



EU ANTI-CORRUPTION REQUIREMENTS:
MEASURING PROGRESS IN ALBANIA, KOSOVO,
FYR MACEDONIA AND TURKEY

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Author: Craig Fagan

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1. INTRODUCTION

The European Union (EU), composed of 27 member states, has set out clear membership requirements for countries desiring entry to the union. These include meeting certain financial, economic, social and political standards, including for corruption and governance. According to the EU membership requirements, candidate and potential candidate countries are to 'make progress' on anti-corruption and broader areas of good governance.

There are however no clear standardised baselines used by the EU to assess changes in anti-corruption and governance. As such, it has been difficult to determine whether candidate countries are advancing and meeting their obligations. Baselines would enable progress – or backsliding – to be monitored over time. They would also provide a means of substantiating whether governance gains by a country are sustained and deepened. The absence of such baselines has meant that the goal of achieving the governance requirements for EU membership often seems to be a moving target for the countries concerned.

This report responds to this need by setting a baseline for assessing the governance levels of EU- and potential EU-candidate countries. It is based on the results of the Comparative Indicator-based Monitoring of Anti-corruption Progress initiative (CIMAP). This is a monitoring tool that has been formulated by Transparency International, based on EU governance and anti-corruption membership requirements, as well as general good practice standards in the field. CIMAP is the first assessment of its type to be carried out for EU accession countries.

This report assesses anti-corruption progress made in four countries. Two are among the five candidate countries currently awaiting entry to the EU (FYR Macedonia and Turkey). The other two are eligible for future membership (Albania and Kosovo). The four countries have been chosen for the study based on their membership eligibility and current challenges they face in combating corruption, as identified in a number of international indices and surveys.¹

Individual country progress is assessed based on the advances made by three national institutions: the judiciary, the legislature and public administration (the civil service). All three institutions form part of the governance landscape that the EU reviews when considering a country's membership. Based on experience and practice, these three institutions are considered essential components for promoting anti-corruption measures and good governance.

The report shows that across all four countries, there is a common shortfall between enacting anti-corruption laws and implementing them. Although legal and regulatory frameworks are often in place, they are frequently not respected or used to sanction non-compliance. Low capacity and weak governance results recorded for all three institutions help to explain this gap between law and practice in each country. The findings reveal that where these shortfalls exist, the ability of institutions to effectively perform their anti-corruption functions is undermined.

In reviewing the results, there are some common governance deficits that appear for all institutions and countries. These cross-cutting issues are consistent regardless of the different institutional or national contexts. Identified gaps include:

- low and inconsistent levels of access to information
- ineffective application of asset disclosure requirements
- absent or unimplemented codes of conduct
- political interference in institutional responsibilities and operations
- poor working conditions for judges, legislative staff and civil servants.

The commonality of these problems signals the need for concerted action by the four countries to support and implement initiatives that can bridge these gaps. For this to happen, political will is essential on the part of country leadership. When governments are responsive and pro-active, they can make a significant difference in both the reform and implementation of policies. International actors, with the EU taking the lead, must reinforce these country-led efforts.

The report's findings provide national and regional stakeholders – including the European Commission, governments and civil society organisations – with a blueprint for how to close the deficits and fulfil key parts of the EU accession criteria.

The findings are based on an institutional assessment carried out in each country using standardised indicators that cover both anti-corruption laws and their implementation in practice. The indicators are derived from the anti-corruption requirements outlined for EU accession and have been developed following a detailed review of the documentation regulating the reforms to be undertaken by candidate and potential candidate countries towards EU membership. Transparency International's National Integrity System Assessment methodology was also used as a reference point for the development of the methodology.²

The CIMAP initiative has been designed to track and monitor changes over time in the institutions and countries included in the report. The report's results establish a baseline that should be used to conduct follow-up assessments over the coming years.

2. METHODOLOGY

The CIMAP initiative assesses the performance of three institutions: the judiciary, legislature and public administration.

Civil society organisations³ in each of the four countries have partnered with Transparency International to collect data on each institution through:

- an analysis of the pertinent laws, regulations and other official documents
- a thorough desk review of existing studies and available information on the topics
- key interviews with experts on the judiciary, legislature and public administration, as well as those working in relevant positions in the respective institutions.

Each country team used the same indicators and methodological framework for the study. Overall more than 150 indicators were assessed in each country. The indicators are grouped around four characteristics: capacity, governance, overall effectiveness/efficiency and public procurement.

The following definitions and groupings should be referenced when reviewing the findings of the study.

CAPACITY

An institution's capacity is assessed by looking at its levels of resources and independence as provided by law and based on what happens in practice.

