SELDI vijoi përsëri me këto vlerësime, me **një përditësim të monitorimit të korrupsionit** dhe një fokus të veçantë në **kapjen e shtetit në sektorin e energjisë dhe në lidhjen korrupsion-ekonomi informale**.

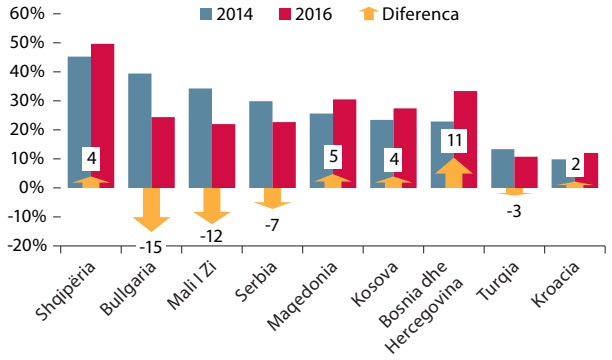
Raporti nënvizon nevojën për aksion më të gjerë politik për reforma, të cilat duken se janë bllokuar apo tkurrur në të gjithë rajonin. Presioni i brendshëm për një aksion të tillë është ndrydhur nga nevojat ekonomike dhe/ose ndasitë etnike dhe nga kalcifikimi i strukturave politike dhe ekonomike. Presioni i jashtëm, i adresuar kryesisht nga Bashkimi Evropian, është parë si kërkesë e lidhur me madhësinë e problemeve në dy vitet e shkuara për shkak të një sërë krizash të brendshme dhe të jashtme.

Përhapja dhe dinamikat e korrupsionit 2001 – 2016

Edhe pse përpjekjet për të ofruar zgjidhje teknike dhe për të përmirësuar funksionimin e institucioneve të zbatimit të ligjit, kryesisht me mbështetjen e BE-së, kanë vazhduar dhe madje janë intensifikuar në disa raste, në asnjë nga vendet e rajonit nuk ka patur një përparim të qartë të qëndrueshëm të politikave antikorrupsion. Kjo ka çuar në rënien e mëtejshme të ngadaltë në nivelet e korrupsionit administrativ, por në kurriz të zbehjes së mbështetjes publike për reformat dhe të rënies së besimit në institucionet kombëtare dhe evropiane.

Sistemi i Monitorimit të Korrupsionit SELDI – mjeti analitik i tij për matjen e korrupsionit – ka identifikuar tre prirje në dinamikat e korrupsionit në rajon:

Ndryshimet në presionin e korrupsionit sipas vendeve 2014 – 2016*



* *Përqindja e qytetarëve që raportojnë se kanë përjetuar kërkesa për ryshfet nga zyrtarët publikë.*

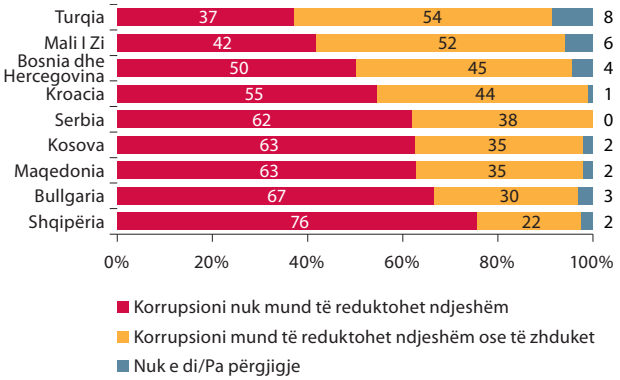
Burimi: *Sistemi i Monitorimit të Korrupsionit SELDI.*

- Qysh prej fillimit të viteve 2000 kur SELDI filloi monitorimin e tij, nivelet e përgjithshme të korrupsionit në vendet e Evropës Jug-Lindore kanë pësuar rënie, dhe publiku është bërë më kërkues për mirëqeverisjen.
- Megjithatë, **progresi ka qenë i ngadaltë dhe i çrregullt**, dhe korrupsioni vazhdon të jetë njëkohësisht një shqetësim madhor për publikun e gjerë dhe një dukuri e zakonshme në shërbimin civil dhe zyrtarët e lartë qeveritar. Veçanërisht, në periudhën 2014 – 2016 **presioni i korrupsionit** – treguesi sasior kryesor për nivelet e korrupsionit në një vend – pas një periudhe përmirësimi është përkeqësuar në disa vende, por përmirësimi i përgjithshëm në rajon ka qenë i papërfillshëm.
- Kombinimi i niveleve të larta të qëndrueshme të kërkimit të përfitimeve nga zyrtarët e korruptuar dhe pritshmërive në rritje për mirëqeverisje të lidhura kryesisht me aspiratat për anëtarësim në BE të vendeve të Evropës Jug-Lindore kanë **ndikuar negativisht në pritshmëritë publike mbi presionin potencial të korrupsionit**. Më shumë se gjysma e popullsisë e vendeve të SELDI-t besojnë se është e nevojshme që të të duhet që të japësh ryshfet te një zyrtar për të mbaruar punë. Kjo tregon se **rikthimi i besimit ndaj institucioneve do të ishte shumë më i vështirë** sesa reduktimi në vetvete në nivelet e korrupsionit administrativ.

Si rezultat, **besimi publik në realizueshmërinë e përgjigjeve politike ndaj korrupsionit**, një aleat i rëndësishëm për reforma antikorrupsion të suksesshme, që pasqyron pjesën e popullsisë, e cila beson në përpjekjet antikorrupsion të qeverive të tyre **ka qenë nën pragun 50% në vitin 2016** për të gjithë vendet

Evropës Jug-Lindore përveç Malit të Zi dhe Turqisë. Kjo përkeqëson më tej mungesën e vullnetit të politikanëve për tu angazhuar në politikat anti-korrupsion, dhe tregon nevojën për një lëvizje me bazë të gjerë shoqërore për të mbajtur një fokus antikorrupsioni.

Vlerësimet publike të realizueshmërisë të politikave anti-korrupsion, 2016



Burimi: *Sistemi i Monitorimit të Korrupsionit, 2016.*

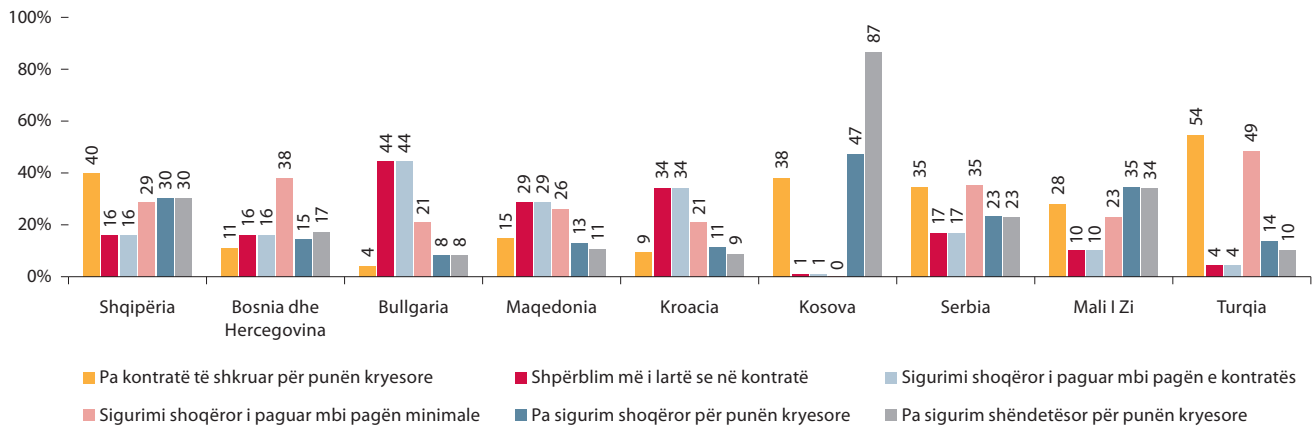
Konkluzioni i përgjithshëm nga raundi i Sistemit të Monitorimit të Korrupsionit i SELDI-t në vitin 2016 është që **politikat të cilat synojnë sjelljen korruptive në nivelin administrativ dhe ato që kërkojnë të ndryshojnë besimin ndaj qeveri është e nevojshme të ndiqen në vijimisë**. Zbatimi më i rreptë i masave penale nuk mund të ketë një efekt të qëndrueshëm nëse nuk mbështetet nga një kërkesë e përforcuar publike për integritet në qeveri dhe nga një përmirësim i qëndrueshëm në mirëqenien ekonomike. Zbatimi i ligjit ka të ngjarë të shihet ose si represion i padobishme kur targeton vetëm nivelet e ulëta të qeverisjes ose si 'gjueti shtrigash' politike kur i drejtohet në mënyrë jo të vazhdueshme niveleve të larta. Në anën tjetër, intesifikimi i masave të mbështetura në ndërgjegjësim vetëm sa do të nxiste cinizmin dhe braktisjen në publik në qoftë se ato nuk shoqërohen me përpjekje të dukshme të marrjes së masave të rrepta ndaj zyrtarëve (të nivelit të lartë) që kërkojnë përfitime në mënyrë korruptive.

Gjendja e ekonomisë informale në vendet e Evropës Jug-Lindore në vitin 2016

Duke pasur parasysh se politikat anti-korrupsion në mënyrë shkëputur nuk kanë gjasa për të prodhuar një mbështetje të gjerë shoqërore nëse ato nuk janë të mishëruara në reformat ekonomike dhe në rritjen e mirëqenies, është i nevojshëm **një zgjerim i debatit anti-korrupsion** nga zbatimi i plotë i ligjit **drejt një arsyetimi me më tepër bazë ekonomike**, të tillë si adresimi i lidhjes ndërmjet korrupsionit dhe ekonomisë informale. Sipas Vrojtimit të SELDI-t mbi Ekonominë Informale dhe burimeve të tjera, sektori informal zë mes një të katërtës dhe një të tretës së ekonomive të vendeve të Evropës Jug-Lindore.

Një faktor i rëndësishëm në përballjen e korrupsionit dhe ekonomisë informale është **mjedisi i përgjithshëm i biznesit**. Përderisa shumica e vendeve të Evropës Jug-Lindore performojnë përgjithësisht mirë përsa i përket treguesve nominalë, të tillë si madhësia e

Përqindja e llojeve të ndryshme të punësimit informal në vendet e Evropës Jug-Lindore



Burimi: *Vrojtimi i SELDI-t mbi Ekonominë Informale, 2016.*

normave të taksave ose lehtësia e regjistrimit të një biznesi, prania e gjerë e korrupsionit administrativ dhe evidenca e kapjes së shtetit lejojnë **rrjetet në detyrë të grupeve politike dhe të biznesit**, që të kontrollojnë në mënyrë efektive aksesin në hartimin e politikave dhe ligjeve të qeverisë, duke e bërë mjedisin e biznesit përjashtues dhe të paparashikueshëm. Një **hendek tatimor** i konsiderueshëm në vendet e Evropës Jug-Lindore gjithashtu pengon njëkohësisht zhvillimin ekonomik dhe mirëqeverisjen. Evazioni fiskal, i cili është bërë i mundur, ndër të tjera, nëpërmjet ryshfeteve dhe ineficencës në organet tatimore, tregon mungesën e besimit në qëndrueshmërinë ekonomike të vendit dhe dëmton cilësinë dhe madhësinë e shërbimeve publike. Sistemi i Monitorimit të Korrupsionit i SELDI-it në mënyrë të qëndrueshme ka treguar se tatimorët dhe doganierët janë renditur ndër profesionet me rrezikun më të lartë të përfshirjes në korrupsion për të gjithë vendet e Evropës Jug-Lindore.

Si rezultat, **punësimi informal mbetet shumë i pranishëm në vendet Evropës Jug-Lindore**, duke krijuar rreziqet e përjashtimit të pjesëve të konsiderueshme të fuqisë punëtore nga sundimi i ligjit dhe duke vendosur të punësuarit në mënyrë informale në një pozicion vulnerabël nga këndvështrimi i zyrtarëve që kërkojnë përfitime dhe ndaj interesave të paligjshme të biznesit. Mishërimi i konsiderueshme sociale i punësimit informal në vendet e Evropës Jug-Lindore, siç dëshmohet nga Vrojtimi i SELDI-t mbi Ekonominë Informale në vitin 2016, përjashton një numër të madh të fuqisë punëtore nga mbrojtja përmes rregullave qeveritare dhe zvogëlon mbështetjen për sundimin e ligjit. Kjo bën që të vazhdojë pafundësisht rrethi vicioz ekonomi informale – korrupsion.

Kapja e shtetit në sektorin e energjisë

Ky raport vijon rekomandimet politike të SELDI-t të vitit 2014 dhe jep një vështrim më të afërt në një prej sektorëve më kritike të rrezikuar nga korrupsionit – energjinë. Për shkak se qeveritë e e vendeve të Evropës Jug-Lindore zotërojnë, rregullojnë dhe/ose mbikëqyrin pothuajse të gjitha aspektet e sektorit të energjisë, çdo formë e keq-qeverisjes ndikon në të gjithë ekonominë dhe shoqërinë. Ndër deficitet më kritike të qeverisjes në energjitikë në vendet e Evropës Jug-Lindore, që ushqejnë korrupsionin janë **keqmenaxhimi i ndërmarrjeve energjetike shtetërore (NSH), parregullsitë në kontratat e prokurimit publik dhe përparimi i ngadalshëm në liberalizimin dhe de-monopolizimin e sektorit të energjisë.**

Në sektorin e energjisë në vendet e Evropës Jug-Lindore, renta monopol nuk mund të jetë e qëndrueshme për një periudhë të gjatë kohë pa përfshirjen korruptive të politikanëve, duke qenë se si ndërmarrjet kryesore ashtu edhe entet rregullatore janë ende të kontrolluara nga qeveritë. Prandaj, vendet e Evropës Jug-Lindore duhet të **liberalizojnë tregtinë dhe shërbimet energjetike** në mënyrë që të zvogëlojnë rrezikun e korrupsionit që rrjedh nga bashkëpunimi ndërmjet monopoleve shtetërore ose private dhe qeverisë. Megjithatë, adoptimi i Paketës së Tretë të Energjisë të BE-së në vendet e Evropës Jug-Lindore pasohet zakonisht nga një zbatim i dobët pasi kjo do të kërkonte një rishikim të të gjithë sistemit të energjisë, duke përfshirë rrjetet e përforcuara të kapjes së shtetit. Kjo krijon rrezikun e një rasti tjetër të reformave të sabotuara, të cilat qytetarët i shohin si **ndryshim fasadash** pa realizimin e përfitimeve të nënkuptuara të qeverisjes.

Drejt një axhende reformuese

Nxitja kryesore e përpjekjeve anti-korrupsion në rajon duhet të drejtohet në **përballjen e korrupsionit politik në nivele të larta dhe kapjen e shtetit.** Për më tepër, përpjekjet anti-korrupsion në rajon duhet të shtrihen në nivelin e organizimit publik, për të vijuar me cilësinë e zbatimit të një numri politikash dhe planesh anti-korrupsion të adoptuara zyrtarisht dhe për të përmbyllur boshllëqet në zbatim dhe efiçencë. Tri fusha kryesore duhet që të prioritizohen nga për qeveritë në rajon, nismat rajonale dhe institucionet evropiane, në mënyrë që të jenë në gjendje që të arrijnë përparim të paktën në afatmesëm:

- **Ndjekja efektive e politikanëve të nivelit të lartë dhe zyrtarëve të lartë civil të korruptuar** është mënyra e vetme për të përvjellë një mesazh të fortë dhe të menjëhershëm që korrupsioni nuk do të tolerohet. Formatet rajonale si Këshilli për Bashkëpunim Rajonal duhet të marrë një rol shumë më aktiv në promovimin e reformave të lidhura me performancën anti-korrupsion në bashkëpunim me shtetet anëtare të BE-së nga rajoni, drejtoritë e përgjithshme të Komisionit Evropian (KE), të specializuara në drejtësi dhe çështje të brendshme, dhe Delegacionet e BE-së në vendet përkatëse.
- **Komisioni Evropian duhet të zgjerojë angazhimin e tij të drejtpërdrejtë me organizatat e shoqërisë civile në rajon**. Që reformat e mbështetura ndërkombëtarisht të bëhen të qëndrueshme, ato kanë nevojë që të fitojnë pranim të gjerë publik

dhe Organizatat e Shoqërisë Civile (OSHC) janë të domosdoshme që kjo të ndodhë. Përfshirja e OSHC-ve është një mënyrë për të garantuar që llogaridhënia e qeverive te donatorët dhe organizatat ndërkombëtare nuk do të marrë përparësi ndaj llogaridhënies te strukturave të vendit.
- **Mekanizmat e pavarura të monitorimit të korrupsionit dhe anti-korrupsionit** duhet të jenë e qëndrueshme në nivel kombëtar dhe rajonal për të siguruar të dhëna dhe analiza të qëndrueshme dhe për të integruar njëkohësisht **diagnostifikimin e korrupsionit** dhe **vlerësimin e politikave anti-korrupsion**.

