

# **State Capture Assessment Diagnostics in the Western Balkans 2020:**

Risks and Policy Options

Policy Brief No. 10, October 2020





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## KEY POINTS:

- As noted in the European Commission progress reports, despite continuous advancement of good governance, state capture mechanisms remain at **unacceptable levels** in the Western Balkans. Developing effective methods to address them before EU accession is an essential prerequisite to successful enlargement.
- In 2019 - 2020 SELDI has piloted for the first time in the region a reliable metric for monitoring state capture. The **State Capture Assessment Diagnostics** (SCAD) provides insights into state capture enablers, key affected economic sectors and risks of monopolisation across the region.
- The pilot SCAD assessment in the Western Balkans has shown that although **none of the countries is close to full state capture**, i.e. authoritarian rule, they exhibit **critical impairments in democratic and economic checks and balances**. Some economic sectors require particular attention, as they are likely sources of concentration of power and capture.
- SCAD data suggests that the main challenge for the countries in the region remains in the form of **state capture enablers**, such as media control, corruption in the judiciary, lack of integrity of public organisations, lack of impartiality and inadequate anti-corruption procedures. Across the Western Balkans, the score for state capture enablers spans from 39 to 45 out of 100 (full state capture).
- **Monopolisation pressure** is highest in Albania, Kosovo\* and Bosnia and Herzegovina. In these countries, the situation is exacerbated by deficiencies in anti-trust policies and their enforcement. Business state capture pressure is typically channeled through the concentration of public procurement, construction permits, concessions and privatization deals, as well as licenses in regulated and excise duties' businesses.
- **Key economic sectors such as energy, pharmaceuticals, telecommunications and construction** show signs of monopolisation pressure potentially associated with state capture. The European Commission will need to pay particular attention to safeguarding competition in these sectors when developing its upcoming "robust economic and investment plan for the region" which aims to "boost the economies while improving their competitiveness."



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## INTRODUCTION

The Covid-19 crisis has starkly demonstrated two trends in the Western Balkans, both of which SELDI has outlined in its recent policy briefs on the region.<sup>1</sup> On the one hand, fledgling democratic institutions have been quickly overwhelmed by authoritarian trends, which have been in the making in the past decade.<sup>2</sup> In almost all countries in the region, imposed emergency regulations have tried to actively intimidate media and democratic freedoms, including that of parliamentary oversight. On the other hand, foreign authoritarian powers, most notably Russia and China, have been quick to try to sway public opinion against the EU by touting their own medical supplies with the help of local leaders.<sup>3</sup> Both trends have been aggravated by the concentration of power in the hands of political leaders and local economic groups. This has led to the oligarchisation of the region's economies and the state capture of key government regulatory functions.

The Zagreb EU – Western Balkans Summit has reaffirmed the strategic importance of the region and its EU future. It has also underscored the continuing focus of the EU and the European Commission<sup>4</sup> on improving rule of law and anti-corruption policy in the Western Balkans. Most notably, the final summit declaration highlighted the pledge by local political leaders to uphold European values and principles, including primacy of democracy, rule of law, and anticorruption.<sup>5</sup>

A month earlier, two more countries from the region – Albania and North Macedonia – received an official invitation to begin negotiations for EU entry. They were the only Western Balkan countries to show an improvement – albeit marginal – in their corruption efforts in 2019 as compared to 2016.<sup>6</sup> The March 2020 EC progress report on Albania and North Macedonia<sup>7</sup> noted that the two countries have accelerated their preparations for accession, and that membership negotiations may be launched shortly. This has remedied a dangerous hesitation in EU enlargement efforts, spearheaded by France, which held the start of enlargement negotiations in the Western Balkans in 2019. The report resulted in the European Commission undertaking a **new approach to evaluating** the countries' progress before accession, providing EU governments with more decision-making power and the scope for stopping and re-launching negotiations, as well as for the freezing of funds.<sup>8</sup> This raises the importance of the continuing reforms in the competition and rule of law fields.<sup>9</sup>

Against the backdrop of intensified reform efforts, however, **corruption and state capture mechanisms in the region still remain at unacceptable levels.** These issues hold back economic development and keep the region well below the 50% of EU GDP per capita in purchasing power standards. Finding a way to address them before accession is thus an essential prerequisite for the successful EU enlargement in

1 SELDI (2019), Policy Brief 9: [Corruption in the Western Balkans: Trends and Policy Options](#).

2 Freedom House (2020), [Nations in Transit 2020: Dropping the Democratic Façade](#).

3 CSD (2018), Policy Brief No. 88: [Making Democracy Deliver in the Western Balkans: Strengthening Governance and Anticorruption](#).

4 European Commission (2020), [Support to the Western Balkans in tackling COVID-19 and the post-pandemic recovery](#).

5 Council of the European Union (2020), [Zagreb Declaration](#).

6 SELDI (2019), Policy Brief 9: [Corruption in the Western Balkans: Trends and Policy Options](#).

7 European Commission (2020), [Reports on progress made by Albania and North Macedonia](#).

8 European Commission (2020), [A credible EU perspective for the Western Balkans](#), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and Committee of the Regions: Enhancing the access process.