- **'Resources'** is understood as the availability of inputs required for the institution to function effectively. Related indicators assess the human, infrastructural and financial resources that are needed, which are legally guaranteed and provided in practice.
- **'Independence'** captures the concept that the institution has the ability to function without undue external interference by other institutions (including the executive) and with sufficient autonomy. Examples of indicators that assess institutional independence include the degree of budgetary autonomy and the provisions and practices that ensure merit-based recruitment.

GOVERNANCE

An institution's governance is determined by assessing its levels of transparency, accountability and integrity according to the laws and their implementation.

- **'Transparency'** captures the level of openness of an institution and, more specifically, the ease with which citizens are able to access information. Examples of indicators that measure transparency include the proactive publication of information about an institution's activities, physical access to the institutions (courts and legislature) and provisions and practices regarding asset declarations.
- **'Accountability'** is understood as the provisions and practices that ensure the institution and its staff can be held responsible for their actions and decisions. Examples of indicators to assess accountability include internal audit provisions and practices, as well as the existence of complaints mechanisms.

- **'Integrity'** denotes the institutional provisions and practices that adhere to best practice ethical principles. Examples of indicators used to look at institutional integrity include the existence of codes of conduct and codes of ethics. These policies typically address post-employment restrictions, conflict of interest provisions, and the regulation of gifts and hospitality, among other areas.

PUBLIC PROCUREMENT

Indicators have been selected for the study to assess the integrity of the public contracting system. The indicators are included in the assessment done of a country's public administration. Examples of indicators are the degree to which open competitive bidding is the general rule, the existence of independent regulatory and oversight bodies to monitor public procurement, and the existence of fair review and appeal mechanisms, among other areas.

EFFICIENCY AND EFFECTIVENESS

Related indicators have been used in the study to further assess the ability of the judiciary and legislature to exercise their roles in preventing corruption. Examples include the legislature's ability to scrutinise appointments to executive posts, the legislature's power to influence and scrutinise the national budget, and the existence of provisions and practices to avoid the excessive adjournment of judicial cases.

Indicator categories are derived from the definitions used by Transparency International as part of its National Integrity System assessment.

Each indicator was selected according to the anti-corruption requirements to be met by EU candidate countries. They were chosen following a detailed review of the documentation regulating EU reforms and several informal interviews with European Commission officials. International best practice in each of the three areas – the judiciary, legislature and public administration – was also taken into account when developing the indicators.

All indicators were scored to help pinpoint weaknesses and strengths in the relevant institutions. Scores assess both the relevant legal framework (laws and policies) and its implementation (practice). Each indicator was initially scored by the researcher using a scale of 1-5 (from weakest to strongest performance). These scores were then aggregated into an overall score for each dimension (e.g. resources, independence, etc.). This was done by dividing the score received into the maximum score that could be assigned, based on a country fulfilling all the EU accession criteria for a given anti-corruption dimension. This number was then converted into a percentage.

Equal weighting has been applied to each indicator. All the country scores have been validated by experts within the country through national consultations. The information included in the report was gathered, analysed and reviewed between November 2010 and April 2011. For more detailed information on the methodology, see Annex 1.

3. OVERVIEW OF FINDINGS

The key findings of the CIMAP initiative are presented here as a regional report covering the four countries in the study. The findings have been grouped together by institution, as well as around cross-cutting issues, such as access to information. The full results for both countries and institutions are available as research notebooks⁴ that offer an overview of all the indicators, their scores and the qualitative assessments provided by the country research teams. Country reports have also been produced in local languages to be used by local stakeholders. Each country report highlights national-level results for each of the institutions in the study and puts forward key regional conclusions and recommendations.

Taken together, the findings help to raise red flags to identify legal and institutional weaknesses. These warning signs should alert countries and the European Commission to shortfalls in key anti-corruption areas, in both policy and practice. In identifying these gaps, the aim is to find remedies to close them, both nationally and regionally, to ensure that countries meet the anti-corruption requirements for membership to the EU.

In reviewing the research results for the four countries, there are cross-cutting issues that stand out for all the institutions (see Annex 2). One common finding is that reform initiatives in recent years have strengthened legal frameworks to address corruption risks in the three institutions assessed. Yet despite these advances, the results also show that sizable shortfalls remain in the implementation of these laws.

In looking at why laws have not translated into practice, the findings signal capacity and governance deficits in all of the countries. Poor working conditions (an indicator of resource shortfalls) and political interference (an indicator of lack of independence) are two of the factors that undermine institutional capacity. There is also generally poor performance by all countries on governance indicators that assess access to information (transparency), the existence and use of codes of conduct (integrity) and asset disclosure policies (integrity). Each of these cross-cutting challenges is explained in more detail below.