Qeveritë në rajon duhet gjithashtu të hartojnë **strategji gjithëpërfshirëse për përballjen e ekonomisë informale** paralelisht me strategjitë specifike antikorrupsion, të cilat duhet të jenë të lidhura me qëllimet përfundimtare të konvergjencës dinamike, gjithëpërfshirëse ekonomike me BE-në, përfshirë nëpërmjet:

- Ndjekja e performancës së organeve rregulluese dhe të përputhshmërisë në mjedisin e biznesit.
- Zbatimi i metodologjisë së EUROSTAT-it për përshtatjen e ekonomisë informale ndaj PBB-së.
- Kryerja e vlerësimeve të rregullta të hendekut tatimor dhe vijimin e reformave në fushat e hendekut tatimor.
- Ndërmarrja e politikave që lehtësojnë formalizimin e të gjithë zinxhirit të vlerës ekonomike.

Shpërndarja e zgjidhjeve efektive kundër korrupsionit dhe kapjes së shtetit në vendet e Evropës Jug-Lindore varet nga përfshirjen e përkushtuar, dinamike e organizatave të shoqërisë civile. Kjo përfshin **çuarjen më tej të integritetit dhe mirëqeverisjes së vetë OSHC-ve:** SELDI do të zhvillojë një Strategji të Shoqërisë Civile dhe një Program të Përbashkët për Mirëqeverisjen dhe Anti-Korrupsionin 2020, të cilët do të shërbejnë si udhëheqje për veprim për të gjithë komunitetin antikorrupsion në vendet e Evropës Jug-Lindore. OSHC-të në rajon duhet të drejtojnë përpjekjet e tyre njëkohësisht në veprime politike më të guximshme dhe në hartimin e mekanizmave efektive për të mbështetur dhe për të përfshirë lëvizjet e reja dhe që lindin nga baza.

BOSNIA AND HERZEGOVINA

IZVRŠNI SAŽETAK

Ovaj izvještaj, koji je izradila Mreža za razvoj liderstva i integriteta u jugoistočnoj Evropi (SELDI), najveća domaća inicijativa za dobro upravljanje u JI Evropi, važan je doprinos regionalnom pristupu za borbu protiv korupcije. Izvještaj daje pregled stanja korupcije iz perspektive civilnog društva, a dolazi odmah nakon sveobuhvatne procjene različitih aspekata pravnih i institucionalnih okvira za borbu protiv korupcije u devet zemalja JI Evrope koju je SELDI uradio 2014. godine. SELDI je 2016. godine ove procjene nadopunio **ažuriranim podacima prikupljenim kroz praćenje korupcije**, s posebnim fokusom na **zarobljavanje države u energetskom sektoru i vezama između korupcije i skrivene ekonomije**.

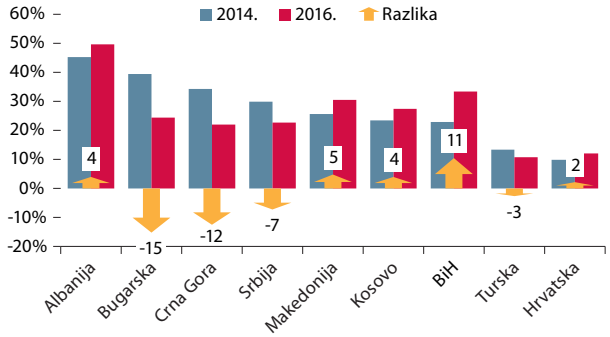
Izvještaj naglašava potrebu za širim političkim djelovanjem u cilju reforme, koje je, čini se, blokirano ili se sužava u cijeloj regiji. Unutarnji pritisak za takvim djelovanjem ugušile su ekonomske potrebe i/ili etničke podjele i rigidna konvencionalnost političkih i ekonomskih ustanova. Vanjski pritisak, koji uglavnom dolazi od Evropske unije, uglavnom se smatra nedovoljnim u odnosu na veličinu problema u proteklih nekoliko godina zbog niza unutarnjih i vanjskih kriza.

Rasprostranjenost i dinamika korupcije 2001. – 2016.

Ni u jednoj od zemalja u regiji nije došlo do jasnog i dugotrajnog napretka u politikama borbi protiv korupcije premda su se napori u smislu primjene tehničkih rješenja ili pokušaja unapređenja funkcioniranja institucija za provedbu zakona, uglavnom uz podršku EU, nastavili, a u nekim slučajevima čak i intenzivirali. To je dodatno usporilo smanjenje stepena korupcije u administraciji, što je rezultiralo slabljenjem podrške javnosti reformskim procesima i padom povjerenja u nacionalne i evropske institucije.

SELDI-jev *Sistem za praćenje korupcije (engl. Corruption Monitoring System* – CMS), analitički alat za mjerenje korupcije, identificirao je tri trenda u dinamici korupcije u regiji:

Promjene u pritisku korupcije po zemljama 2014. – 2016.*



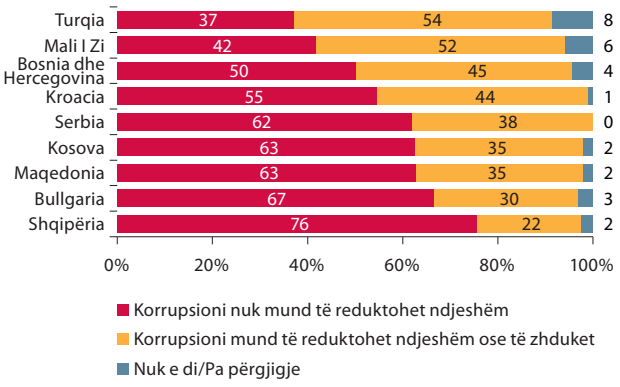
* *Udio građana koji su prijavili da su im javni službenici tražili mito.*

Izvor: *SELDI Sistem za praćenje korupcije.*

- Od početka 2000. godine, kada je SELDI počeo provoditi svoj monitoring, **ukupne razine korupcije** u zemljama JI Evrope **bile su u opadanju**, dok je **javnost sve više insistirala na dobrom upravljanju**.
- Ipak, **napredak je bio spor i nestalan**, a korupcija je ostala glavna preokupacija opće javnosti i česta pojava među državnim službenicima i visokim vladinim zvaničnicima. Naime, u periodu od 2014. do 2016. **pritisak korupcije** kao primarni kvantitativni indikator za razinu korupcije u zemlji u nekim je zemljama oslabio, ali je ukupni napredak u regiji bio zanemariv.
- Kombinacija vrtoglavo visokih stopa mita koje traže korumpirani službenici i sve većih očekivanja u pogledu dobrog upravljanja, vezanih uglavnom za nastojanja zemalja u JI Evropi da se pridruže EU, **oblikovala je negativna javna očekivanja u pogledu mogućeg pritiska korupcije**. Više od polovine stanovništva u zemljama SELDI-ja smatra da će vjerovatno morati dati mito službeniku kako bi završili neki posao. To ukazuje da će biti **mnogo teže obnoviti povjerenje u institucije** nego samo smanjiti stepen administrativne korupcije.

Kao rezultat toga, **povjerenje javnosti u izvodljivost mjera protiv korupcije**, koje je kritični saveznik za uspješne antikorupcijske reforme, a koji odražava udio populacije koji vjeruje u antikorupcijske napore svojih vlada, **ostalo je ispod praga od 50% u 2016**. godini u svim zemljama JI Evrope osim u Crnoj Gori i Turskoj. To dodatno ojačava nespremnost političara da se uključe u politike borbe protiv korupcije i pokazuje potrebu za širokim društvenim pokretom koji će održati fokus borbe protiv korupcije.

Javne procjene izvodljivost antikorupcijskih politika, 2016.



Izvor: *SELDI Sistem praćenja korupcije, 2016.*

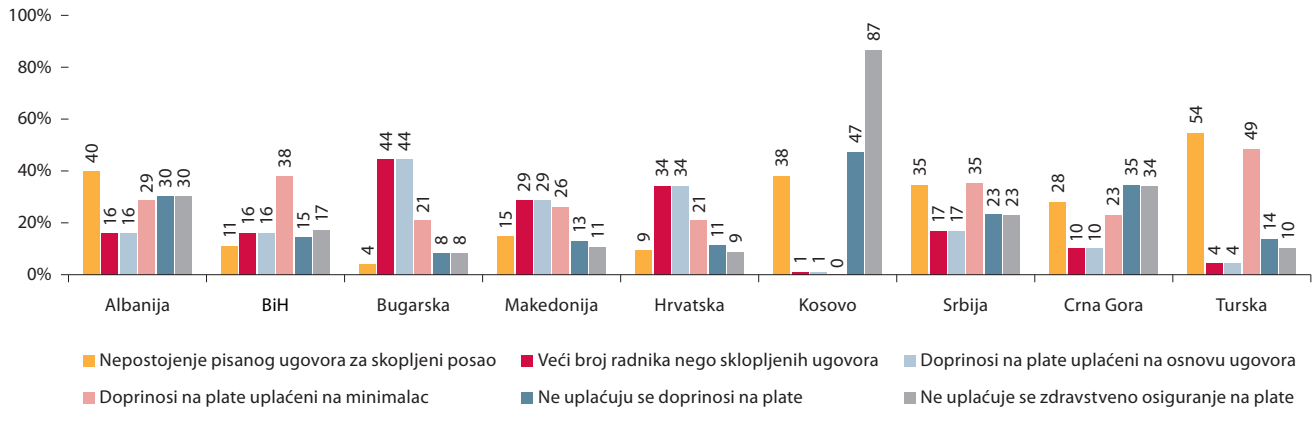
Opći zaključak monitoringa korupcije iz vala 2016. godine je da **politike usmjerene na koruptivna ponašanja na administrativnom nivou i one koje nastoje unaprijediti stepen povjerenja u vlasti treba provoditi paralelno**. Ukoliko ne bude dopunjeno snažnijim zahtjevom javnosti za integritetom vlasti i održivim poboljšanjem ekonomskog dobrostanja, strožije izvršenje kaznenih mjera neće imati imati održivi učinak. Na provedbu zakona će se vjerovatno gledati kao na beskorisnu represiju ako bude usmjerena samo na niže razine vlasti, a ako samo povremeno bude usmjerena na više razine vlasti onda će to biti percipirano kao politički lov na vještice. S druge strane, intenziviranje mjera podizanja svijesti samo će podgrijati cinizam i rezignaciju u javnosti, ukoliko ne bude popraćeno vidljivim naporima usmjerenim na 'rušenje' službenika (na visokim razinama) koji traže mito.

Stanje skrivene ekonomije u JI Evropi u 2016.

Budući da je malo vjerovatno da same politike borbe protiv korupcije mogu dobiti širu podršku društva, osim u slučaju kada su ugrađene u ekonomske reforme i povećanje prosperiteta, **rasprava o borbi protiv korupcije,** koja se svodi na provedbu zakona, mora se proširiti na raspravu o **većim ekonomskim pitanjima** kao što je rješavanje pitanja veza između korupcije i skrivene ekonomije. Prema SELDI-jevoj anketi o skrivenoj ekonomiji i nekim drugim izvorima, skriveni sektor čini između jedne četvrtine i jedne trećine ekonomija JI Evrope.

Cjelokupno poslovno okruženje predstavlja kritični faktor u rješavanju korupcije i skrivene ekonomije. Dok većina zemalja JI Evrope dobro stoji u pogledu nominalnih indikatora kao što su visina poreznih stopa ili lakoća registriranja poslovanja, široko rasprostranjena korupcija u administraciji i zarobljenosti države omogućavaju **sadašnjim političkim i poslovnim mrežama** da djelotvorno kontroliraju donošenje zakona i politika, stvarajući time poslovno okruženje koje je isključivo i nepredvidljivo. Značajan **porezni jaz** u JI Evropi otežava ne samo ekonomski razvoj već i dobro upravljanje. Utaja poreza, koja je omogućena, između ostalog, mitom i neefikasnošću poreznih službenika ukazuje na nedostatak povjerenja u ekonomsku održivost zemlje i podriva kvalitet i obim javnih usluga.

Udio različitih vrsta skrivenog zapošljavanja u JI Evropi



Izvor: *Anketa o skrivenoj ekonomiji, SELDI, 2016.*

SELDI-ijev sistem za praćenje korupcije konzistentno pokazuje da su u svim zemljama JI Evrope porezni i carinski službenici rangirani među najkorumpiranijim zanimanjima.

Kao rezultat toga, **skriveno zapošljavanje i dalje je izuzetno prisutno u JI Evropi**, što stvara rizik od isključenja značajnog udjela radne snage iz vladavine prava i stavlja neformalno zaposlena lica u nepovoljan položaj u odnosu na službenike koji traže mito i stiču nezakonitu korist. Značajna društvena uvriježenost skrivenog zapošljavanja u JI Evropi, o čemu svjedoči SELDI-jeva anketa o skrivenoj ekonomiji iz 2016., lišava veliki dio radne snage zaštite koja je osigurana kroz propise i umanjuje podršku vladavini prava. Time se skrivena ekonomija ovjekovječuje, odnosno održava začarani krug korupcije.

Zarobljavanje države u energetskom sektoru

Ovaj izvještaj se nadovezuje na preporuke SELDI-ja iz 2014. i pobliže razmatra jedan od kritičnih sektora s aspekta rizika od korupcije – energetski sektor. Budući da vlade zemalja JI Evrope posjeduju, reguliraju i/ili nadziru doslovno sve aspekte energetskog sektora, svaki oblik lošeg upravljanja odražava se na privredu i društvo. Najkritičniji nedostaci na polju energetskog upravljanja su **loše upravljanje državnim energetskim preduzećima, nepravilnosti i korupcijski rizici u ugovorima o javnim nabavkama i spor proces liberalizacije i integracije u regionalna energetska tržišta**.

Kupovina monopolističke pozicije u energetskom sektoru u JI Evropi ne može se dugoročno održati bez koruptivnog djelovanja političara jer su ključna preduzeća i regulatori još uvijek pod kontrolom vlada. Dakle, zemlje JI Evrope trebaju liberalizirati energetsku trgovinu i usluge kako bi smanjile rizik od korupcije koji proizilazi iz tajnih sporazuma između državnih ili privatnih monopola i vlade. Međutim, usvajanje Trećeg energetskog paketa EU u JI Evropi obično prati slaba provedba budući da to zahtijeva detaljno revidiranje cijelog energetskog sistema, uključujući i utvrđene mreže zarobljene države. To stvara rizik od još jednog slučaja sabotiranih reformi, kojeg građani vide kao **kozmetičku promjenu** bez ostvarivanja osnovnih koristi od dobrog upravljanja.

U susret reformskoj agendi

Glavni pritisak antikorupcijskih napora u regiji treba usmjeriti na **borbu protiv korupcije na viskoj političkoj razini i protiv zarobljavanja države**. Pored toga, u fokusu antikorupcijskih napora u regiji trebaju biti javne organizacije, preko kojih bi se ostvarila kvalitetna provedba brojnih formalno usvojenih antikorupcijskih politika i planova i riješili nedostaci u pogledu provedbe i efikasnosti. Vlade u regiji, regionalne inicijative i evropske institucije trebaju identificirati prioritete u tri ključna područja kako bi bile u stanju napraviti napredak barem u srednjoročnom periodu:

- **Učinkovito procesuiranje visokopozicioniranih političara i rukovodećih državnih službenika za koruptivne radnje** jedini je način da se pošalje snažna i direktna poruka da se korupcija neće tolerirati. Regionalne organizacije kao što je Vijeće za regionalnu saradnju trebaju uzeti aktivno učešće u promoviranju antikorupcijskih reformi zasnovanih na rezultatima u saradnji sa državama članicama EU iz regije, direkcijama Evropske komisije za pitanja pravde i unutrašnjih poslova te delegacijama Evropske unije na terenu.
- **Evropska komisija treba proširiti svoj direktni angažman sa organizacijama civilnog društva u regiji.** Da bi međunarodno podržane reforme bile održive, one moraju biti prihvaćene od šire javnosti, a organizacije civilnog društva su u tom smislu nezaobilazne. Uključivanje organizacija civilnog društva garantira da odgovornost vlasti prema donatorima i međunarodnim organizacijama neće imati prvenstvo pred odgovornošću prema biračima.
- Na nacionalnom i regionalnom nivou **treba osigurati održivost nezavisnih mehanizama za praćenje korupcije i borbu protiv korupcije** kako bi se osigurali opsežniji podaci i analize te **integrirali dijagnostika korupcije i procjena antikorupcijskih politika**.