9 SELDI (2020), [The New Approach on Enlargement: Good Ideas in Need of a Captain](#).

the Western Balkans. SELDI's 2019 *Corruption Monitoring System (CMS)* results show that compared to 2016, **corruption pressure has increased** in four of the six Western Balkans countries: Bosnia and Herzegovina, followed by Montenegro, Kosovo\*, and Serbia. Only Albania and North Macedonia have witnessed a marginal decrease in corruption pressure. These results indicate that countries under more political pressure from the EU, and who have a clear prize (short-term goal) on the horizon perform better.<sup>10</sup>

## State Capture Assessment Diagnostics

State capture can generally be described as the institutionalisation of corrupt relations, leading to the virtual privatisation of governance. Instead of public goods, the state capture process **delivers private goods systematically and permanently** to captors (or privatisers) of government functions. Process-wise, state capture is the abuse of good governance rules (which includes abuse of power) in the process of drafting, adoption and enforcement of the rules themselves (including the laws) in favor of a small number of captors at the expense of society and business at large. The greatest enabler of state capture is how easily it can be denied, due to the hidden nature of its workings. Thus, an indispensable step is to make state capture tangible and explicit, and thereby target its weaknesses. In this vein, SELDI for the first time in 2019-2020 **piloted a comprehensive methodology for monitoring and exposing state capture vulnerabilities in the Western Balkans**. The current policy brief presents the pilot results of the application of the *State Capture Assessment Diagnostics (SCAD)* methodology<sup>11</sup> in the region.

SCAD is an evidence-gathering mechanism that policy-makers need to utilise for two purposes:

- To verify the existence of state capture practices in given economic sectors and regulatory/enforcement institutions;
- To consider policy adjustments which prevent the utilisation of institutions of public governance to private ends.

As SCAD is designed to measure state capture results/effects, the capture process itself based on a series of quantitative survey indicators among experts and government officials, as well as composite governance indicators. The **SCAD model includes two major components:**

- Business state capture pressure, which is centered on monopolization pressure at national, sectoral or institutional level; and
- State capture enablers, which encompasses institutional and environmental factors at national level.

SCAD models *business state capture pressure (BSCP)* at the **national level** through indicators which reflect *monopolization pressure* and *ineffectiveness of antimonopoly laws (IAL)*. At the **sectoral level**, additional indicators are monitored. These include proxies for the privileged status of a given business entity (company), such as whether it enjoys privileged access to public procurement; the presence of legislation or laws enhancing its market position; its privileged legal status that may shield it from

\* The designation "Kosovo" is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

10 SELDI (2019), Policy Brief 9: [Corruption in the Western Balkans: Trends and Policy Options](#).

11 CSD (2019), [State Capture Assessment Diagnostics](#).

prosecution; or its receiving of preferential treatment regarding state subsidies.

Higher levels of BSCP generally demonstrate that more economic sectors in a given country are vulnerable to state capture. This indicates a greater potential for high-level corruption to take place through some or all of these sectors, which would undermine the democratic system in the country as a whole. The most revealing variable of BSCP is *monopolisation pressure*, an indicator which reflects the share of the total company turnover of a country concentrated in economic sectors deemed by experts to suffer from monopoly. The other sub-indicator of BSCP is the **ineffectiveness of antimonopoly laws**. This reflects the share of surveyed experts who believe that existing antimonopoly laws across economic sectors help, rather than hinder, the formation of monopolistic, oligopolistic or cartel structures in the country (a weighted average for all sectors is computed).

SCAD further monitors a number of state capture **enablers**, i.e. characteristics of social domains which affect the system of governance by allowing or facilitating state capture. Enablers may be *institutional* (e.g. the ineffectiveness of anticorruption policies, lack of integrity, lack of impartiality and selective enforcement biased to private interests) or *environmental* (e.g. media, administrative and judiciary corruption).

Institutional enablers reflect the status of processes in public organisations which directly express their potential to deliver services in accordance to their legal statute and prescribed functions. High values demonstrate the vulnerability of public organisations to corruption influences and the realisation of state capture mechanisms. SCAD assesses four potential state capture

enabling scenarios with regard to public organisations: **ineffectiveness of anti-corruption policies, lack of integrity, lack of impartiality, and private interest bias**.

## State Capture in the Western Balkans

The European Commission has repeatedly noted the existence of state capture risks in the Western Balkans, “including links with organised crime and corruption at all levels of government and administration, as well as a strong entanglement of public and private interests”.<sup>12</sup> In its Regional Anti-Corruption Reports, SELDI has provided clear and comprehensive evidence of the existence of state capture mechanisms, particularly in highly monopolised sectors, such as energy.<sup>13</sup> The following pilot SCAD results will enable the European Commission, national governments, and civil society to better understand, monitor and respond to state capture vulnerabilities in the region.