ACCESS TO INFORMATION

Although all the countries included in the study have an access to information law, it is often not implemented in practice. The presence of these laws partly explains the overall strong transparency scores that the three institutions receive in all the countries. Albania was the first to implement an access to information law (1999), followed by Kosovo (2003), Turkey (2003) and FYR Macedonia (2006). Through a referendum, Turkey has even included the right to information in its constitution (2010).

Good laws do not always make for good practice, however. For example, Kosovo scores strongly on transparency measures, but has the largest gap among the countries in terms of implementing the related laws. The study's findings show that in Kosovo, the legal right to access public documents is difficult to uphold in practice. Many of the country's institutions delay the release of documents that are mandated by law to be public, including audit reports, annual reports and budgets. In many cases, citizens (including journalists) are not even aware of their access to information rights.

ACCESS TO INFORMATION IN FYR MACEDONIA: THE GAP IN PRACTICE

In FYR Macedonia, the Law on *Free Access to Public Information* provides the constitutional right of all citizens to have open and free access to public information. However, the findings show that in practice, the law's implementation varies from institution to institution, and largely depends on the official in charge. There are also limitations on the availability of information in the country. For example, the national law does not require transcripts of courtroom proceedings to be taken. Although minutes are recorded, these are not released, effectively undermining the ability of the public to oversee courtroom proceedings.

RED FLAG

ASSET DECLARATIONS

Asset disclosure measures are used by countries to ensure that public servants do not use their positions of power to enrich themselves. The disclosure of assets by public servants can provide an early warning system to identify wrongdoing and act as a deterrent to corruption. Legal provisions for mandatory and regular asset declarations are in place in each of the institutions studied. In practice their effectiveness is undermined, however, by the lack of monitoring of submitted reports and failures to sanction wrongdoing when violations are identified.

CHALLENGES TO EFFECTIVE POLICIES: ASSET DECLARATIONS IN KOSOVO

In Kosovo, the Anti-Corruption Agency is tasked with receiving and validating all asset declarations. Following the implementation of the law, all members of parliament and judges have presented their asset disclosure forms. Among high-ranking public officials, the submission rate was greater than 95 per cent. These forms were published by the agency. However, despite the nearly perfect submission rate, the agency has been able to verify only 20 per cent of the reports received from public officials due to capacity constraints.

As in other countries, there remain enforcement gaps with the new law in Kosovo, particularly regarding how to sanction those who do not declare their assets or who make false declarations. Currently the applicable fines are administrative penalties and do not exceed 1,500 euro. Given the weak sanctions, the law is not always respected. For example, a former President of Kosovo refused to allow his asset declaration form to be published, even after the Anti-Corruption Agency requested its release.

RED FLAG

In Albania and Turkey, although there are provisions for high-level officials, judges and members of parliament to declare their assets, the bodies responsible for receiving these reports lack the capacity to follow-up and verify submissions. In Kosovo, the asset disclosure policy was applied for the first time in 2010, but problems have already arisen in terms of verification and enforcement.

CODES OF CONDUCT

The research reveals that codes of conduct are absent or not enforced in the judicial, legislative and public administration institutions. Such codes provide the framework for governing ethical behaviour, conflicts of interest, and post-public employment. When effective, they can be useful to help build the integrity of institutions and citizens' confidence in them.

Among the four countries, Turkey has no codes of conduct in place for members of the legislature or judiciary. The absence of this policy framework has contributed to the overall low integrity scores that the country received in the study. The lack of codes of conduct for members of parliament is seen as one reason that the public has a very low level of trust in the Turkish legislature. Based on public opinion surveys, citizens view the parliament as the most corrupt institution in the country.⁵

THE PROBLEM OF CONFLICTS OF INTEREST IN TURKEY

In 2005, a member of the Turkish parliament resigned from office due to allegations of fraud relating to energy contracts that his company had been awarded from the government. He was tried, found guilty and sentenced to seven and a half months in prison. Yet his firm continued to win contracts from government agencies, and in 2007 he was re-elected to the parliament. His parliamentary immunity protected him from serving his prison sentence. During this time, a construction firm owned by his brother and nephew was awarded a lucrative contract to construct a courthouse.⁶

RED FLAG

POLITICAL INTERFERENCE

Despite laws that guarantee institutional independence, the study finds that it is compromised by political interference. Low scores are seen across all the countries when it comes to the implementation of laws and policies that would protect the independence of the judiciary, legislature and public administration.