Također, vlade u regiji trebaju osmisliti sveobuhvatne **strategije za borbu protiv skrivene ekonomije** paralelno sa strategijama posvećenim borbi protiv korupcije, a koje treba povezati s krajnjim ciljevima inkluzivnog, dinamičkog i ekonomskog približavanja Evropskoj uniji, između ostalog i kroz:

- praćenje učinka regulatornih tijela i tijela za usklađivanje u poslovnom okruženju.
- provedbu metodologije Eurostata za prilagođavanje neopažene (sive) ekonomije u odnosu na BDP.

- provedbu redovnih procjena poreznog jaza i sekvenciranje reformi u oblastima poreznog jaza.
- uvođenje politika koje olakšavaju formalizaciju cijelih ekonomskih vrijednosnih lanaca.

Provedba učinkovitih antikorupcijskih rješenja, odnosno rješenja za oslobađnje države od zarobljenosti u JI Evropi ovisi o učešću posvećenih, dinamičnih organizacija civilnog društva. To podrazumijeva **unapređenje integriteta i dobrog upravljanja samih organizacija civilnog društva**: SELDI će izraditi strategiju civilnog društva i zajednički strateški program za dobro upravljanje i borbu protiv korupcije za period do 2020., koji će poslužiti kao smjernice za djelovanje cijele antikorupcijske zajednice u JI Evropi. Organizacije civilnog društva u regiji svoje bi napore trebale usmjeriti na odvažnije političko djelovanje i osmišljavanje učinkovitih mehanizama podrške i uključivanja novih pokreta na baznm nivou, a naročito onih koji su tek u nastajanju.

БЪЛГАРИЯ

РЕЗЮМЕ

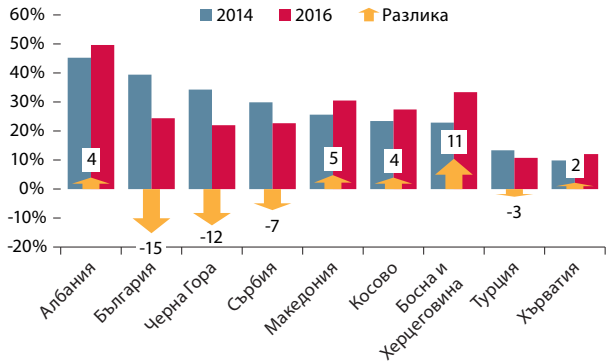
Настоящият доклад, изготвен от Инициативата за развитие и почтеност в Югоизточна Европа (SELDI) – най-голямата регионална мрежа от неправителствени организации за добро управление в Югоизточна Европа (ЮИЕ) – представлява важен принос в регионалния подход в борбата с корупцията. Той съдържа мнението на гражданското общество за състоянието на корупцията в региона и е продължение на подробната оценка на SELDI от 2014 г. на правните и институционални аспекти на антикорупционната политика в девет държави от ЮИЕ. През 2016 г. SELDI продължи тези оценки като **осъвремени данните от мониторинга върху корупцията** и добави специален фокус върху **завладяването на държавата в енергийния сектор** и **връзките между скритата икономика и корупцията**.

Докладът подчертава необходимостта от по-широки политически действия за възобновяване на антикорупционните реформи в региона, които изглеждат блокирани или силно ограничени. Вътрешният натиск за такива реформи отслабна в резултат на икономическите трудности и/или етническо разделение и склерозирането на политическите и икономическите институции. Външният натиск, упражняван главно от Европейския съюз, се оказа недостатъчен спрямо размера на проблемите през последните две години поради поредицата от вътрешни и външни кризи в съюза.

Разпространение и динамика на корупцията в ЮИЕ в периода 2001 – 2016

В никоя от държавите в региона не е постигнат ясен и стабилен политически пробив в противодействието на корупцията, въпреки че усилията за осигуряване на технически решения и подобряване на дейността на правоохранителните органи, основно с помощта на ЕС, продължават и дори в някои случаи се увеличават. Това води до постепенно намаляване на административната корупция, но на фона на обществените очаквания за промяна то е толкова бавно, че е съпроводено от спад в обществената подкрепа за реформите и на доверието в националните и европейските институции.

Изменения на корупционния натиск по държави през 2014 – 2016*



* *Дял на гражданите, които съобщават, че им е искан подкуп от държавни служители.*

Източник: *Система за мониторинг на корупцията на SELDI.*

Системата за мониторинг на корупцията (СМК) на SELDI – аналитичен инструмент за измерване на корупцията – идентифицира три тенденции в динамиката на корупцията в региона през разглеждания период:

- От началото на 2000 г., когато SELDI започва мониторинга си, **общото ниво на корупцията** в ЮИЕ **е намаляло и обществото в по-голяма степен изисква по-добро управление.**
- Въпреки това, **напредъкът е бавен и несигурен**, а корупцията си остава основен проблем за обществото и обичайно явление в административното обслужване на гражданите и във висшето управление. Конкретно, в периода 2014 – 2016 г. **корупционният натиск** – основният количествен показател за нивото на корупцията – е намалял в някои държави, но общото подобрение в региона е пренебрежимо.

Съчетанието от силен корупционен натиск от страна на корумпирани служители и нарастващите очаквания за добро управление, свързани главно с желанието в ЮИЕ за присъединяване към ЕС, **са оформили негативни обществени очаквания за бъдещето и за вероятността от продължаващ корупционен натиск**. Над половината граждани на държавите в SELDI вярват, че най-вероятно ще им се наложи да дадат подкуп на служител, за да им бъде свършена работата. Това сочи, че **възстановяване-**

то на доверието в институциите ще бъде много по-трудно от простото намаляване на нивото на административната корупция в региона.

В резултат, **обществено доверие в реалистичността на политическите мерки срещу корупцията**, което е основен фактор за успеха на антикорупционните реформи и представлява онази част от населението, която вярва в антикорупционните усилия на своето правителство, **остава под прага от 50% през 2016 г.** във всички държави от ЮИЕ, с изключение на Черна Гора и Турция. Това подхранва нежеланието на политиците да се ангажират с антикорупционни политики и показва необходимостта от по-широка обществена платформа за противодействие на корупцията.

Оценки на гражданите за реалистичността на антикорупционната политика, 2016 г.

Източник: *Система за мониторинг на корупцията на SELDI, 2016 г.*

Общото заключение от СМК на SELDI за 2016 г. е, че **политиките срещу корупционното поведение на административно ниво и тези за подобряване на доверието към управлението трябва да бъдат провеждани заедно.** Ако не е подкрепено от засилена обществена взискателност за добро управление и устойчив ръст на икономиката, прилагането на по-строги наказателни мерки няма да постигне стабилен ефект. Без по-широки антикорупционни мерки в икономиката, на правораздавателната система ще се гледа като на безполезна репресия при действия срещу ниските управленски нива или като политически лов на вещици, когато от време на време е насочена срещу висшите етажи. И обратното, засилването на мерките за изграждане на съзнание по въпроса само ще подклажда цинизма и безразличието в обществото, ако не е придружено от видими усилия за противодействие на незаконното облагодетелстване на държавните служители.

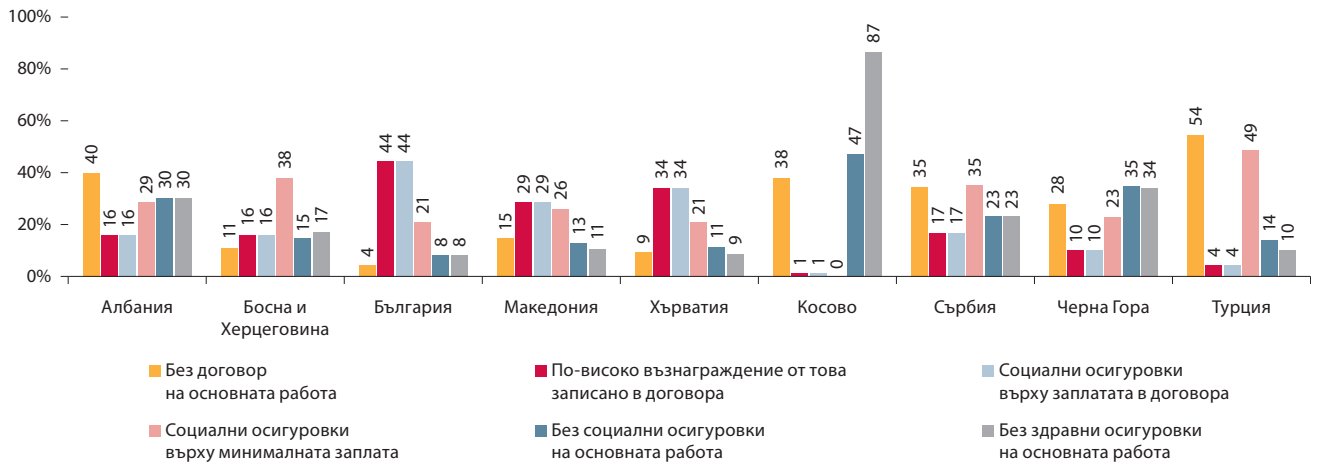
Състоянието на скритата икономика в ЮИЕ през 2016 г.

Предвид това, че антикорупционните политики сами по себе си едва ли ще предизвикат широка обществена подкрепа, ако не са вградени в по-широка икономическа реформа и повишаване на благосъстоянието, е необходимо разширяване на **антикорупционния дебат** от репресивните мерки към **по-широки икономически съображения**, например връзката между корупцията и скритата икономика. Проучването на SELDI за скритата икономика и други източници показват, че тя заема около една четвърт до една трета от икономиките на ЮИЕ.

Съществен фактор за справянето с корупцията и сивата икономика е качеството на **бизнес средата**. Докато повечето държави в ЮИЕ се справят добре по отношение на номиналните показатели, каквито са размерът на данъчните ставки или лесното регистриране на фирми, широко разпространената административна корупция и множеството примери за завладяването на държавата позволяват на **политически и икономически мрежи** да упражняват ефективен контрол върху достъпа до законодателството и политиките в различни области, което прави бизнес средата ограничаваща и непредвидима. Съществената **данъчна дупка** в ЮИЕ – разликата между потенциалните и реално събраните приходи – също спъва икономическото развитие и доброто управление. Укриването на данъци, което е резултат от редица фактори, включително корумпираността и неефективността на данъчните администрации в региона, означава липса на доверие в жизнеността на икономиката и подкопава качеството и обема на държавното обслужване. СМК на SELDI показва, че във всички държави от ЮИЕ данъчните и митническите служители са сред най-рисковите професии по отношение на корупционен натиск.

В резултат, **скритата заетост остава с висок дял в ЮИЕ**, което създава риск от изключване на голяма част от работната сила от защитата на закона и поставяне на неофициално заетите в уязвимо положение по отношение на искащите подкупи служители и сенчестия бизнес. Значителната обществена вкорененост на скритата заетост в ЮИЕ, по данни на Проучването на скритата икономика на SELDI 2016 г., изключва огромни части от работната сила

Дялове на различните видове скрита заетост в ЮИЕ



Източник: *Проучване на скритата икономика на СЕЛДИ, 2016.*

от защитата на държавното законодателство и намалява подкрепата за върховенството на закона. Това допълнително стимулира порочния кръг сива икономика – корупция.

Завладяване на държавата в енергийния сектор

Този доклад изпълнява препоръките на SELDI от 2014 г. и разглежда рисковете от корупция в един от критичните сектори на икономиката в региона – енергетиката. Тъй като правителствата в ЮИЕ притежават, регулират и/или контролират на практика всички аспекти на енергийния сектор, всяка проява на лошо управление в него дава отражение върху цялата икономика и обществото. Сред основните недостатъци в управлението на енергетиката в ЮИЕ, които увеличават риска от корупция в сектора са **лошите управленски практики в държавните енергийни предприятия**, **нередностите в договорите за обществени поръчки и бавният напредък в либерализацията и демонополизирането на сектора**.

В енергийния сектор на ЮИЕ, ползите от монополно положение не могат да бъдат осигурявани в дългосрочен план без корумпираното съ-участие на политици, тъй като ключовите предприятия и регулаторите остават под контрола на правителствата. Поради това, държавите от ЮИЕ трябва да **либерализират енергийната си търговия и услуги,** за да намалят риска от корупция, произтичаща от задкулисни договорки между държавни или частни монополи и правителството. Приемането на стандартите на Третия енергиен пакет на ЕС в ЮИЕ обикновено е последвано от тяхното неефективно прилагане, защото това би изисквало цялостно преосмисляне на енергийната система, включително прекратяването или разбъркването на схемите за завладяване на държавата. Това създава допълнителен риск от саботиране на реформите, на които гражданите започват да гледат като на **фасадни промени,** които не носят очакваните ползи от добро управление.

Дневен ред за реформи

Главните усилия срещу корупцията в региона трябва да бъдат насочени към **справянето с политическата корупция по високите етажи на властта и завладяването на държавата.** Те трябва да се съсредоточат на ниво държавна институция, да проследяват качеството в изпълнението на антикорупционните политики и планове и да преодоляват неефективността в прилагането им. Три ключови области трябва да станат приоритет на правителствата в региона, на регионалните инициативи и на европейските институции с цел постигане на антикорупционен пробив в средносрочен план:

- **Ефективното наказателно преследване на корумпирани политици и високопоставени държавни служители** е единственият начин да се изпрати ясно послание, че корупцията няма да бъде толерирана. Регионални формати като Съ-

вета за регионално сътрудничество трябва да поемат много по-активна роля в застъпничеството за реформи срещу корупцията в сътрудничество с държавите от ЕС в региона, Генералните дирекции на ЕК по правосъдието и вътрешните работи, както и делегациите на ЕС в държавите от Западните Балкани и Турция.

- **Европейската комисия трябва да разшири сътрудничеството си с гражданските организации в региона**. За да станат устойчиви и международно подкрепени антикорупционните реформи трябва да спечелят широка обществена подкрепа и организациите на гражданското общество са условие това да се случи. Участието на тези организации е начин да се гарантира, че отчетността на правителствата към донорите и международните организации няма да измести отговорността им пред собствените граждани.
- **Независимите механизми за мониторинг на корупцията и антикорупционните реформи** трябва да се прилагат на национално и регионално ниво, за да се осигурят обективни данни, анализ и интегриране на **корупционната диагностика и оценката на антикорупционната политика**.

Правителствата в региона трябва да разработят изчерпателни **стратегии за справяне със скритата икономика** заедно с тези, насочени срещу корупцията, които трябва да имат една обща цел за динамично сближаване с нивата на развитие в ЕС, включително:

- Проследяване на работата на контролните и регулаторни органи с ефект върху бизнес средата.
- Прилагане на методиката на Евростат за ненаблюдаваните икономически корекции в БВП.
- Извършване на периодични оценки на данъчните дупки и съгласуване на последователността на реформите, целящи преодоляването им.
- Въвеждане на политики за официализиране на цели вериги на добавена стойност.

Прилагането на ефективни решения срещу корупцията и завладяването на държавата в ЮИЕ зависи от участието на динамични граждански организации от региона и Европа. Това от своя страна изисква **подобряване на интегритета на организациите на гражданското общество.** SELDI ще разработи Стратегия и обща програма за добро управление и противодействие на корупцията 2020, която да бъде ръководство за действие на цялата антикорупционна общност в ЮИЕ. Организациите на гражданското общество в региона трябва да насочат усилията си към по-смели обществено-политически действия и към изработване на ефективни механизми за подкрепа и включване на новосъздаващи се обществени антикорупционни инициативи.

MACEDONIA

ИЗВРШНО РЕЗИМЕ

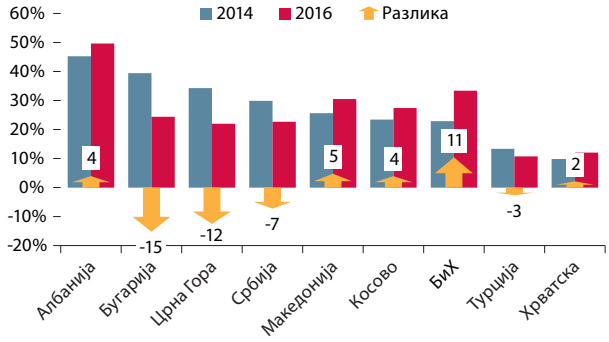
Овој извештај, подготвен од Лидерството за развој и интегритет на Југоисточна Европа (СЕЛДИ), најголемата домашна иницијатива за добро владеење во Југоисточна Европа (ЈИЕ), дава значителен придонес во регионалниот пристап кон антикорупцијата. Тој ги презентира гледиштата на граѓанското општество во однос на состојбата со корупцијата и излегува во-очи сеопфатната проценка на СЕЛДИ за различните аспекти на правната и институционална средина за антикорупција кај девет земји од ЈИЕ од 2014 година. Во 2016 година, СЕЛДИ се надоврза на овие проценки со **ажурирање на следењето на корупцијата** и посебен фокус на **заробената држава во енергетскиот сектор** и **врските на економијата со скриената корупција.**

Извештајот ја нагласува потребата за поширока политичка акција за реформи, кои во целиот регион се чинат блокирани или ограничени. Внатрешниот притисок за вакви акции е задушен со економската неопходност и/или етничките поделби, како и со окостувањето на политичките и економските институции. Надворешниот притисок, најмногу од страна на Европската унија, се гледа како недоволен во однос на големината на проблемите во последните неколку години заради последователните внатрешни и надворешни кризи.