### Business State Capture Pressure

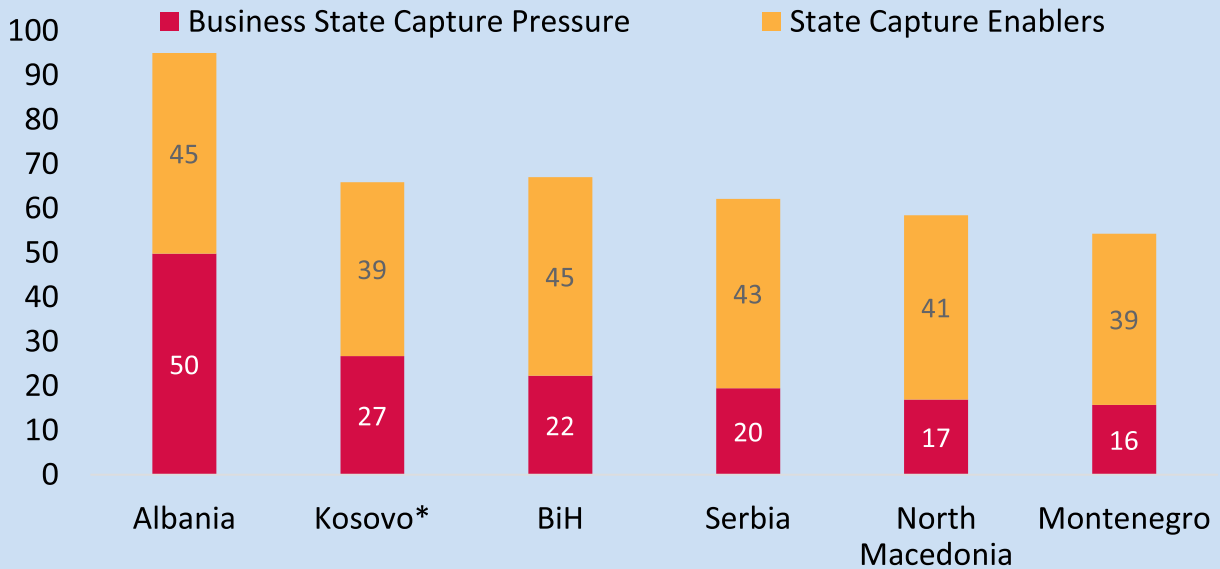
SCAD shows that business state capture pressure (BSCP) is at **non-negligible levels** in Montenegro, North Macedonia, Serbia and Bosnia and Herzegovina, approaches **medium levels** in Kosovo\* and is **alarmingly high in Albania**. This calls for more thorough scrutiny (regarding legislation, procurement concentration, activities of specialised regulatory bodies, etc.) into critical sectors in all the Western Balkan countries, and especially in Albania and Kosovo\*.

The relatively high levels of business state capture pressure registered in the Western Balkans are driven by two main elements: **monopolisation pressure** and the **inef-**

<sup>12</sup> European Commission (2019), [A credible enlargement perspective for an enhanced EU enlargement with the Western Balkans](#).

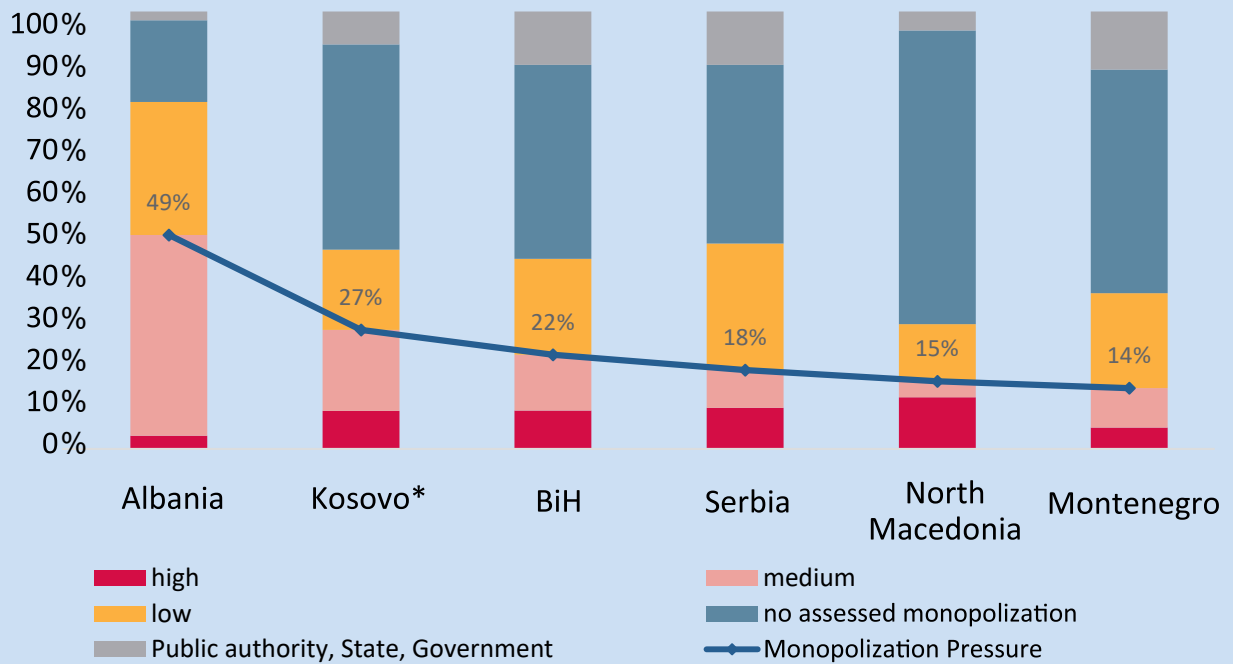
<sup>13</sup> SELDI (2016), [Energy governance and state capture risks in Southeast Europe: Regional Assessment Report](#).

**Figure 1. Business State Capture Pressure and State Capture Enablers in the Western Balkans**



Source: SELDI SCAD, 2020.

**Figure 2. Monopolisation Pressure and Company Turnover (share of the total company turnover in the country concentrated in sectors with high, medium or low monopolisation pressure)**



Note: Monopolisation pressure is calculated as the share of the total turnover for the country of the companies operating in sectors with high and medium monopolisation pressure)

Source: SELDI SCAD, 2020.