The impacts of political influence filter into an institution's daily functions – from procurement processes to hiring procedures. For example, the research reveals that while merit-based hiring and standard appointment processes are in place legally, political considerations often taint and undermine them.

TURNING UP THE PRESSURE: BEING A JUDGE IN FYR MACEDONIA

A survey of Macedonian judges by the Organization for Security and Co-operation in Europe found that almost half of respondents felt that they were confronted with outside influences and political pressures in their jobs.⁷ The strongest source of influence was noted from the executive branch, followed by political parties. Cases have been well-documented of judges being pressured to make certain rulings, as well as being removed from the bench. The same survey among Macedonian judges found that 67 per cent of the respondents felt that dismissals and appointments were subject to political pressure.

RED FLAG

In Turkey, the existence of nepotism, cronyism, and patronage is acknowledged to be widespread and has affected how the country's public administration is viewed. There is a low level of trust among the public and further surveys suggest that both citizens and civil servants feel recruitment is not based on merit.⁸ Similar problems of favouritism and patronage have been alleged in Albania and Kosovo. One case involves the mayor of a municipality in Kosovo who reportedly fired a number of staff and then filled their positions without advertising the vacancies.⁹

WORKING CONDITIONS

Across all countries and institutions in the study, the findings show the prevalence of poor working conditions (e.g. remuneration, training, offices and equipment). The assessment is based on good practice standards for work environments in the public sector. As opposed to the other areas assessed, inadequate working conditions are a result of weak laws and not only inadequate implementation in the four countries. The findings suggest that poor working conditions affect the capacity of the judiciary, legislature and public administration to execute and implement their intended functions, responsibilities and duties.

Based on the scores, civil servants working in public administration suffer from limited resources, affecting their ability to do their jobs effectively. In Kosovo, part of the issue is the low salary awarded to civil servants. Until the end of 2010 the average monthly rate (130 euro) remunerated to civil servants was a half of what the typical Kosovar earned in a month.¹⁰ In Albania, similar challenges of below-market salaries also exist, where low-level positions in public administration earn roughly a third of an average family's monthly expenses. In FYR Macedonia, findings show that low salaries and wage freezes have increased the number of experienced public servants who have left the public sector to enter private sector jobs. However, the country's high unemployment rate has meant that the public sector is still able to attract job seekers and retain staff.

ALBANIA: A SHORTFALL IN RESOURCES FOR THE JUSTICE SYSTEM

Although the government has promised sweeping reforms to the judiciary, Albania's budget has been reduced over the last four years, making such systemic changes impossible to implement. In Europe, Albania has the lowest share of government spending dedicated to the judiciary, and judges' salaries are fifty per cent lower than those in neighbouring Kosovo.¹¹ The poor working conditions of judges may contribute to the low number in practice in Albania. There are around 350 judges, which gives Albania one of the lowest ratios of judges to inhabitants in all of Europe.¹² In addition to scant resources, perceptions of influence and lack of a meritocracy have led to a notable problem in attracting qualified applicants to work in all areas of government. For example, findings show that there has been a decrease in the number of individuals taking the civil service exam.

RED FLAG

4. ASSESSMENT OF THE INSTITUTIONS

While there are commonalities across institutions, the research findings reveal that there are specific factors affecting the individual anti-corruption efforts of the judiciary, legislature and public administration. Across all countries, this has translated into both strengths and weaknesses for the three institutions assessed. This stock-taking is the focus of the following section. Average scores for all four countries are assessed as well as individual country performance for an institution (based on law and practice).

In reviewing the scores, some institutions perform well on governance and capacity measures that look at the laws and policies on the books. However, these same institutions are often among the worst performers for putting their legal framework into practice.

By having a better understanding of institutional performance, strengths can be built upon and weaker areas can be addressed. More importantly, remedying the gaps can help to better align countries with the governance reforms and regulations required for accession to the EU.