Брзина и динамика на корупцијата 2001 – 2016

Во ниедна од земјите во регионот нема јасно придвижување во антикорупцијата кое би било поддржано со политики на работа, иако продолжија, а во одредени случаи и се интензивираа, напорите за изнаоѓање технички решенија и подобрување на функционирањето на институциите за спроведување на законите, најмногу со помош на ЕУ. Ова доведе до понатамошно споро намалување на нивоата на административна корупција, но за сметка на намалување на јавната поддршка за реформите и намалена доверба во националните и европските институции.

Промени во притисокот на корупцијата по земја 2014 – 2016*



* *Удел на граѓаните кои известуваат дека се соочиле со барања за мито од страна на државни службеници.*

Извор: *Систем на СЕЛДИ за следење на корупцијата.*

Системот за следење на корупцијата (ЦМС) на СЕЛДИ, неговата аналитичка алатка за мерење на корупцијата, идентификува три тренда во динамиката на корупцијата во регионот:

- Од раните 2000-ти, кога СЕЛДИ започна со следењето, **генералните нивоа на корупцијата** во земјите на ЈИЕ **се намалени,** а **јавноста почна погласно да бара добро владеење.**
- Сепак, **напредокот е спор и непостојан**, а корупцијата продолжува да биде главна преокупација за генералната јавност и честа појава во јавната служба и на повисоките позиции. Конкретно, во периодот од 2014 – 2016 **притисокот на корупцијата**, примарниот квантитативен индикатор за нивоата на корупција во една земја, во некои земји се намали, но севкупното подобрување во регионот беше занемарливо.
- Комбинацијата на постојани високи стапки на корупција од страна на корумпирани службеници и поголеми очекувања за добро владеење, пред сè поврзани со аспирациите за приклучување кон ЕУ кај ЈИЕ **негативно влијаеше на очекувањата на јавноста за потенцијалниот притисок на корупцијата.** Повеќе од половина од населението на земјите на СЕЛДИ најверојатно ќе мора да понуди поткуп на некој службеник за да заврши некоја работа. Ова покажува дека **враќањето на довербата во институциите ќе биде многу потешко** од едноставно намалување на нивоата на административната корупција.

Како резултат, **јавната доверба во соодветноста на одговорот на корупцијата преку политиките за работа,** клучен сојузник во успешните ан-

тикорупциски реформи, кој го покажува уделот на населението кое верува во антикорупциските напори на своите влади **остана под прагот од 50% во 2016 година** за сите земји на ЈИЕ, освен за Црна Гора и Турција. Ова уште повеќе ја зголемува неволноста на политичарите да се вклучат во антикорупциските политики и ја покажува потребата за широко општествено движење за да се одржи фокусот на антикорупцијата.

Јавни проценки на соодветноста на антикорупциските политики, 2016

Извор: *Систем на СЕЛДИ за следење на корупцијата, 2016 година.*

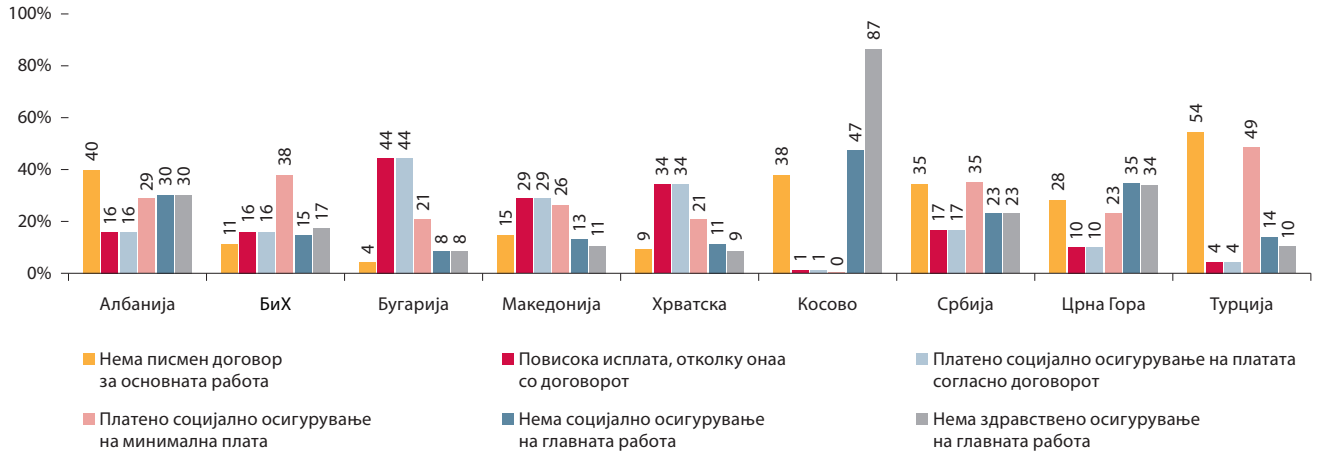
Генералниот заклучок од ЦМС на СЕЛДИ од 2016 година е дека **политиките кои се однесуваат на коруптивно однесување на административно ниво и оние кои се стремат да ја сменат доверба во владата треба да се спроведуваат заедно.** Ако не се дополнети со зголемен јавен притисок за интегритет на владата и одржливо подобрување на економската добробит, построгото спроведување на казнени мерки не може да има одржлив ефект. Спроведувањето на законите ќе се гледа или како бескорисна репресија која се однесува само на пониските нивоа на власта или како политички лов на вештерки кога повремено се однесува на повисоки нивоа. Од друга страна, интензивните мерки за зголемување на свеста само ќе поттикнат цинизам и резигнација кај јавноста ако не се придружени со видливи напори за казнување на (високо) рангираните службеници кои бараат поткуп.

Состојба на скриената економија во ЈИЕ во 2016 година

Со оглед на фактот дека веројатно антикорупциските политики сами по себе нема да наидат на широка поддршка доколку не се дел од економските реформи и зголемување на просперитетот, потребно е **проширување на антикорупциската дебата** од просто спроведување на законите **кон повеќе економски базирана логика,** како справување со врската меѓу корупцијата и скриената економија. Според Истражувањето на СЕЛДИ за скриената економија и други извори, скриениот сектор зафаќа меѓу една четвртина и една третина од економиите на ЈИЕ.

Клучен фактор во справувањето со корупцијата и скриената економија е **севкупната деловна сре-**

Удел на различните видови скриено вработување во ЈИЕ



Извор: *Истражување на СЕЛДИ за скриената економија, 2016 година.*

дина. Додека повеќето земји од ЈИЕ добро стојат во однос на номинални индикатори, како големината на даночните стапки или леснотијата при регистрирањето на фирма, доказите за широко распространетата административна корупција и заробената држава овозможуваат **испреплетени мрежи на носители на политички и деловни функции** ефективно да го контролираат пристапот кон подготовката на владини закони и политики, кои деловната средина ја прават исклучувачка и непредвидлива. Значителниот **даночен јаз** во ЈИЕ исто така го спречува економскиот развој и доброто владеење. Даночната евазија која, меѓу другото, ја овозможува митото и неефикасноста на даночните органи, покажува недоволна доверба во економската одржливост на земјата и го поткопува квалитетот и големината на јавната служба. ЦМС на СЕЛДИ постојано покажува дека за сите земји на СЕИ даночните и царинските службеници се рангирани меѓу професиите кои имаат највисок ризик од вмешаност во корупција.

Како резултат, **скриеното вработување останува многу присутно во ЈИЕ,** создавајќи ризици од исклучување на големи делови од работната сила од владеењето на правото и ставајќи ги оние неформално вработените во ранлива позиција во однос на службениците кои бараат поткуп и нелеганите деловни интереси. Значителната општествена присутност на скриеното вработување во ЈИЕ, како што е наведено во Истражувањето на СЕЛДИ за скриената економија од 2016 година, исклучува големи делови од работната сила од заштита со владина регулација и ја намалува поддршката за владеењето на правото. Ова ја продолжува скриената економија – затворениот круг на корупцијата.

Заробена држава во енергетскиот сектор

Овој извештај следи по препораките на СЕЛДИ од 2014 година и навлегува подлабоко во еден од клучните сектори со ризик од корупција – енергетскиот. Бидејќи владите во ЈИЕ го поседуваат енергетскиот сектор и ги регулираат и/или ги контролираат скоро сите негови аспекти, секој вид лошо владеење таму се рефлектира на целата економија и општество. Меѓу најкритичните недостатоци во владеењето со енергијата во ЈИЕ, кој доведува до корупција е **несоодветното управување со енергетските претпријатија во државна сопственост, нерегуларностите во договорите за јавни набавки** и **спориот процес на либерализација и демонополизација на енергетскиот сектор.**

Монополскиот статус во енергетскиот сектор на ЈИЕ не може да се одржи подолг период без коруптивна вклученост на политичари, и како клучни претпријатија и како регулатори кои сè уште се под контрола на владата. Затоа, земјите на ЈИЕ треба да **ја либерализираат трговијата и услугите поврзани со енергијата** за да се намали ризикот од корупција кој произлегува од дослухот меѓу државните или приватните монополи и владата. Меѓутоа, усвојувањето на Третиот енергетски пакет на ЕУ во ЈИЕ обично го следи спроведување на закони бидејќи ова би наметнало и реструктурирање на целокупниот енергетски систем, вклучително и на вкоренетите мрежи на заробената држава. Ова создава ризик од уште еден случај на саботирани реформи, кои граѓаните ги гледаат само како **козметички промени** без реализација на добробитта за владеењето која е нивен составен дел.

Кон реформска агенда

Главниот притисок на антикорупциските напори во регионот треба да биде насочен кон **политичката корупција на високо ниво и заробената држава.** Освен ова, антикорупциските напори во регионот треба да се фокусираат на ниво на јавна организација, да се надоврзат на квалитетот на спроведувањео на бројните формално усвоени антикорупциски политики и планови и да ги затворат јазовите во спроведувањето и ефикасноста. Три клучни области треба да бидат приоритет на владите во регионот, на регионалните иницијативи и на европските институции за да можат да постигнат напредок, барем на среден рок:

- **Ефективното гонење на корумпираните високо позиционирани политичари и високи државни службеници** е единствениот начин да се испрати силна и итна порака дека корупцијата нема да се толерира. Регионалните формати како Регионалниот совет за соработка треба да имаат многу поактивна улога во промовирањето на антикорупциски реформи базирани на учинок во соработка со земјите-членки на ЕУ во регионот, генералните директорати на ЕК специјализирани за правда и внатрешни работи, и делегациите на ЕУ на терен.
- **Европската комисија треба да го објасни своето директно работење со граѓанските орга-**

низации во регионот. За меѓународно поддржаните реформи да станат одржливи, треба да бидат пошироко прифатени, а ГО се незаменливи за ова да се случи. Вклученоста на ГО е гаранција дека отчетноста на владите кон донаторите и меѓународните организации нема да биде поважна од отчетноста кон локалните коституенци.

- **Независните механизми за следење на корупцијата и антикорупцијата** треба да се одржуваат и на национално и на регионално ниво за да дадат обемни податоци и анализа и да ги интегрираат и **дијагностиката на корупцијата** и **проценката на антикорупциските политики.**

Владите во регионот треба да подготват и сеопфатни **стратегии за справување со скриената економија** паралелно со оние посветени на антикорупцијата, кои треба да се поврзат со крајните цели на инклузивното, динамично економско вклучување во ЕУ, како преку:

- Следење на влијанието на регулаторните тела и телата кои издаваат дозволи врз деловната средина.
- Спроведување на методологијата на Еуростат за прилагодувања на БДП кон неопфатената економија.
- Спроведување на редовни проценки на даночниот јаз и последователно спроведување на реформите на областите со даночен јаз.
- Воведување политики кои го олеснуваат формализирањето на цели синџири на економски вредности.

Спроведувањето на ефективни антикорупциски решенија и решенија за заробената држава во ЈИЕ зависи од посветени, динамични граѓански организации. Ова вклучува **унапредување на интегритетот и доброто владеење и на самите ГО:** СЕЛДИ ќе подготви Стратегија за граѓанското општество и Заедничка стратешка програма за добро владеење и антикорупција за 2020 година, која ќе служи како насока за акција за целата антикорупциска заедница на ЈИЕ. ГО во регионот треба да ги насочат своите напори и кон посмела политичка акција и кон подготовка на ефективни механизми за поддршка и за вклучување на нови и растечки внатрешни движења.

MONTENEGRO

IZVRŠNI PREGLED

Ovaj izvještaj, koji je pripremila mreža Liderstvo za razvoj i integritet Jugoistočne Evrope (SELDI) – najveća autohtona inicijativa u oblasti dobrog upravljanja u Jugoistočnoj Evropi – predstavlja značajan doprinos regionalnom pristupu u borbi protiv korupcije. Izvještaj pruža civilnom društvu uvid u stanje korupcije i proizilazi iz sveobuhvatne procjene SELDI mreže različitih aspekata zakonskih i institucionalnih sredina u pogledu antikorupcije u devet zemalja Jugoistočne Evrope za 2014. godinu. U 2016. godini, SELDI mreža je nastavila sa ovim procjenama **ažuriranjem monitoringa korupcije** i fokusirajući se posebno na **zarobljenost države u energetskom sektoru** i **vezu korupcije i sive (skrivene) ekonomije**.

U izvještaju se naglašava potreba za širim političkim djelovanjem ka reformama, koje je čini se blokirano ili ograničeno u cjelokupnom regionu. Unutrašnji pritisak za takvim djelovanjem ugušen je ekonomskim nužnostima i/ili etničkim podjelama, kao i okoštavanjem političkih i ekonomskih struktura. Spoljni pritisak, koji uglavnom vrši Evropska unija, smatra se nedovoljnim u odnosu na veličinu problema tokom posljednjih nekoliko godina zbog niza unutrašnjih i spoljnih kriza.

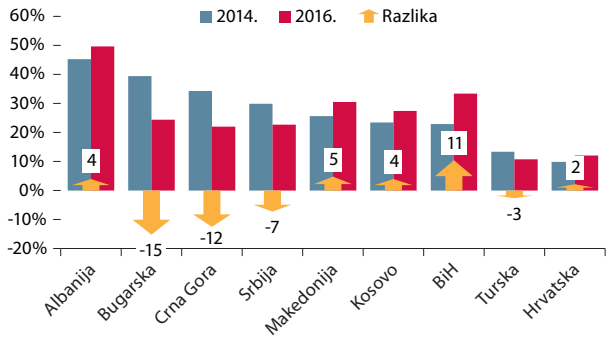
Rasprostranjenost i dinamika korupcije u periodu od 2001 – 2016. godine

Ni u jednoj od zemalja u regionu nije došlo do jasnog dugotrajnog napretka antikoruptivne politike iako su se napori da se obezbijede tehnička rješenja i unaprijedi funkcionisanje institucija za sprovođenje zakona, uglavnom uz podršku EU, nastavili, pa čak i intenzivirali u nekim slučajevima. To je dovelo do dodatnog blagog pada u nivou administrativne korupcije, ali po cijenu sve manje podrške javnosti za reforme i pada povjerenja u nacionalne i evropske institucije.