**fectiveness of antimonopoly laws. While monopolisation pressure** is the highest in Albania and Kosovo\*, considerable levels are also recorded in BiH, Serbia, North Macedonia, and Montenegro. In North Macedonia, 12% of the total company turnover for 2019<sup>14</sup> is concentrated in high monopolisation pressure sectors – the highest percentage amongst the six countries.

Energy, pharmaceuticals, telecommunications, construction and other key economic sectors in all these countries show signs of monopolisation pressure potentially associated with state capture.

### Sectoral Vulnerabilities

SCAD results reveal that multiple economic sectors in the region show symptoms which can potentially be attributed to state

capture. Sectors such as electricity, gas, steam and air conditioning supply, wholesale of pharmaceutical goods, wholesale of solid, liquid and gaseous fuels and related products, telecommunications, construction, and gambling need deeper analysis (into procurement concentration, legislation, regulatory and control bodies, etc.) as well as urgent reforms. Furthermore, sectors showing high vulnerability in more than one country may be regarded as pathways toward cross-regional **state capture scenarios**. These may involve internal actors, like in the infamous Agrokor case, or external ones – such as state-owned or otherwise state-controlled companies in the oil and gas energy sector.

Besides typically vulnerable sectors across the region, there are some sectors which

**Table 1. Economic Sectors Assessed to be with High or Medium Monopolisation in Two or More Countries**

	Assessed monopolisation						Antimonopoly laws facilitate the formation of monopoly					
	Albania	BiH	Kosovo*	Montenegro	North Macedonia	Serbia	Albania	BiH	Kosovo*	Montenegro	North Macedonia	Serbia
Civil engineering	12%	41%	NA	25%	35%	30%	27%	27%	NA	22%	34%	31%
Construction of buildings	41%	47%	NA	46%	26%	51%	48%	30%	NA	30%	26%	35%
Electricity, gas, steam and air conditioning supply	47%	61%	38%	65%	74%	77%	54%	42%	38%	40%	43%	40%
Gambling and betting activities	50%	58%	36%	42%	33%	38%	49%	41%	31%	33%	31%	25%
Programming and broadcasting activities	21%	32%	4%	20%	18%	64%	27%	25%	19%	31%	46%	40%
Telecommunications	59%	67%	46%	49%	67%	47%	63%	40%	30%	31%	53%	36%
Wholesale of pharmaceutical goods	56%	53%	58%	48%	53%	51%	53%	40%	49%	29%	46%	27%
Wholesale of solid, liquid and gaseous fuels and related products	24%	35%	52%	15%	53%	42%	38%	30%	28%	20%	36%	33%
Wholesale of tobacco products	18%	38%	48%	29%	20%	17%	29%	32%	45%	24%	26%	26%

Source: SELDI SCAD, 2020.

exhibit high or medium monopolisation pressure in only one of the countries. These include: *air transport and extraction of crude petroleum* in Serbia; *pharmacy retail*<sup>15</sup> in BiH; *manufacture of basic pharmaceutical products and pharmaceutical preparations, non-specialised wholesale trade, and retail sale of automotive fuel in specialised stores* in Albania; *waste collection, treatment and disposal activities; materials recovery* in North Macedonia.

The **energy sector** is one of the sectors with high state capture vulnerability across the region, due to its high levels of concentration, state ownership and lack of adequate regulatory oversight. It is thus a natural starting point of reforms, given the Western Balkan countries' membership in the Energy Community, which can be a critical pull factor. However, the achievement of lasting liberalisation and democratisation of energy supply in the region would **require a much closer engagement between the EU and local political elites**, in order to build capacity for independent regulation and strong civic oversight.

There is a high degree of monopolization in **the electricity, gas, and steam sector** in Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, and Serbia. Bad governance is common in the energy sector in Western Balkans, where the confluence between political meddling, poorly managed state-owned enterprises and dependence on foreign supply allows for widespread corruption and abuse of public funds. The energy sector in the region is thus characterised by a lack of transparency and inefficient corporate governance structure of state-owned enterprises.<sup>16</sup>

The sector is also prone to external pressure via foreign investments in supplies and transit of gas and oil, as well as energy infrastructure projects. The situation is further complicated by the high level of energy dependence of the Western Balkans on external actors, such as Russia. This is aptly illustrated by the case of Serbia, where the state-owned company NIS has a monopoly on the exploitation of oil and gas in the country. At the same time, the management of the company is highly politicised, its selling to the Russian gas monopoly Gazprom the result of political rather than economic considerations.<sup>17</sup>

Another sector with high monopolization pressure across the region is **telecommunications**. Telecommunication infrastructures of the WB6 countries are heterogeneous in both technical and technological terms, as well as in their distribution arrangements. Among its sub-sectors, the assessed monopolisation of programming and broadcasting is a particularly sensitive issue in Serbia. All national television frequencies are either directly controlled by the government or owned by those with close ties to the people in power. This contributes to the frequent compromising of journalistic independence of in the country.<sup>18</sup>

The assessed level of monopolisation in the **pharmaceutical sector** across the WB6 is high. This is particularly worrying in the wake and the immediate aftermath of the Covid-19 crisis. The pharmaceuticals market in the Western Balkans faces a number of challenges, such as a lack of enforcement of rules and standards, limited access to drugs for low-income populations, and

15 The official name of the sector in English of NACE Rev.2 is "Dispensing chemist in specialised stores". The text uses the more popular name pharmacy retail to improve understanding.