SELDI *Sistem monitoringa korupcije* (CMS) – analitički alat za mjerenje korupcije – je identifikovao tri trenda u dinamici korupcije u regionu:

- Od početka 2000-ih, kada je SELDI započeo s monitoringom **ukupni nivoi korupcije** u zemljama Jugoistočne Evrope **su u padu**, a **javnost je postala zahtjevnija u pogledu dobrog upravljanja**.
- Ipak, **napredak je bio spor i nestalan**, a korupcija i dalje predstavlja i glavnu preokupaciju za širu javnost i čestu pojavu u državnoj službi i vladi. Naime, u periodu od 2014 – 2016. godine **koruptivni pritisak** – primarni kvantitativni indikator nivoa korupcije u zemlji – se u nekim zemljama vratio na staro, ali ukupni napredak u regionu je bio zanemariv.
- Kombinacija uporno visoke stope „rentijerstva" korumpiranih službenika i sve veća očekivanja u pogledu dobrog upravljanja najvećim dijelom u vezi sa težnjama u Jugoistočnoj Evropi da se pristupi EU **negativno je oblikovala očekivanja javnosti o mogućem koruptivnom pritisku**. Više od polovine stanovništva zemalja članica SELDI mreže vjeruje da najvjerovatnije moraju da daju mito službeniku da bi završili posao. To pokazuje da je **vraćanje povjerenja u institucije mnogo teže** od pukog smanjivanja nivoa administrativne korupcije.

Promjene koruptivnog pritiska po zemljama za period od 2014 – 2016. godine*

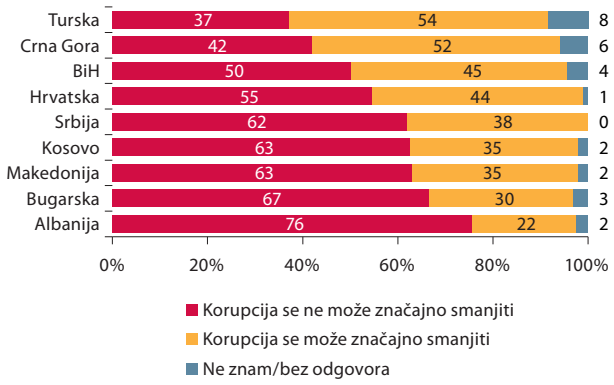


* *Udio građana koji su prijavili da im je tražen mito od strane javnih službenika.*

Izvor: *SELDI Sistem monitoringa korupcije.*

Kao rezultat toga, **javno povjerenje u realnost primjene reakcija javnih politika na korupciju**, kao ključni saveznik uspješne antikoruptive reforme, što odražava udio stanovništva koji vjeruju u antikoruptivne napore svojih vlada, je **ostalo ispod praga od 50% u 2016. godini** u svim zemljama Jugoistočne Evrope, osim u Crnoj Gori i Turskoj. Time se dodatno pogoršava nespremnost političara da se uključe u antikoruptivne politike i pokazuje potrebu za širokim društvenim pokretom u cilju održavanja fokusa na borbu protiv korupcije.

Javna procjena realnosti primjene antikoruptivnih politika, 2016. godina



Izvor: *SELDI Sistem monitoringa korupcije, 2016. godina.*

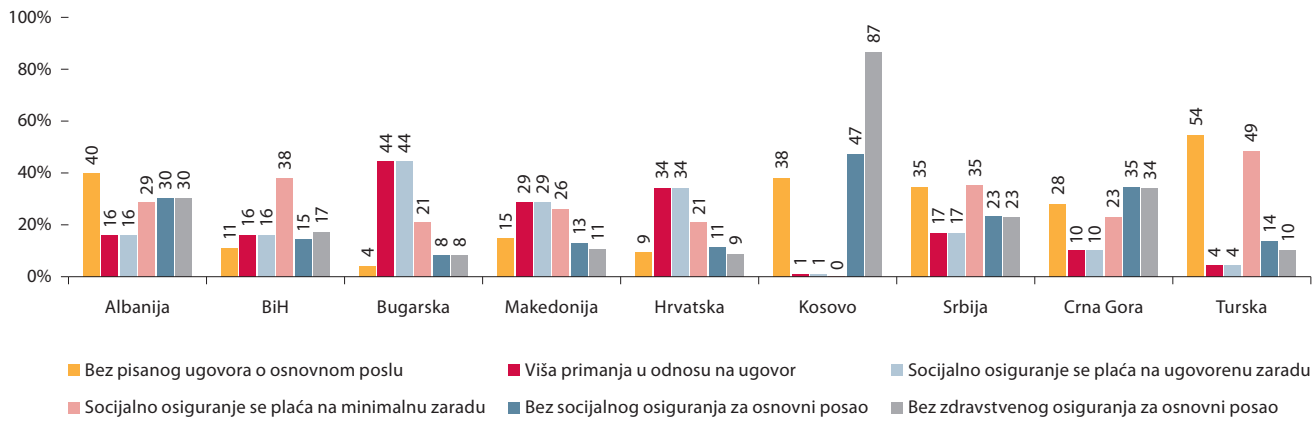
Konačni zaključak SELDI Sistema monitoringa korupcije za 2016. godinu je da **politike koje su usmjerene na koruptivno ponašanje na administrativnom nivou i one koje teže vraćanju povjerenja u vladu treba zajedno sprovoditi**. Ako je ne dopunjava unaprijeđena javna potražnja za integritetom vlasti i održivi napredak ekonomskog blagostanja, stroža implementacija kaznenih mjera ne može imati održivo dejstvo. Sprovođenje zakona bi se vjerovatno smatralo nepotrebnom represijom onda kada bi bilo usmjereno samo na niže nivoe vlasti ili političkim lovom na vještice kada bi povremeno bilo usmjereno na više nivoe. S druge strane, intenziviranje mjera podizanja svijesti bi samo podstaklo cinizam i rezigniranost javnosti, ako ne bi bilo propraćeno vidljivim naporima za obračun sa službenicima „rentijerima" (en. rent-seeking) (visokog nivoa).

Stanje sive (skrivene) ekonomije u Jugoistočnoj Evropi u 2016. godini

S obzirom da je malo vjerovatno da će same antikoruptivne politike proizvesti široku društvenu podršku, osim ako nisu upakovane u ekonomsku reformu i jačanje prosperiteta, potrebno je **proširivanje rasprave o antikorupciji** od puke primjene zakona **ka obrazloženju koje je više ekonomski utemeljeno,** kao što je bavljenje vezom između korupcije i skrivene ekonomije. Prema anketi SELDI mreže o skrivenoj ekonomiji i drugim izvorima skriveni sektor zauzima između jedne četvrtine i jedne trećine ekonomija Jugoistočne Evrope.

Kritični faktor u bavljenu pitanjem korupcije i skrivene ekonomije je **ukupno poslovno okruženje**. Dok većina zemalja Jugoistočne Evrope dobro stoje u pogledu nominalnih indikatora, kao što su visina poreskih stopa ili jednostavnost registracije poslovanja, veliko prisustvo dokaza o administrativnoj korupciji i zarobljenosti države omogućava **aktuelnim političkim i poslovnim mrežama** da efikasno kontrolišu pristup izradi vladinih zakona i politika, čineći tako poslovno okruženje ekskluzivnim i nepredvidivim. Značajan **poreski jaz** u Jugoistočnoj Evropi takođe otežava kako ekonomski razvoj tako i dobro upravljanje. Utaja poreza, koja je omogućena, između ostalog, i uzimanjem i davanjem mita i neefikasnošću poreskih organa, označava nedostatak povjerenja u ekonomsku održivost zemlje i narušava kvalitet i veličinu javne službe. SELDI Sistem monitoringa korupcije konzistentno pokazuje da su poreski i carinski službenici u svim zemljama Jugoistočne

Udjeli različitih vrsta skrivenog zapošljavanja u Jugoistočnoj Evropi



Izvor: *SELDI Anketa o skrivenoj ekonomiji, 2016. godina.*

Evrope rangirani među profesije sa najvećim rizikom za umiješanost u korupciju.

Kao rezultat toga **skriveno zapošljavanje i dalje je vrlo prisutno u Jugoistočnoj Evropi**, i stvara rizik od isključivanja velikog udjela radne snage iz vladavine prava i stavljanje neformalno zaposlenih u ranjivi položaj u odnosu na službenike „rentijere" i na nezakonite poslovne interese. Značajna društvena ukorijenjenost skrivenog zapošljavanja u Jugoistočnoj Evropi, kao što pokazuje Anketa SELDI mreže o skrivenoj ekonomiji iz 2016. godine, isključuje velike djelove radne snage iz zaštite državne regulacije i umanjuje podršku za vladavinu prava. To održava začarani krug skrivene ekonomije i korupcije.

Zarobljenost države u energetskom sektoru

Ovaj izvještaj nadovezuje se na preporuku javne politike SELDI iz 2014. godine i detaljnije razmatra jedan od kritičnih sektora u pogledu rizika od korupcije – sektor energetike. Budući da vlade zemalja Jugoistočne Evrope posjeduju, regulišu i/ili nadziru gotovo sve aspekte energetskog sektora, bilo koji oblik lošeg upravljanja u tom sektoru odjekuje širom ekonomije i društva. Neki od najkritičnijih nedostataka u upravljanju sektorom energetike u Jugoistočnoj Evropi, koji stvaraju korupciju su **loše upravljanje energetskih preduzeća u državnom vlasništvu, nepravilnosti u ugovorima o javnim nabavkama** i **spor napredak u liberalizaciji i demonopolizaciji energetskog sektora**.

Monopolistička renta u energetskom sektoru u Jugoistočnoj Evropi se ne može održati na dugi rok bez koruptivne umiješanosti političara jer su i ključna preduzeća i regulatori još uvijek pod kontrolom vlade. Dakle, države Jugoistočne Evrope treba da **liberalizuju trgovinu energijom i uslugama** kako bi se smanjio rizik od korupcije koja proizilazi iz sprege državnih ili privatnih monopola i vlade. Međutim, nakon usvajanja Trećeg energetskog paketa EU u Jugoistočnoj Evropi obično slijedi sprovođenje zakona jer bi to zahtijevalo pregled cjelokupnog energetskog sistema, uključujući i ukorijenjene mreže zarobljenosti države. To stvara rizik od još jednog slučaja sabotiranih reformi, koje građani vide kao **promjenu fasade** bez ostvarivanja temeljnih benefita upravljanja.

Ka reformskoj agendi

Težište antikoruptivnih napora u regionu treba da bude usmjereno na **rješavanje problema političke korupcije na visokom nivou i zarobljenosti države**. Osim toga, antikoruptivni napori u regionu treba da budu fokusirani na nivo javne organizacije, kako bi ispratili kvalitet sprovođenja brojnih formalno usvojenih antikoruptivnih politika i planova i popunjavanje praznina u implementaciji i efikasnosti. Tri ključne oblasti treba da budu prioritet vladama u regionu, regionalnim inicijativama i evropskim institucijama kako bi mogli ostvariti napredak makar u srednjeročnom periodu:

- **Efikasno krivično gonjenje korumpiranih političara i visokih državnih službenika** je jedini način da se pošalje snažna i neposredna poruka da se korupcija neće tolerisati. Regionalni formati kao što su Regionalni savjet za saradnju (RCC) treba da preuzmu mnogo aktivniju ulogu u unapređivanju antikoruptivnih reformi koje zavise od učinka u saradnji s državama članicama EU iz regiona, generalnim direktoratima Evropske komisije specijalizovanim za oblast pravosuđa i unutrašnjih poslova, kao i delegacijama EU na terenu.
- **Evropska komisija bi trebalo da proširi svoju direktnu interakciju s organizacijama civilnog društva u regionu**. Da bi međunarodno podržane reforme postale održive, one moraju pridobiti prihvatanje šire javnosti i OCD su neophodne da bi se to dogodilo. Uključenost OCD je način da se garantuje da odgovornost vlade prema donatorima i međunarodnim organizacijama ne preuzme prednost u odnosu na odgovornost prema lokalnim zajednicama.
- **Nezavisni mehanizmi monitoringa korupcije i antikorupcije** treba da se održavaju na nacionalnom i regionalnom nivou kako bi se osigurali opsežniji podaci i analize, i integrisali **dijagnostike korupcije** i **evaluacije antikoruptivnih politika**.

Vlade u regionu takođe treba da izrade sveobuhvatne **strategije za rješavanje pitanja sive (skrivene) ekonomije** paralelno s onima posvećenim antikorupciji, koje bi trebalo da budu povezane s krajnjim ciljevima inkluzivnog i dinamičnog ekonomskog približavanja Evropskoj uniji, što uključuje:

- praćenje učinka regulatornih organa i organa za usklađivanje na poslovno okruženje.
- sprovođenje metodologije Eurostat-a za prilagođavanje neregistrovane ekonomije BDP-u.

- sprovođenje redovnih procjena poreskog jaza i sekvencioniranje reformi u oblasti poreskog jaza.
- uvođenje politika koje olakšavaju formalizaciju cjelokupnih lanaca ekonomske vrijednosti.

Obezbjeđivanje efikasnih rješenja za pitanja antikorupcije i zarobljenosti države u Jugoistočnoj Evropi zavisi od uključenosti posvećenih, dinamičnih organizacija civilnog društva. To uključuje **unapređivanje integriteta i dobrog upravljanja samih organizacija civilnog društva**: SELDI će izraditi Strategiju civilnog društva i Zajednički strateški program za dobro upravljanje i borbu protiv korupcije do 2020. godine, koji će služiti kao smjernice za djelovanje za cijelu antikoruptivnu zajednicu u Jugoistočnoj Evropi. OCD u regionu treba da usmjere svoje napore i na hrabrije političko djelovanje i na osmišljavanje efikasnih mehanizama za podršku i uključivanje novih i nadolazećih *grassroot* pokreta.

ROMANIA AND MOLDOVA

REZUMAT

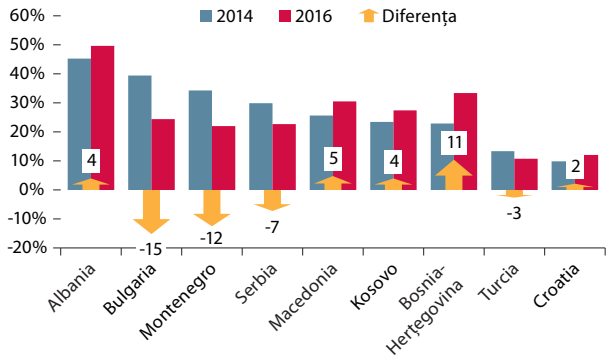
Prezentul raport, întocmit de Inițiativa pentru Dezvoltare şi Integritate în Europa de Sud-Est (The Southeast European Leadership for Development and Integrity (SELDI)) – cea mai mare inițiativă locală de bună guvernare din Europa de Sud-Est – aduce o contribuție importantă la abordarea regională a subiectului anticorupției. El prezintă punctul de vedere al societății civile asupra situației corupției şi are la bază evaluarea cuprinzătoare a diferitelor aspecte legale şi instituționale legate de mediile de luptă împotriva corupției, evaluare realizată de SELDI în cele nouă țări din Europa de Sud-Est în anul 2014. În anul 2016, SELDI a continuat această evaluare cu **un sistem actualizat de monitorizare a corupției**, punând accentul în special pe fenomenul **„capturii statului"(state capture) în sectorul energetic** şi pe **legătura dintre corupție şi economia ascunsă**.

Raportul subliniază necesitatea realizării unor reforme politice mai cuprinzătoare, care par blocate sau cel puțin diminuate în regiune. Presiunea internă pentru adoptarea unor astfel de reforme a fost înăbuşită de necesități economice şi/sau bariere etnice precum şi de osificarea establishment-ului politic şi economic. Presiunea externă, exercitată în special de Uniunea Europeană, a fost văzută ca fiind slabă raportat la dimensiunea problemelor înregistrate în ultimii câțiva ani din cauza unei succesiuni de crize interne şi externe.

Amploarea şi dinamica corupției între anii 2001 – 2016

În nici una dintre țările din regiune nu a existat vreo politică anticorupție clară deşi eforturile de a furniza soluții tehnice şi de a îmbunătăți funcționarea instituțiilor de aplicare a legii, majoritatea prin sprijinul acordat de către UE, au continuat și chiar s-au intensificat în unele cazuri. Acest lucru a dus la declinul lent al nivelului corupției administrative cu prețul diminuării susținerii acordate de către opinia publică față de aplicarea reformelor şi pierderii încrederii acesteia în instituțiile naționale şi europene.

Modificări intervenite în presiunea corupției înregistrată în fiecare țară între anii 2014 – 2016*



* *Ponderea cetățenilor care au raportat faptul că s-au confruntat cu situația în care funcționarii publici le-au cerut mită.*

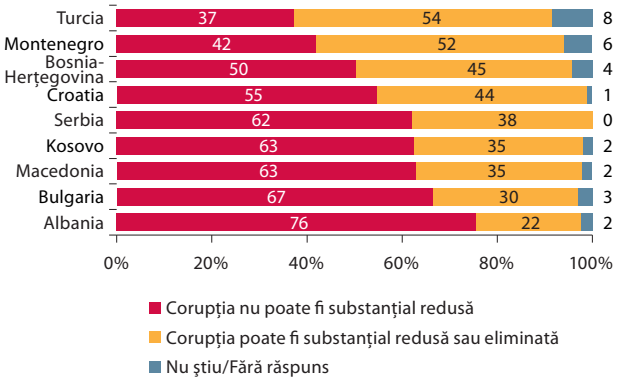
Sursa: *Sistemul de Monitorizare a Corupției implementat de SELDI.*

Sistemul de Monitorizare a Corupției (CMS) implementat de SELDI – instrumentul analitic al acestei coaliții pentru determinarea amplorii corupției – a identificat trei tendințe în dinamica corupției în regiune:

- După anul 2000, atunci când SELDI a început monitorizarea, **amploarea generală a corupției** în țările din Europa de Sud-Est **a scăzut** iar **pretențiile opiniei publice în ceea ce priveşte buna guvernare au crescut.**
- Cu toate acestea, **progresele înregistrate au fost timide şi neregulate** iar corupția continuă să reprezinte o preocupare majoră pentru publicul larg precum şi o practică obişnuită în rândurile funcționarilor publici şi oficialilor guvernamentali de rang înalt. Spre exemplu, **presiunea corupției** din perioada 2014 – 2016 – indicatorul cantitativ primar pentru amploarea corupției dintr-o anumită țară – a crescut în anumite țări, dar îmbunătățirea generală în regiune a fost neglijabilă.
- Combinația dintre numărul ridicat de funcționari corupți, care urmăresc insistent obținerea de foloase necuvenite, şi speranțele tot mai mari pentru o bună guvernare, având în special legătură cu aspirațiile de aderare la UE ale unor țări din Europa de Sud-Est, a conturat negativ aşteptările opiniei publice referitoare la presiunea potențială a corupției. Mai bine de jumătate din populația țărilor incluse în SELDI crede că este probabil să ofere mită unui funcționar pentru a-l convinge să facă sau să nu facă ceva. Acest lucru indică faptul că **redarea încrederii în instituții ar fi mult mai dificilă** decât simpla reducere a amplorii corupției la nivel administrativ.

Drept urmare, **încrederea opiniei publice în viabilitatea reacţiilor politice la corupţie**, un aliat crucial al succesului reformelor anticorupţie, reflectând ponderea populaţiei care crede în eforturile depuse de guvernele ţărilor respective pentru a lupta împotriva corupţiei, **a rămas sub pragul de 50% în anul 2016** în toate ţările din Europa de Sud-Est cu excepţia Muntenegrului şi Turciei. Acest lucru exacerbează şi mai mult indezirabilitatea politicienilor de a se implica în politici anticorupţie şi arată necesitatea organizării unei mişcări sociale generalizate în vederea susţinerii interesului pentru lupta împotriva corupţiei.

Estimări oferite de opinia publică în anul 2016 cu privire la viabilitatea politicilor anticorupție



Sursa: *Sistemul de Monitorizare a Corupţiei implementat de SELDI în anul 2016.*

Concluzia generală trasă de pe urma Sistemului de Monitorizare a Corupţiei implementat de SELDI în anul 2016 este aceea că **politicile care vizează conduita coruptă la nivel administrativ şi cele care caută să sporească încrederea opiniei publice în guvernele ţărilor respective trebuie urmărite în mod concertat.** Dacă ele nu sunt completate cu solicitări accentuate venite din partea opiniei publice pentru integritatea actului de guvernământ şi îmbunătăţirea susţinută a prosperităţii economice, aplicarea mai strictă a măsurilor de ordin penal nu poate avea efecte durabile. Este probabil ca aplicarea legii să fie văzută fie ca o măsură represivă inutilă atunci când ea vizează doar nivelurile inferioare ale administraţiei, fie ca o „vânătoare de vrăjitoare" din punct de vedere politic atunci când ea este orientată cu intermitenţă spre nivelurile superioare ale aceleiaşi administraţii. Dimpotrivă, intensificarea măsurilor de sporire a gradului de conştientizare ar alimenta doar cinismul şi resemnarea opiniei publice dacă această acţiune nu ar fi însoţită de eforturi vizibile de identificare şi pedepsire a funcţionarilor (de nivel înalt) care urmăresc obţinerea de foloase necuvenite.

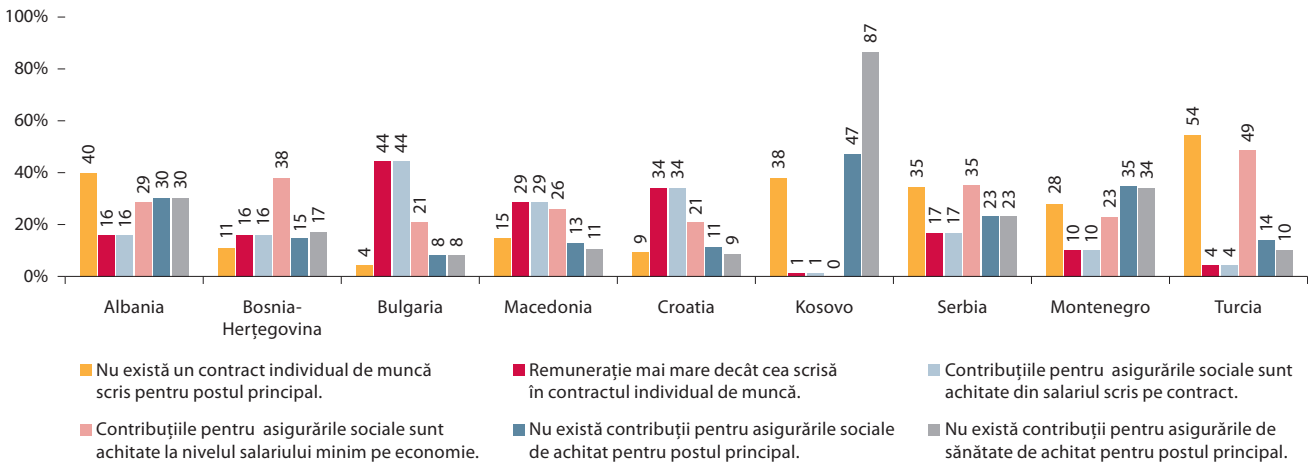
Starea economiei informale în ţările din Europa de Sud-Est în anul 2016

Dat fiind faptul că este improbabil ca politicile anticorupţie singure să beneficieze de susţinere largă din partea opiniei publice dacă ele nu sunt incluse în măsuri de reformă economică şi de sporire a prosperităţii generale, este necesară **extinderea dezbaterii privitoare la lupta împotriva corupţiei**, de la simpla aplicare a legii **la motive mai bine întemeiate din punct de vedere economic.** Spre exemplu, abordarea legăturii dintre corupţie şi economia informală. Potrivit Studiului Referitor la Economia Informală întreprins de SELDI şi altor surse, sectorul „subteran" afectează între un sfert şi o treime din economiile ţărilor din Europa de Sud-Est.

Un element crucial în abordarea problematicii corupţiei şi economiei informale este reprezentat de **mediul general de afaceri**. În timp ce majoritatea ţărilor din Europa de Sud-Est stau bine atunci când vine vorba de indicatorii nominali, ca de exemplu dimensiunea cotelor de impozitare sau uşurinţa cu care poate fi constituită o societate comercială, prezenţa pe scară largă a corupţiei la nivel administrativ şi existenţa unor dovezi de „captură a statului (state capture)" permit realizarea unor **adevărate încrengături (webs) de reţele politice şi de afaceri**, care să controleze în mod eficient accesul la legiuitori şi la autorităţile decizionale, făcând mediul de afaceri exclusivist şi imprevizibil. De asemenea, există un decalaj fiscal (ecart de impozitare – tax gap) considerabil între ţările din Europa de Sud-Est care împiedică atât dezvoltarea economică, cât şi buna guvernare. Evaziunea fiscală, a cărei existenţă se datorează, printre altele, mitei şi ineficienţei autorităţilor fiscale, denotă lipsa de încredere în viabilitatea economică a unei ţări şi subminează calitatea şi mărimea serviciilor publice. Sistemul de Monitorizare a Corupţiei (CMS) implementat de SELDI a arătat în mod consecvent faptul că, în toate ţările din Europa de Sud-Est, funcţionarii fiscali şi vamali sunt socotiţi ca activând în profesiile cu cel mai ridicat risc de corupţie.

Drept urmare, **şomajul mascat rămâne cât se poate de prezent în ţările din Europa de Sud-Est**, creând riscul excluderii unor părţi considerabile din forţa de muncă de sub supremaţia legii şi plasării persoanelor angajate neoficial pe o poziţie vulnerabilă atunci când vine vorba de funcţionarii care urmăresc obţinerea de foloase necuvenite şi de anumite interese ilegale de afaceri. După cum evidenţiază şi Studiul Referitor la Economia Ascunsă întreprins de SELDI în anul 2016,

Ponderea diferitor tipuri de şomaj mascat în ţările din Europa de Sud-Est



Sursa: *Studiului Referitor la Economia Ascunsă întreprins de SELDI în anul 2016.*

incluziunea socială considerabilă a şomajului mascat în ţările din Europa de Sud-Est exclude mari părţi din forţa de muncă de sub protecţia reglementărilor guvernamentale şi diminuează susţinerea faţă de statul de drept. Acest lucru determină perpetuarea cercului vicios economie informală – corupţie.

„Captura statului" în sectorul energetic

Prezentul raport are la bază o recomandare politică a SELDI din anul 2014 şi studiază îndeaproape unul dintre cei mai importanţi factori de risc pentru corupţie – energia. Deoarece guvernele ţărilor din Europa de Sud-Est realmente posedă, reglementează şi/sau supraveghează toate aspectele sectorului energetic, orice formă de proastă guvernare se răsfrânge asupra întregii economii şi societăţi civile. Printre deficitele de guvernare cele mai importante înregistrate în sectorul energetic din ţările Europei de Sud-Est care generează corupţie se numără **proasta conducere a întreprinderilor de stat (ÎS), lipsa de uniformitate a prevederilor contractelor de achiziţii publice şi progresul lent în ceea ce priveşte liberalizarea şi demonopolizarea sectorului energetic**.

În sectorul energetic al ţărilor din Europa de Sud-Est, renta de monopol nu mai poate fi menţinută pe termen lung fără implicarea politicienilor corupţi de vreme ce atât întreprinderile-cheie, cât şi autorităţile de reglementare sunt încă controlate de guvernele respectivelor ţări. În consecinţă, ţările din Europa de Sud-Est trebuie să **liberalizeze piaţa comerţului şi serviciilor energetice** pentru a reduce riscul de corupţie generat de înţelegerile secrete dintre monopolurile de stat sau private şi guvern. Cu toate acestea, adoptarea celui de-al Treilea Pachet Energetic al UE în ţările din Europa de Sud-Est este de obicei urmată de aplicarea lejeră a legislaţiei comunitare de vreme ce, în caz contrar, acest lucru ar necesita revizuirea întregului sistem energetic, inclusiv a vechilor reţele de tip „captură a statului". Astfel, s-ar crea riscul apariţiei a încă unui caz de reforme-sabotaj, pe care cetăţenii l-ar privi ca şi o **schimbare de faţadă**, fără realizarea beneficiilor fundamentale de guvernare.

Adoptarea unei agende de reforme

Principala reformă privitoare la eforturile de luptă împotriva corupţiei din regiune trebuie îndreptată spre **rezolvarea problematicii legată de corupţia politică la nivel înalt şi de „captură a statului"**. În plus, eforturile de luptă împotriva corupţiei din regiune trebuie mărite la nivelul organizaţiilor publice pentru a sta la baza calităţii implementării numeroaselor politici şi planuri anticorupţie adoptate din punct de vedere oficial, pentru a finaliza procesul de implementare şi pentru a acoperi eficient golurile create. Guvernele ţărilor din Europa de Sud-Est, iniţiativele regionale şi instituţiile europene trebuie să prioritizeze trei domenii-cheie pentru a putea obţine progrese cel puţin pe termen mediu:

- **Punerea sub acuzare a politicienilor corupţi de la nivel înalt şi a funcţionarilor publici**

superiori reprezintă singura cale pentru a trimite un mesaj puternic imediat potrivit căruia corupţia nu va fi tolerată. Organismele regionale, spre exemplu Consiliul de Cooperare Regională, în colaborare cu Statele Membre ale UE din regiune, cu direcţiile generale din cadrul Comisiei Europene specializate pe probleme de justiţie şi afaceri interne şi cu Delegaţiile UE de la faţa locului, trebuie să-şi asume un rol mult mai activ în promovarea reformelor anticorupţie care au la bază performanţele profesionale de lucru ale politicienilor şi funcţionarilor publici.

- **Comisia Europeană trebuie să-şi sporească angajamentul direct faţă de Organizaţiile Societăţii Civile din regiune**. Pentru ca reformele susţinute la nivel internaţional să devină durabile, ele trebuie să obţină o acceptare publică mai largă iar Organizaţiile Societăţii Civile (OSC) indispensabile pentru ca acest lucru să se întâmple. Implicarea societăţii civile reprezintă o cale de garantare a faptului că răspunderea guvernelor faţă de finanţatori şi organizaţiile internaţionale nu prevalează asupra răspunderii faţă de circumscripţiile electorale locale.
- Trebuie susţinute la nivel naţional şi regional **mecanisme independente de monitorizare a corupţiei şi anticorupţiei** pentru ca ele să furnizeze informaţii şi analize solide de date şi să integreze atât **facilităţi de identificare a corupţiei**, cât şi **facilităţi de evaluare a politicilor de luptă împotriva corupţiei**.

Guvernele ţărilor din regiune ar trebui de asemenea să conceapă **strategii** cuprinzătoare **de rezolvare a problematicii legată de economia informală**, în paralel cu strategiile dedicate anticorupţiei, care ar trebui să fie legate de scopurile finale de convergenţă economică generală dinamică faţă de UE, inclusiv prin:

- Urmărirea performanţelor organismelor de reglementare şi conformitate referitoare la mediul de afaceri.
- Implementarea metodologiei Eurostat pentru ajustările economice nerespectate ale PIB-ului.
- Realizarea de evaluări periodice ale decalajelor fiscale (tax gap) dintre ţările Europei de Sud-Est şi determinarea succesiunii reformelor din domeniul decalajelor fiscale (tax gap).
- Introducerea unor politici care să faciliteze formalizarea unor întregi lanţuri de valoare economică.

Oferirea unor soluţii eficiente împotriva corupţiei şi a capturii statului în Europa de Sud-Est depinde de implicarea unor organizaţii dedicate şi dinamice ale societăţii civile. Aceasta include **încurajarea propriei integrităţi a organizaţiilor societăţii civile şi o bună guvernare**: SELDI va dezvolta o Strategie pentru Societatea Civilă şi un Program Strategic Comun de Bună Guvernare şi Luptă Împotriva Corupţiei pentru anul 2020, care va servi drept ghid de acţiune pentru întreaga comunitate de state din Europa de Sud-Est care luptă împotriva corupţiei. Organizaţiile societăţii civile din regiune ar trebui să-şi îndrepte eforturile atât spre acţiuni politice mai îndrăzneţe, cât şi spre conceperea unor mecanisme eficiente care să sprijine şi să includă noi mişcări emergente la nivel local (de tip grass-roots).

SERBIA

IZVRŠNI PREGLED

Ovaj izveštaj, koji je pripremila mreža Liderstvo za razvoj i integritet Jugoistočne Evrope (SELDI) – najveća autohtona inicijativa u oblasti dobrog upravljanja u Jugoistočnoj Evropi – predstavlja značajan doprinos regionalnom pristupu u borbi protiv korupcije. Izveštaj pruža civilnom društvu uvid u stanje korupcije i proizilazi iz sveobuhvatne procene SELDI mreže različitih aspekata zakonskih i institucionalnih sredina u pogledu antikorupcije u devet zemalja Jugoistočne Evrope za 2014. godinu. U 2016. godini, SELDI mreža je nastavila sa ovim procenama **ažuriranjem monitoringa korupcije** i fokusirajući se posebno na **zarobljenost države u energetskom sektoru** i **vezu korupcije i sive (skrivene) ekonomije**.

U izveštaju se naglašava potreba za širim političkim delovanjem ka reformama, koje je čini se blokirano ili ograničeno u celokupnom regionu. Unutrašnji pritisak za takvim delovanjem ugušen je ekonomskim nužnostima i/ili etničkim podelama, kao i okoštavanjem političkih i ekonomskih struktura. Spoljni pritisak, koji uglavnom vrši Evropska unija, smatra se nedovoljnim u odnosu na veličinu problema tokom posljednjih nekoliko godina zbog niza unutrašnjih i spoljnih kriza.