16 CSD (2015), Policy Brief No. 47: [EU and NATO's role in tackling energy security and state capture risks in Europe](#).

17 CSD (2018), [Russian economic footprint in the Western Balkans. Corruption and state capture risks](#).

18 Euractiv (2019), [Rise in Attacks on Journalists in Serbia Prompts Concerns for Press Freedom](#). See also [Serbia is a Captured State](#).

conflicts of interest between public health and industry objectives. For example, in Montenegro, the market size of pharmaceutical goods amounts to 66 million euro, with one company holding an estimated market share of 52%. Serbia's market size is around 700 million euro, with two main distributors.<sup>19</sup> Across the Western Balkans, the wholesale sector is fragmented mainly because of inefficiencies in the supply chain. It is not surprising that such a regulatory environment allows for public procurement practices that disproportionately favor local wholesalers or dominant pharmacy chains. One of the consequences of such lax regulatory practices is the noticeably higher price of pharmaceuticals compared to the rest of Europe. Moreover, the lack of a comprehensive system to assess domestic procurement practices benefits the wholesalers who already dominate the market and are able to pass the extra cost to the consumer. These wholesalers are able to win lucrative government contracts due to their close connections to people in power.

The deficient regulatory practices in the pharmaceutical sector were reflected in a not so recent but emblematic corruption case, which revealed some of the practices feared to be wider spread in the sector. In the Pfizer/Wyeth subsidiary case, company representatives allegedly paid millions of dollars in bribes to secure drug markets in Eastern Europe, including those of Bulgaria, Croatia and Serbia. Employees of the pharmaceutical group working in subsidiaries in Eastern European countries, including in the Western Balkans, paid bribes to doctors to increase sales. These kickbacks

were made to influence purchase approvals and facilitate customs clearance.<sup>20</sup>

## Ineffectiveness of Antimonopoly Laws

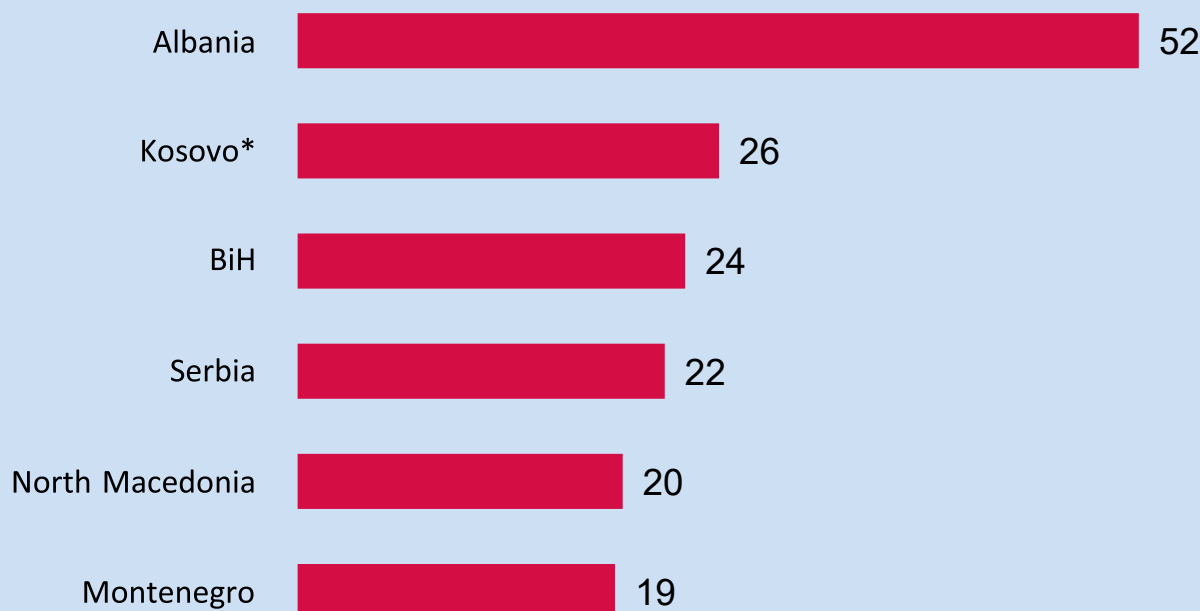
The **ineffectiveness of antimonopoly laws** indicator mirrors the monopolisation pressure ranking of the countries in the Western Balkans. Albania shows the highest score (52 out of 100), followed by Kosovo\* (26), BiH (24), Serbia (22), North Macedonia (20) and Montenegro (19). It is characteristic of economies in transition, such as those in the Western Balkans, to have strong regulatory and economic barriers to market entry. The legal framework regulating the barriers of entry, such as licensing restrictions, trade rules or various administrative requirements is often skewed in favour of privileged actors, which helps them develop and sustain monopoly power. Ineffective antitrust laws or their weak implementation then contributes to the entrenchment of monopolies.<sup>21</sup> The regulatory quality of the region thus remains relatively low in comparison to the neighbouring EU countries.<sup>22</sup>

19 RHEI Ltd. (22 November 2018), Balkan Pharma Facts and wholesale.

20 Reuters (2012), [Pfizer settles foreign bribery case with U.S. government](#). See also Courrier des Balkans (2012), [Corruption : Le Groupe Pharmaceutique Pfizer « Arrosait » Largement En Europe Orientale Et Dans Les Balkans](#).

21 Buccirossi P., Ciari L. (2018) Western Balkans and the Design of Effective Competition Law: The Role of Economic, Institutional and Cultural Characteristics. In: Begović B., Popović D. (eds) *Competition Authorities in South Eastern Europe* (Springer) at 7-41.

22 See Fig 5 in Buccirossi P., Ciari L.

**Figure 3. Ineffectiveness of Anti-Monopoly Laws**

Source: SELDI SCAD, 2020.

### Institutional Enablers of State Capture

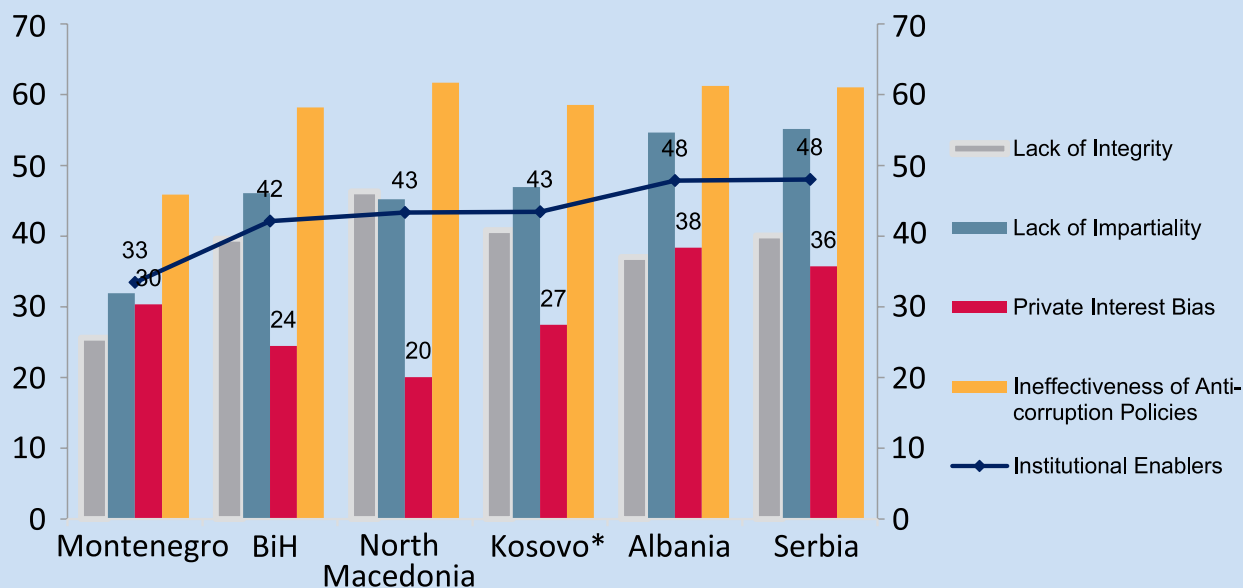
Albania and Serbia rank the worst across all six countries for most of the indicators, especially on the critical proxy for state capture: **private interest bias**.<sup>23</sup> Ineffective anti-corruption policies at the level of public organisations are a problem in all these countries. This provides context for SELDI's Corruption Monitoring System results<sup>24</sup>, showing that citizens' doubts as to the effectiveness of anti-corruption reforms in all six countries are actually justified. Even though high-level corruption cases dominate the media, the everyday experience with corruption of ordinary people is determined by interactions with low level public officials at the institutional level.

*Anti-corruption policies* are deemed especially ineffective in construction-related public institutions in Albania and North Macedonia, in labour inspectorates in BiH, North Macedonia and Serbia, in media-related public organisations in Kosovo\* and Serbia, and in mobility and transport and agriculture-related authorities in Albania. Energy, customs, tax authorities, privatisation, healthcare and pharmaceuticals, pro-curement, and local governance are also among the areas that highlight the high ineffectiveness of anti-corruption policies in multiple Western Balkan countries.

*Private interest bias* indicates actual state capture-like behaviour of public organisations which are not merely ineffective or inactive, but also benefit specific private interests. Such institutions follow the invisible

<sup>23</sup> Private interest bias is the indicator which tries to assess directly and explicitly the risk of state capture. The score on this indicator represents the percentage of experts who deem, for a particular public organization, that the "control and the imposing of sanctions are done selectively, and the choice of whom to control or sanction follows private interests". This indicator addresses one of the strongest state capture mechanisms: the use of public organisations not only to benefit certain private parties (which can easily be interpreted in the terms of classical corruption scenarios) but rather as a tool or weapon against the competitors of the captor entity.

<sup>24</sup> SELDI (2019), Policy Brief 9: [Corruption in the Western Balkans: Trends and Policy Options](#).

**Figure 4. Institutional Enablers of State Capture**

Source: SELDI SCAD, 2020.