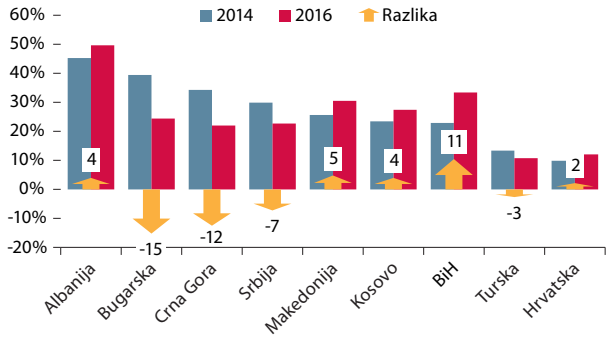
Rasprostranjenost i dinamika korupcije u periodu od 2001 – 2016. godine

Ni u jednoj od zemalja u regionu nije došlo do jasnog dugotrajnog napretka antikoruptivne politike iako su se napori da se obezbede tehnička rešenja i unapriedi funkcionisanje institucija za sprovođenje zakona, uglavnom uz podršku EU, nastavili, pa čak i intenzivirali u nekim slučajevima. To je dovelo do dodatnog blagog pada u nivou administrativne korupcije, ali po cenu sve manje podrške javnosti za reforme i pada poverenja u nacionalne i evropske institucije.

SELDI *Sistem monitoringa korupcije* (CMS) – analitički alat za mjerenje korupcije – je identifikovao tri trenda u dinamici korupcije u regionu:

- Od početka 2000-ih, kada je SELDI započeo s monitoringom **ukupni nivoi korupcije** u zemljama Jugoistočne Evrope **su u padu**, a **javnost je postala zahtevnija u pogledu dobrog upravljanja**.
- Ipak, **napredak je bio spor i nestalan**, a korupcija i dalje predstavlja i glavnu preokupaciju za širu javnost i čestu pojavu u državnoj službi i vladi. Naime, u periodu od 2014 – 2016. godine **koruptivni pritisak** – primarni kvantitativni indikator nivoa korupcije u zemlji – se u nekim zemljama vratio na staro, ali ukupni napredak u regionu je bio zanemariv.
- Kombinacija uporno visoke stope „rentijerstva" korumpiranih službenika i sve veća očekivanja u pogledu dobrog upravljanja najvećim dielom u vezi sa težnjama u Jugoistočnoj Evropi da se pristupi EU **negativno je oblikovala očekivanja javnosti o mogućem koruptivnom pritisku**. Više od polovine stanovništva zemalja članica SELDI mreže veruje da najverovatnije moraju da daju mito službeniku da bi završili posao. To pokazuje da je **vraćanje poverenja u institucije mnogo teže** od pukog smanjivanja nivoa administrativne korupcije.

Promene koruptivnog pritiska po zemljama za period od 2014 – 2016. godine*



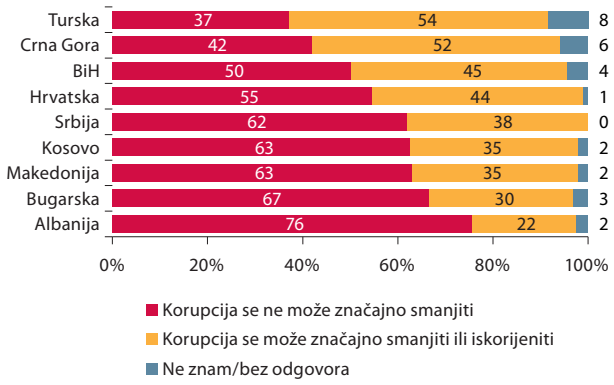
* *Udeograđana koji su prijavili da im je tražen mito od strane javnih službenika.*

Izvor: *SELDI Sistem monitoringa korupcije.*

Kao rezultat toga, **javno poverenje u realnost primene reakcija javnih politika na korupciju**, kao ključni saveznik uspešne antikoruptive reforme, što odražava udeostanovništva koji veruju u antikoruptivne napore svojih vlada, je **ostalo ispod praga od 50% u 2016. godini** u svim zemljama Jugoistočne Evrope, osim u Crnoj Gori i Turskoj. Time se dodatno pogoršava nespremnost političara da se uključe u antikoruptivne politike i pokazuje potrebu za širokim društvenim pokretom u cilju održavanja fokusa na borbu protiv korupcije.

Konačni zaključak SELDI Sistema monitoringa korupcije za 2016. godinu je da **politike koje su us-**

Javna procena realnosti primene antikoruptivnih politika, 2016. godina



Izvor: *SELDI Sistem monitoringa korupcije, 2016. godina.*

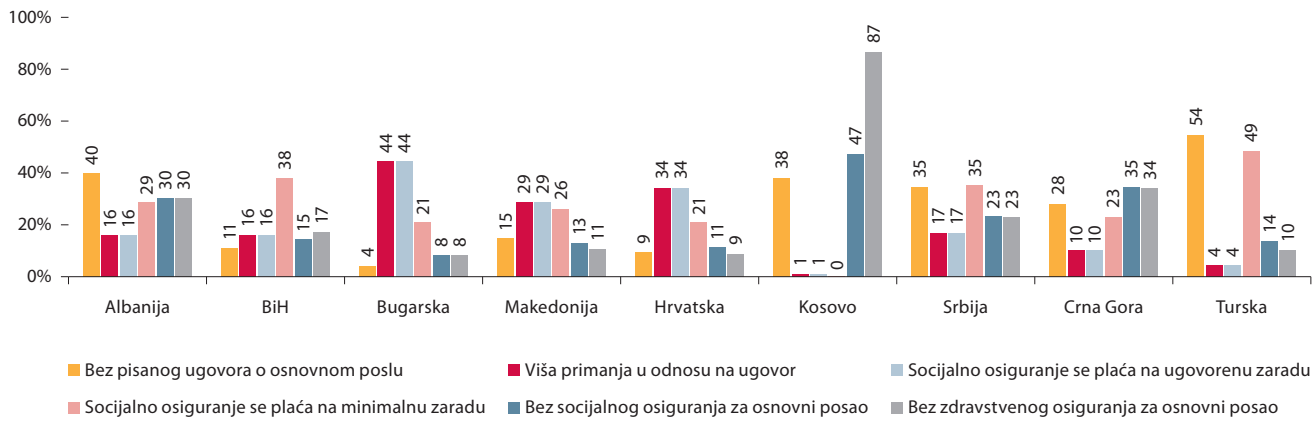
merene na koruptivno ponašanje na administrativnom nivou i one koje teže vraćanju poverenja u vladu treba zajedno sprovoditi. Ako je ne dopunjava unapređena javna potražnja za integritetom vlasti i održivi napredak ekonomskog blagostanja, stroža implementacija kaznenih mera ne može imati održivo dejstvo. Sprovođenje zakona bi se verovatno smatralo nepotrebnom represijom onda kada bi bilo usmereno samo na niže nivoe vlasti ili političkim lovom na veštice kada bi povremeno bilo usmereno na više nivoe. S druge strane, intenziviranje mera podizanja svesti bi samo podstaklo cinizam i rezigniranost javnosti, ako ne bi bilo propraćeno vidljivim naporima za obračun sa službenicima „rentijerima" (en. rent-seeking) (visokog nivoa).

Stanje sive (skrivene) ekonomije u Jugoistočnoj Evropi u 2016. godini

S obzirom da je malo verovatno da će same antikoruptivne politike proizvesti široku društvenu podršku, osim ako nisu upakovane u ekonomsku reformu i jačanje prosperiteta, potrebno je **proširivanje rasprave o antikorupciji** od puke primjene zakona **ka obrazloženju koje je više ekonomski utemeljeno,** kao što je bavljenje vezom između korupcije i skrivene ekonomije. Prema anketi SELDI mreže o skrivenoj ekonomiji i drugim izvorima, skriveni sektor zauzima između jedne četvrtine i jedne trećine ekonomija Jugoistočne Evrope.

Kritični faktor u bavljenu pitanjem korupcije i skrivene ekonomije je **ukupno poslovno okruženje**. Dok većina zemalja Jugoistočne Evrope dobro stoje u pogledu nominalnih indikatora, kao što su visina poreskih stopa ili jednostavnost registracije poslovanja, veliko prisustvo dokaza o administrativnoj korupciji i zarobljenosti države omogućava **aktuelnim političkim i poslovnim mrežama** da efikasno kontrolišu pristup izradi vladinih zakona i politika, čineći tako poslovno okruženje ekskluzivnim i nepredvidivim. Značajan **poreski jaz** u Jugoistočnoj Evropi takođe otežava kako ekonomski razvoj tako i dobro upravljanje. Utaja poreza, koja je omogućena, između ostalog, i uzimanjem i davanjem mita i neefikasnošću poreskih organa, označava nedostatak poverenja u ekonomsku održivost zemlje i narušava kvalitet i veličinu javne službe. SELDI Sistem monitoringa korupcije konzistentno pokazuje da su poreski i carinski službenici u svim zemljama Jugoistočne Evrope rangirani među profesije sa najvećim rizikom za umešanost u korupciju.

Udeli različitih vrsta skrivenog zapošljavanja u Jugoistočnoj Evropi



Izvor: *SELDI Anketa o skrivenoj ekonomiji, 2016. godina.*

Kao rezultat toga **skriveno zapošljavanje i dalje je vrlo prisutno u Jugoistočnoj Evropi**, i stvara rizik od isključivanja velikog udela radne snage iz vladavine prava i stavljanje neformalno zaposlenihu ranjivi položaj u odnosu na službenike „rentijere" i na nezakonite poslovne interese. Značajna društvena ukorenjenost skrivenog zapošljavanja u Jugoistočnoj Evropi, kao što pokazuje Anketa SELDI mreže o skrivenoj ekonomiji iz 2016. godine, isključuje velike delove radne snage iz zaštite državne regulacije i umanjuje podršku za vladavinu prava. To održava začarani krug skrivene ekonomije i korupcije.

Zarobljenost države u energetskom sektoru

Ovaj izveštaj nadovezuje se na preporuku javne politike SELDI iz 2014. godine i detaljnije razmatra jedan od kritičnih sektora u pogledu rizika od korupcije – sektor energetike. Budući da vlade zemalja Jugoistočne Evrope poseduju, regulišu i/ili nadziru gotovo sve aspekte energetskog sektora, bilo koji oblik lošeg upravljanja u tom sektoru odjekuje širom ekonomije i društva. Neki od najkritičnijih nedostataka u upravljanju sektorom energetike u Jugoistočnoj Evropi, koji stvaraju korupciju su **loše upravljanje energetskih preduzeća u državnom vlasništvu, nepravilnosti u ugovorima o javnim nabavkama** i **spor napredak u liberalizaciji i demonopolizaciji energetskog sektora**.

Monopolistička renta u energetskom sektoru u Jugoistočnoj Evropi se ne može održati na dugi rok bez koruptivne umešanosti političara jer su i ključna preduzeća i regulatori još uvijek pod kontrolom vlade. Dakle, države Jugoistočne Evrope treba da **liberalizuju trgovinu energijom i uslugama** kako bi se smanjio rizik od korupcije koja proizilazi iz sprege državnih ili privatnih monopola i vlade. Međutim, nakon usvajanja Trećeg energetskog paketa EU u Jugoistočnoj Evropi obično sledi sprovođenje zakona jer bi to zahtijevalo pregled cjelokupnog energetskog sistema, uključujući i ukorenjene mreže zarobljenosti države. To stvara rizik od još jednog slučaja sabotiranih reformi, koje građani vide kao **promenu fasade** bez ostvarivanja temeljnih benefita upravljanja.

Ka reformskoj agendi

Težište antikoruptivnih napora u regionu treba da bude usmereno na **rešavanje problema političke korupcije na visokom nivou i zarobljenosti države**. Osim toga, antikoruptivni napori u regionu treba da budu fokusirani na nivo javne organizacije, kako bi ispratili kvalitet sprovođenja brojnih formalno usvojenih antikoruptivnih politika i planova i popunjavanje praznina u implementaciji i efikasnosti. Tri ključne oblasti treba da budu prioritet vladama u regionu, regionalnim inicijativama i evropskim institucijama kako bi mogli ostvariti napredak makar u srednjeročnom periodu:

- **Efikasno krivično gonjenje korumpiranih političara i visokih državnih službenika** je jedini način da se pošalje snažna i neposredna poruka da se korupcija neće tolerisati. Regionalni formati kao što su Regionalni savjet za saradnju (RCC) treba da preuzmu mnogo aktivniju ulogu u unapređivanju antikoruptivnih reformi koje zavise od učinka u saradnji s državama članicama EU iz regiona, generalnim direktoratima Evropske komisije specijalizovanim za oblast pravosuđa i unutrašnjih poslova, kao i delegacijama EU na terenu.
- **Evropska komisija bi trebalo da proširi svoju direktnu saradnjus organizacijama civilnog društva u regionu**. Da bi međunarodno podržane reforme postale održive, one moraju osiguratiprihvatanje šire javnosti i OCD su neophodne da bi se to dogodilo. Uključenost OCD je način da se garantuje da odgovornost vlade prema donatorima i međunarodnim organizacijama ne preuzme prednost u odnosu na odgovornost prema lokalnim zajednicama.
- **Nezavisni mehanizmi monitoringa korupcije i antikorupcije** treba da se održavaju na nacionalnom i regionalnom nivou kako bi se osigurali opsežniji podaci i analize, i integrisali **dijagnostika korupcije** i **evaluacija antikoruptivnih politika**.

Vlade u regionu takođe treba da izrade sveobuhvatne **strategije za rešavanje pitanja sive (skrivene) ekonomije** paralelno s onima posvećenim antikorupciji, koje bi trebalo da budu povezane s krajnjim ciljevima inkluzivnog i dinamičnog ekonomskog približavanja Evropskoj uniji, što uključuje:

- praćenje učinka regulatornih organa i organa za usklađivanje na poslovno okruženje.
- sprovođenje metodologije Eurostat-a za prilagođavanje neregistrovane ekonomije BDP-u.
- sprovođenje redovnih procena poreskog jaza i sekvencioniranje reformi u oblasti poreskog jaza.
- uvođenje politika koje olakšavaju formalizaciju celokupnih lanaca ekonomske vrednosti.

Obezbeđivanje efikasnih rešenja za pitanja antikorupcije i zarobljenosti države u Jugoistočnoj Evropi zavisi od uključenosti posvećenih, dinamičnih organizacija civilnog društva. To uključuje **unapređivanje integriteta i dobrog upravljanja samih organizacija civilnog društva**: SELDI će izraditi Strategiju civilnog društva i Zajednički strateški program za dobro upravljanje i borbu protiv korupcije do 2020. godine, koji će služiti kao smernice za delovanje za cielu antikoruptivnu zajednicu u Jugoistočnoj Evropi. OCD u regionu treba da usmere svoje napore i na hrabrije političko delovanje i na osmišljavanje efikasnih mehanizama za podršku i uključivanje novih i nadolazećih *grassroot* pokreta.

TURKEY

YÖNETICI ÖZETI

Güneydoğu Avrupa'nın en geniş ve yerli iyi yönetişim insiyatifi olan Kalkınma ve Dürüstlük İçin Güneydoğu Avrupa Liderliği tarafından hazırlanan bu rapor yolsuzlukla mücadeleye yönelik bölgesel yaklaşımlara önemli katkı sunmaktadır. Rapor, yolsuzluğun mevcut durumuna sivil toplum açısından bakmakta ve SELDI'nin 2014'te dokuz Güneydoğu Avrupa ülkesinde yaptığı kapsamlı hukuki ve kurumsal yolsuzlukla mücadele değerlendirmesini takip etmektedir. 2016'da SELDI bu değerlendirmelere güncellenmiş yolsuzluk takibiyle ve iki konuya özellikle odaklanarak devam etmiştir: Enerji sektöründe devlet zaptı (state capture) ve yolsuzluk-kayıt-dışı ekonomi bağlantısı.

Bu rapor, engellenmiş veya sınırlandırılmış görünen reformu sağlamak için daha kapsamlı bir siyasal faaliyete ihtiyaç olduğunu vurgulamaktadır. Bu doğrultuda içerden yapılan baskılar ekonomik gereklilikler, etnik ayrımlar ve siyasi ve ekonomik kurumların durağanlaşması sebebiyle etkisizleşmiştir. Çoğunlukla Avrupa Birliği (AB) tarafından yapılan dış baskılarsa süreklilik arz eden iç ve dış krizler sonucunda son yıllarda zayıflamaktadır.

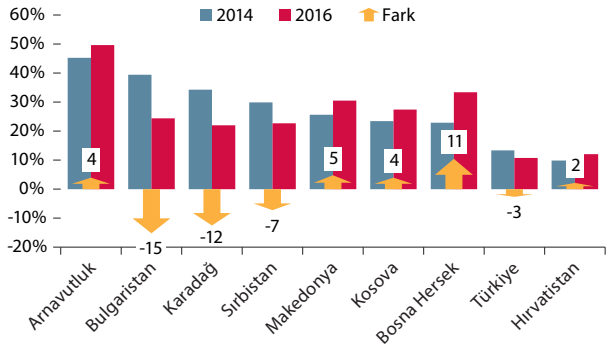
2001 – 2016 Yıllarında Yolsuzluk Artışı ve Dinamikleri

Teknik çözümler üretme ve, çoğunlukla AB'nin desteğiyle, kanun uygulayıcı kurumların geliştirilmesi yönünde çabalar devam etmiş ve hatta bazı durumlarda artmıştır; buna rağmen bölgedeki hiçbir ülkede yolsuzlukla mücadelede kayda değer ve sürdürülebilir bir siyasi başarı elde edilmemiştir. İdari yolsuzluk seviyelerinde hafif bir düşüş sağlanmışsa da reforma yönelik kamu desteği azalmış ve ulusal kurumlara ve AB kurumlarına güven azalmıştır.

SELDI'nin Yolsuzluk İzleme Sistemi (Corruption Monitorin System – CMS) yolsuzluğu ölçen analitik bir araçtır ve bölgedeki yolsuzluk dinamiklerinde üç yönelim saptamıştır:

- SELDI 2000'lerin başında izleme sürecini başlattığından bu yana Güneydoğu Avrupa ülkelerinde genel yolsuzluk seviyeleri düşmüş ve kamu iyi yönetişim konusunda daha talepkar olmuştur.
- Buna rağmen, ilerleme yavaş ve düzensiz olmuş; yolsuzluk kamu için önemli bir kaygı kaynağı olmaya devam etmiş ve kamu hizmeti ve hükümet düzeyinde sıkça ortaya çıkmıştır. Özellikle 2014 – 2016 yolsuzluk baskısı (bir ülkedeki yolsuzluk seviyelerinin başlıca sayısal belirteci) bazı ülkelerde kötüye gitmiş, genel bölgesel ilerleme ise önemsiz bir seviyede kalmıştır.
- Güneydoğu Avrupa'daki yozlaşmış siyasetçilerin sürekli rant arayışı AB'ye katılım müzakereleriyle bağlantılı olarak artan iyi yönetişim beklentileriyle birleşince, yolsuzluk baskısı potansiyeline dair kamu beklentileri olumsuz yönde şekillenmiştir. SELDI ülkeleri nüfusunun yarıdan fazlası işlerini halletmek için bir kamu görevlisine rüşvet vermeleri gerektiğine inanmaktadır. Bu durum, kurumlara olan güvenin yeniden inşasının idari yolsuzluğu azaltmaktan çok daha zor olacağını göstermektedir.

Ülke Bazında Yolsuzluk Baskısında Değişimler 2001 – 2016*



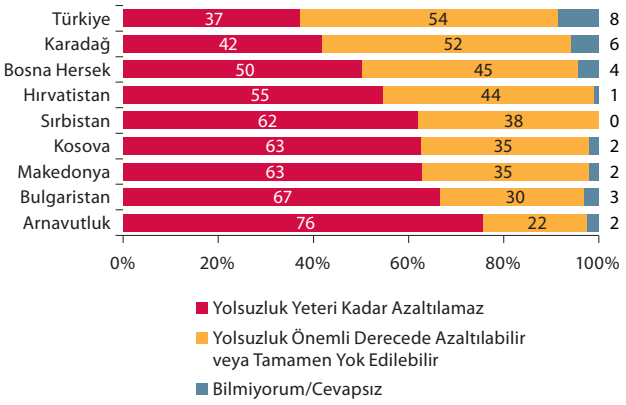
* *Kamu görevlilerinden rüşvet talebi aldığını belirten vatandaşların oranı.*

Kaynak: *SELDI Yolsuzluk İzleme Sistemi.*

Yolsuzluğun siyasi çözümüne yönelik toplum güveni başarılı reformlar yapılması için kilit öneme sahiptir. Yukarıda bahsi geçen faktörlerin bir sonucu olarak, toplumda hükümetlerin yolsuzlukla mücadelesine güvenenlerin sayısı, Türkiye ve Karadağ hariç tüm Güneydoğu Avrupa ülkelerinde, %50'nin altında kalmıştır. Bu durum politikacıların yolsuzlukla mücadele alanında siyaset üretme isteksizliklerini daha artırmış ve yolsuzlukla mücadeleye odaklanılması için geniş çaplı bir toplumsal harekete ihtiyaç olduğunu göstermiştir.

2016 SELDI CMS'nin temel çıkarımı şöyle özetlenebilir: İdari seviyedeki yozlaşmış faaliyetleri hedef alan

Yolsuzlukla Mücadele Politikalarına Yönelik Kamu Değerlendirmeleri, 2016



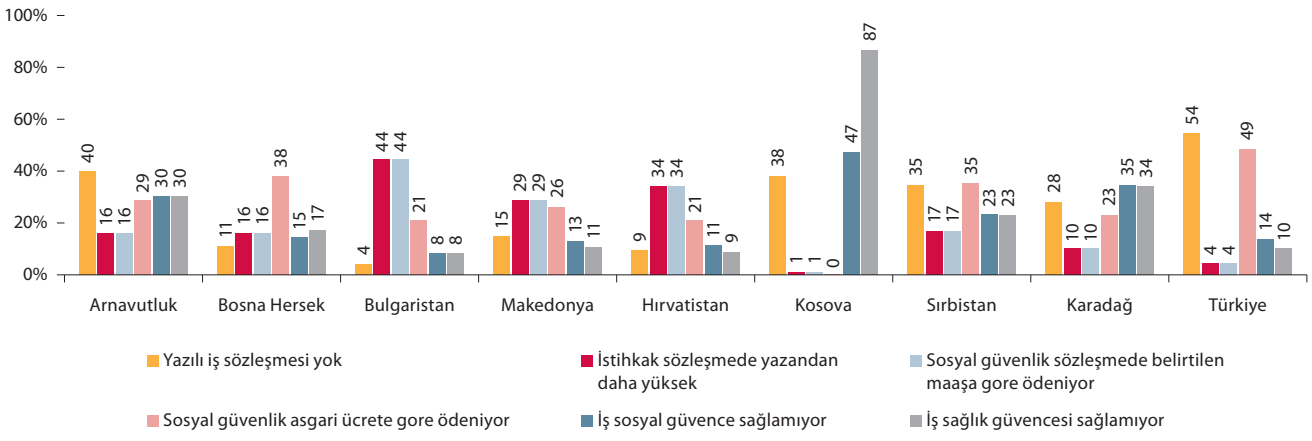
Kaynak: *SELDI Yolsuzluk İzleme Sistemi.*

politikalar ve hükümetlere güvende değişim yaratma çalışmaları koordinasyon içinde takip edilmelidir. Hükümet seviyesinde dürüstlük ve ekonomik refah seviyesinde devamlı gelişme için güçlenmiş toplumsal baskı olmaksızın cezai önlemlerin katı bir şekilde uygulanması sürdürülebilir etki göstermeyecektir. Hukuki yaptırımlar ya hükümetin alt seviyelerinin hedeflenmesinde gereksiz bir baskı olarak görülecek ya da üst düzey hükümet kademelerinde siyasi bir cadı avı olarak anlaşılacaktır. Buna karşılık, eğer rant peşinde olan tepe yöneticilerin görünür bir şekilde üstüne gidilmezse, farkındalık yaratma faaliyetlerini yoğunlaştırmak toplumda sadece kin ve teslimiyet uyandıracaktır.

2016'da Güneydoğu Avrupa Ülkelerinde Kayıtdışı Ekonominin Durumu

Yolsuzlukla mücadele politikaları, ekonomik reform dâhilinde ele alınmaz ve refahın artmasına katkıda bulunmazsa toplumsal destek üretmekte yetersiz kalacaktır. Bu sebeple, yolsuzlukla mücadele tartışmalarının kapsamı sadece hukuki yaptırımları değil ekonomi temelli bir perspektifi de içine alacak şekilde genişletilmelidir. Yolsuzluk ve kayıtdışı ekonomi arasındaki ilişkiler ağını incelemek buna bir örnektir. SELDI Kayıtdışı Ekonomi Araştırması ve diğer kaynaklara göre, kayıtdışı ekonomi Güneydoğu Avrupa ülkeleri ekonomilerinin çeyreğiyle üçte biri arasında bir ölçektedir. İş dünyası, yolsuzluk ve kayıtdışı ekonomiyle mücadelede hassas bir yere sahiptir. Birçok Güneydoğu Avrupa ülkesinin nominal değerleri (örneğin vergi oranlarının büyüklüğü veya bir işletmenin kaydının yapılması) iyi olmakla beraber, yaygın idari yolsuzluk ve devlet zaptı göstergeleri, görevli siyasetçi ve iş çevreleri ağlarının yasa ve siyaset yapımını etkili bir şekilde kontrol ettiğine ve iş dünyasını herkese açık olmayan ve öngörülemeyen bir hale getirdiğine işaret etmektedir. Güneydoğu Avrupa ülkelerinde devlete ödenmesi gereken toplam vergi ve resmi olarak alınan vergi miktarı arasındaki fark kayda değer miktardadır ve ekonomik gelişmeyle iyi yönetişime ket vurmaktadır. Vergi kaçırma, rüşvet ve vergi otoritelerinin verimsiz çalışması bir ülkenin ekonomik kapasitesine olan güveni sarsar ve kamu hizmetlerinin gerek kalite gerekse kapsamını zayıflatır. SELDI CMS sürekli olarak göstermektedir ki bütün Güneydoğu Avrupa

Güneydoğu Avrupa'daki Çeşitli Kayıtdışı Ekonomi Türlerinin Payları



Kaynak: *SELDI Kayıtdışı Ekonomi Araştırması, 2016.*

ülkelerinde vergi ve gümrük memurluğu yolsuzluğa müdahil olması en yüksek ihtimalli meslekler olarak sıralanmaktadır.

Sonuç itibarıyla, kayıtdışı ekonomi Güneydoğu Avrupa'da yüksek düzeydedir. Önemli miktarda iş gücü hukuk düzeni içinde çalışma fırsatından mahrumdur ve gayri resmi çalışanlar, rant peşindeki memurlar ve yasal olmayan işletme çıkarlarına karşı savunmasızdır. 2016 SELDI Kayıtdışı Ekonomi Araştırması'nda kanıtlandığı üzere, Güneydoğu Avrupa'da kayıtdışı ekonomi oldukça derin bir sosyal tabana sahiptir. İş gücünün önemli bir bölümü kanunların koruyuculuğundan muaftır ve toplumun hukuk düzenine desteği düşmektedir; bu durum bir kısır döngüye yol açmakta ve kayıtdışı ekonomiyi pekiştirmektedir.

Enerji Sektöründe Devlet Zaptı

Halihazırdaki rapor 2014 SELDI politika önerilerini takiben en yüksek yolsuzluk riski taşıyan sektörlerden enerji piyasasına odaklanmaktadır. Güneydoğu Avrupa hükümetleri hemen hemen tüm enerji sektörüne sahip olduğu, onu yönettiği ve kontrol ettiği için, her türlü yönetişim sıkıntısı bütün olarak ekonomiyi ve toplumu etkilemektedir. Güneydoğu Avrupa'daki en ciddi enerji yönetişimi noksanları, kamu iktisadi enerji kuruluşlarının yönetim zafiyetleri, kamu ihale sözleşmelerindeki düzensizlikler ve enerji sektörünün serbestleşmesinin ve tekelleşmenin kaldırılmasının yavaş seyretmesidir. Söz konusu faktörler yolsuzluğu da beslemektedir.

Güneydoğu Avrupa enerji sektöründe rant tekelinin devamı uzun dönemde ancak siyasetçilerin yozlaşmış girişimlerde bulunması ve hükümetlerin piyasa düzenleyici kurumları kontrol etmesiyle mümkündür. Bu sebeple Güneydoğu Avrupa ülkelerinin kamu iktisadi teşekkülleri, özel tekeller ve hükümetler arasında yaşanan ihtilaflardan doğan yolsuzluk riskini azaltmak için enerji ticareti ve hizmetlerini serbestleştirmeye ihtiyacı vardır. Ne var ki, AB Üçüncü Enerji Paketi'nin kabulünü Güneydoğu Avrupa ülkelerinde laçka uygulamalar takip etmiştir çünkü tam teşekküllü bir uygulama bütün enerji sisteminin, yerleşik devlet zaptı ağları da dahil olmak üzere, gözden geçirilmesini gerektirmektedir. Bu durum, vatandaşların temel yönetişim yararları ortaya çıkmaksızın yapılan aldatıcı birtakım değişiklikler olarak gördüğü, bir başka sabote edilmiş reform sürecini doğurma riskini taşımaktadır.

Reform Gündemine Doğru

Yolsuzlukla mücadele çabalarının ana hamlesi üst düzey siyasi yolsuzluk ve devlet zaptına yönelik olmalıdır. Bununla beraber, resmi yolsuzlukla mücadele politikalarının ve planlarının kalite takibi ve uygulama ve verimlilik açıklarının kapatılması için, bölgedeki yolsuzlukla mücadele girişimleri kamu kuruluşlarını yakından incelemelidir. Orta vadede başarı sağlamak için üç temel alan, bölgedeki hükümetler, bölgesel girişimler ve Avrupa kurumları tarafından göz önünde bulundurulmalıdır:

- Yozlaşmış üst düzey siyasetçilerin ve memurların etkili bir şekilde yargılanması yolsuzluğa göz yumulmayacağına dair en etkili mesajı göndermenin tek yoludur. Bölgesel İşbirliği Konseyi gibi bölgesel platformlar performansa bağlı yolsuzlukla mücadele reformlarının teşvikinde aktif rol oynamalıdır. Bölgedeki AB üyesi ülkeler, Avrupa Komisyonu Adalet ve İç İşleri Genel Müdürlüğü ve sahadaki AB delegasyonları da bahsi geçen kurumlarla iş birliği yapmalıdır.
- Avrupa Komisyonu bölgedeki sivil toplum kuruluşlarıyla ortak çalışmalarını derinleştirmelidir. Uluslararası desteklenen reformların sürdürülebilir olması için reformların toplum tarafından geniş kabul görmesi gereklidir. Yine sivil toplum kuruluşları da reformların sürdürülebilirliği için vazgeçilmezdir. Sivil toplum kuruluşlarının bu sürece katılımı, hükümetlerin donörlere ve uluslararası kuruluşlara hesap verebilirliği kadar yerel seçmenlere yönelik hesap verebilirliğinin sağlanmasının da bir garantisidir.
- Ulusal ve uluslararası düzeyde bağımsız yolsuzluk ve yolsuzlukla mücadele izleme mekanizmalarının sürekliliğine ihtiyaç vardır. Güvenilir veri ve analiz üretilmesi ve yolsuzluğun tanılanması ile yolsuzlukla mücadele politika değerlendirmelerinin bütünleştirilmesi için de izleme mekanizmalarının sürdürülebilirliği önemlidir.

Bölgedeki hükümetler, yolsuzlukla mücadele konusunda tecrübeli olanlara paralel olarak, kayıtdışı ekonomiyle mücadele stratejileri oluşturmalı ve bunu nihai hedef olan AB ile katılımcı ve dinamik bir ekonomik yakınsamaya bağlamalıdır. Bu süreçte:

- İş dünyasındaki düzenleme ve uyum kurumlarının performansları izlenmeli.
- Gayri safi yurtiçi hasılada gözlemlenmeyen ekonomi düzenlemeleri için Eurostat metotları kullanılmalı.
- Düzenli vergi açığı değerlendirmeleri ve bu alanda

reformların sıralaması yapılmalı.
- Bütün ekonomik değer zincirinin kayıt altına alınması için politika geliştirilmeli.

Güneydoğu Avrupa'da yolsuzlukla etkin mücadele ve devlet zaptı çözümleri üretmek adanmış ve dinamik bir sivil topluma bağlıdır. Bu mesele sivil toplum kuruluşlarının kendi dürüstlük ve iyi yönetişimini de içerir: SELDI, Güneydoğu Avrupa'daki yolsuzlukla mücadele camiası için, 2020 İyi Yönetişim ve Yolsuzlukla Mücadele İçin Sivil Toplum Stratejisi ve Birleşik Stratejik Programı'nı hazırlayacaktır. Bölgedeki sivil toplum kuruluşları çalışmalarını daha güçlü siyasi adımlar ve yeni ortaya çıkan yerel toplumsal hareketleri destekleyen mekanizmalar üretmeye odaklamalıdır.

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