**Table 2. Private Interest Bias by Organisation**

Organisation type	Private Interest Bias					
	Serbia	Albania	BiH	Kosovo*	Montenegro	North Macedonia
Agriculture-related	67%	51%		51%		24%
Anticorruption, organised crime and money laundering	44%	56%	67%	30%	49%	
Construction-related bodies		27%	38%		40%	10%
Customs		58%	23%	29%		36%
Energy sector regulation and control		35%	20%	25%		29%
Environmental regulation and control	25%	50%	20%			20%
Fiscal policies, regulation and control		38%			67%	
Labor conditions control and regulation; Employment policies	89%		29%	33%		44%
Local government		58%	33%	21%	32%	39%
Media-related bodies	56%			57%		33%
Mining and mineral resources				75%		
Mobility and transport		50%	21%			
Pharmacy and health related control and regulatory bodies		42%		80%		
Privatisation and Post-Privatisation Control, Restitution	25%	44%	20%	37%		
Procurement	33%	37%		31%	27%	50%
Social and health insurance authorities	39%		27%	20%		32%
Tax and audit authorities	52%	55%	28%	39%		37%

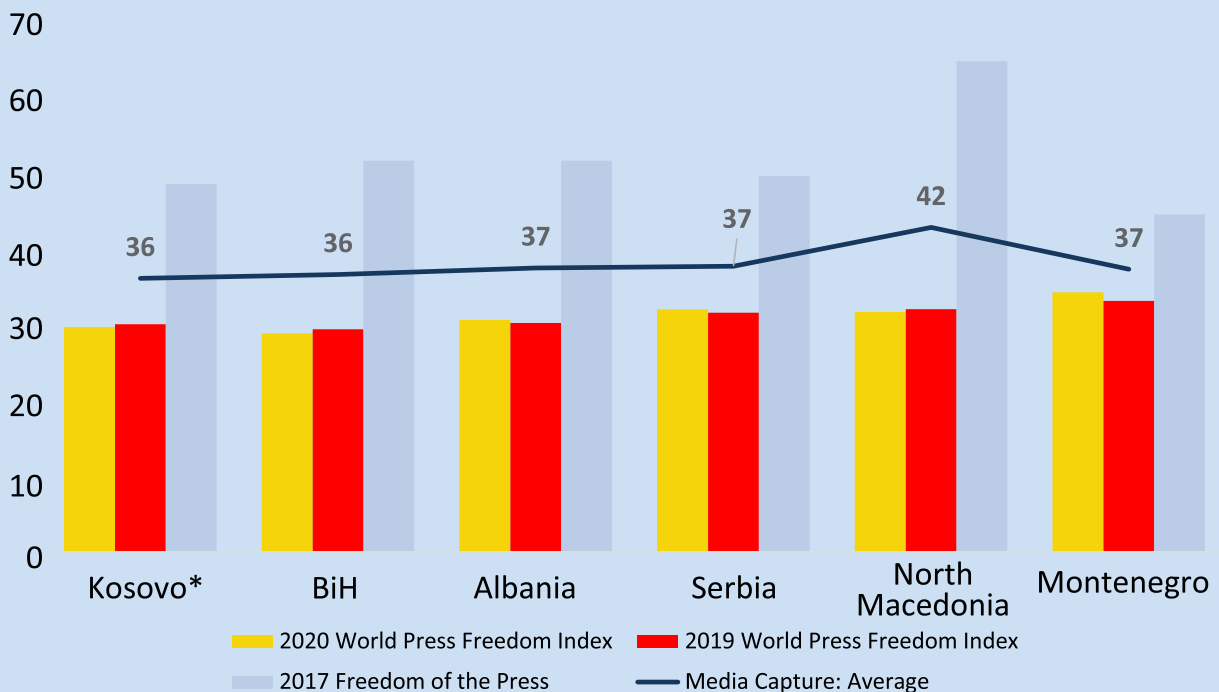
Source: SELDI SCAD, 2020.

commands of internal and/or external captors, who pull the strings behind the scenes. In this context, it is especially concerning that four of the six countries (Serbia, Albania, BiH and Montenegro) have high private interest bias scores in the area of “anti-corruption, organised crime and money laundering prevention”. Half of the experts (two-thirds in the case of BiH) assess organisations with such responsibilities as acting according to their own private agenda and not the public good. This once again brings forth SELDI’s recommendation for organisations to stop relying on newly-formed institutions for immediate results (more often a publicity stunt than an actual solution for endemic problems), but rather focus on building strong and effective anti-corruption protocols within existing public organisations<sup>25</sup>.

## Media capture

There are significant problems with media freedom in the Western Balkans which have contributed to the democratic backsliding of the region.<sup>26</sup> These problems are exacerbated by the trends of oligarchising and state capture, which blur the lines between government and business control over newsrooms. Newsrooms across these countries suffer from well-documented interference of media owners.<sup>27</sup> This hampers the role of the media to provide democratic oversight and results in the use of media outlets to denigrate opponents, influence politics and to extend private economic interests to politics or vice versa. The Covid-19 crisis has put further governmental pressure on the media

**Figure 5. Press Freedom Indexes**



**Source:** SELDI SCAD, 2020.

<sup>25</sup> State-of-the-art instruments can facilitate such reforms. One example is the [Monitoring Anti-Corruption Policy Implementation \(MACPI\)](#) toolkit which has been used with great success in various types of public organisations in multiple European countries, including several Western Balkan ones.

<sup>26</sup> Freedom House (2020), [Nations in Transit 2020: Dropping the Democratic Facade.](#)

<sup>27</sup> S. Trpevska and I. Micevski (2018), [Indicators on the Level of Media Freedom and Journalists’ Safety in the Western Balkans](#), Independent Journalists’ Association of Serbia.

following the adoption of additional regulations on fake news distribution and subsequent decline in market revenues.

In **Albania**, there have been multiple reports of prominent journalists being put under pressure by senior government officials. Moreover, there is a trend of media ownership and revenues concentrating in the hands of a few family groups or oligarchs, which underscores media capture risks.<sup>28</sup> The legislation on electronic media is still far from international standards, which inhibits and interferes with the right of Albanian citizens to access information.

In **Serbia**, the largest media market in the Western Balkans, media ownership transparency has been an issue for years. The country's lack of publicly accessible data or register on final beneficiary ownership of media allows for hidden control and influence to flourish. The widespread understanding of the Serbian language throughout the former Yugoslavia makes this a regional vulnerability. The Serbian government has put increasing pressure on critical media, in particular those producing critical investigative reports related to corruption cases.<sup>29</sup> Moreover, the ongoing process of media privatization since 2015 has resulted in further cases of media ownership concentration in the hands of businessmen with close links to the ruling party.<sup>30</sup> In a notable example, half of the shares of one of the more influential conservative outlets, *Politika*, went to the Russian East Media Group. Despite this, there is extremely limited information about the structure of ownership and identity of the final beneficiary.<sup>31</sup> In addition, local and regional media in Serbia continue to be dominated by a conspicuous pro-government bias. In this context, it is not surprising

that during the 2017 presidential elections the ruling party candidate received ten times more airtime on national broadcasters than all others combined.<sup>32</sup> Overall, the political pressure and questionable ownership exert significant negative effect on the media independence in Serbia.<sup>33</sup>

## CONCLUSIONS AND RECOMMENDATIONS

The pilot implementation of the comprehensive State Capture Assessment Diagnostics tool in the Western Balkans has revealed considerable outstanding state capture risks. The results show that **none of the countries is close to full state capture**, i.e. authoritarian rule. However, there are **critical impairments in democratic and economic checks and balances**. Some economic sectors require particular attention as likely sources of concentration of state capture.

The SCAD data suggests that the main challenge for countries in the region remains in the form of **state capture enablers** such as media control, corruption in the judiciary, lack of integrity of public organisations, impartiality and insufficient anti-corruption procedures. These are, in fact, the areas at the heart of the EU Enlargement process. Achieving resilience here would require at least another decade of sustained efforts and results.

**Business state capture pressure** – a direct indicator of monopolisation of key economic sectors – has reached non-negligible levels in some areas, such as energy, construction and pharmaceuticals. The European Commission would thus need to pay particular attention to safeguarding competition in such sectors when developing its upcoming “robust economic and investment plan for the region”

28 Reporters without Borders (2019), [Albanie : conclusions d'une mission conjointe pour la défense de la liberté de la presse](#).

29 M. Jungblut and A.Hoxha (2016), Conceptualizing journalistic self-censorship in post-conflict societies: A qualitative perspective on the journalistic perception of news production in Serbia, Kosovo and Macedonia, 10(2) Media, War and Conflict, pp 222-238.

30 Reporters without Borders (2017), [Who Owns the Media in Serbia?](#)

31 Observatorio balcani e caucaso transeurope (2017), [Media Ownership in Serbia: a Foggy Landscape](#).

32 Reporters without Borders (2017), [Who Owns the Media in Serbia?](#)

33 Balkan Insight (2018), [For Serbian Journalists, Obedience is the Norm](#).

which aims to “boost the economies while improving their competitiveness, to better connect them within the region and with the EU.”<sup>34</sup> Business state capture pressure is typically channeled through the concentration of public procurement, construction permits, concessions and privatization deals, as well as licenses in regulated and excise duties’ businesses. In fact, **breaking the deadlock of this pressure** might help to advance the economic development of the region as much as would EU development funds and investment loans.

The Western Balkans has made **clear progress in tackling corruption** within the framework of the **EU Enlargement process**. However, after 2016, this progress has encountered increasing headwinds, largely due to political reasons, both on the part of the EU and that of the countries from the region. Many observers have rightly pointed out the **democratic backsliding and façade democracy** which has not been constrained only to candidate countries but has also spread to EU member states as well.<sup>35</sup> This trend has been exacerbated by a resurgence of great power competition, which has provided local leaders with convenient escape clauses from EU conditionalities. And the Covid-19 crisis has put further strains on enlargement by intimidating citizen action and allowing governments to crack down on dissent through emergency measures. The EU and its newly appointed special representative for the Western Balkans need to tackle these issues while focusing on key state capture risks. In summary, the analysis of SCAD data suggests that in **tackling state capture in the region**, national governments and the EU need to **focus on the following aspects**:

- **stronger political engagement** with local leaders on rule of law issues, in particular those related to economic fundamentals, such as competitiveness and the attracting of EU investments;
- safeguarding and monitoring **judicial independence and performance**, including through capacity building and the tackling of complex economic misdeeds in public procurement, concessions, privatisation, and excise duties’ fraud;
- ensuring **transparency of media ownership**, newsroom independence and safeguarding media freedom from political interference;
- tracking and addressing critical **economic climate** issues through continuous monitoring of **hidden economy** areas, such as undeclared labour and the hiding of revenues in excise and service sectors, as well as identifying and addressing critical junctures and links to the **black economy, corruption and organised crime**;
- strengthening **anti-monopoly laws** and their practical implementation, including the empowerment of **anti-monopoly commissions** in the region, and the tracking of legislation for loopholes allowing the monopolisation of sectors or bias towards specific private interests;
- prioritising competition issues in critical sectors identified by SCAD, such as **energy, pharmaceuticals and construction**, working with regulatory watchdogs to strengthen their independence and focus on market liberalisation, tracing anti-monopoly cases and deriving solutions to identify and address key needs for capacity building.

<sup>34</sup> Council of the European Union (2020), [Zagreb Declaration](#).

<sup>35</sup> Freedom House (2020), [Nations in Transit 2020: Dropping the Democratic Façade](#).







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