JUDICIARY

LAW*

- Strongest area: Accountability (90 per cent)
- Weakest area: Level of resources (80 per cent)

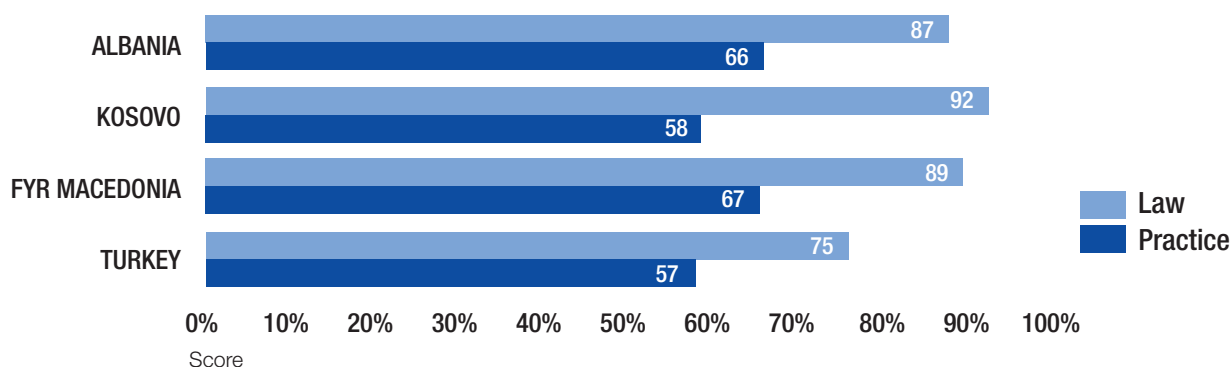
PRACTICE*

- Strongest area: Accountability (70 per cent)
- Weakest area: Integrity (54 per cent)

*Countries were rated on five criteria: resources, independence, transparency, accountability and integrity. These results show the average scores across all four countries in the strongest and weakest areas.

Figure 1
Assessment of EU Criteria – Judiciary

Source: Data based on individual country scores: Annex 2.



The findings show that the laws and regulations required to ensure the judiciary's capacity and governance generally are present in most of the countries studied. Kosovo is seen as having many of the laws in place (92 per cent), followed by FYR Macedonia (89 per cent) and Albania (87 per cent). Areas where laws tend to be weakest for these countries are integrity (as a result of the lack of provisions on conflicts of interest) and resources (regarding laws that stipulate the remuneration and working conditions of judges).¹³

Only Turkey is viewed as having greater shortfalls across the board in its legal framework. Its laws for the judiciary are particularly weak on indicators that assess transparency, accountability and integrity. In terms of transparency, decisions taken by the court can only be reviewed by the person involved in the case and his/her lawyer (due to concerns relating to personal information disclosure). In terms of integrity, there are no conflict of interest laws, codes of conduct or similar policies. Moreover, Turkey's independent judicial review body, the High Board of Judges and Prosecutors, which is designed to act as an accountability mechanism, is not open to independent oversight or public review. Similar weaknesses in the judiciary's independent review bodies also are found in Albania, where judges are immune from prosecution and can only be disciplined by the minister of justice. Turkey is undergoing a constitutional reform that aims to address some of these issues, but it is still too early to determine whether the recent legal changes will strengthen the judiciary or other national institutions.

When it comes to the implementation of laws, the report finds that governance and capacity measures are often not applied in practice in any of the countries. Implementation deficits exist regarding the judiciary's level of resources and independence. In Albania, it is estimated that there is sufficient court space for only 5 to 10 per cent of judges. Many judges are forced to hold court cases in their offices. A similar situation persists in Kosovo, where findings show that judges have had to re-schedule trials because of the lack of an available court room.¹⁴ Complaints of poor working conditions and case backlogs have also been documented in Turkey. Among the signatory states of the European Convention on Human Rights, which include all member and candidate countries of the EU, Turkey has the longest delays in completing its court proceedings.¹⁵

Many of the problems identified here have resulted in low levels of institutional effectiveness. The weak country scores denote the severe challenges the judiciary faces in performing its functions in all four countries. These problems include undue delays in dealing with cases and inadequate protection for witnesses. In reviewing the study's assessment of institutional effectiveness and efficiency in practice, Albania, Kosovo and FYR Macedonia are seen as having the greatest challenges (47 per cent).

OVERCOMING THE CAPACITY GAP FOR JUDGES IN FYR MACEDONIA AND TURKEY

Ensuring judges and their staff have secure work environments, adequate equipment, and up-to-date training is one key way to improve the capacity of the judiciary to more effectively carry out its work. The findings show that despite problems in these areas for the judiciary, countries are undertaking various initiatives to address the capacity gap and provide judges with much needed resources.

Turkey has led an effort that should help to address the lack of facilities and equipment for its judges. Since 2003, 130 court houses have been built, more than tripling the total space available. Each judge has been given a laptop computer¹⁶ and can access new laws and legal amendments through the National Judicial Network (UYAP) online. The network also enables access to national and international law libraries.

Information technology (IT) solutions have been used in other countries to improve the capacity of judges, including in FYR Macedonia. The ongoing implementation of the country's judicial reform has led to an improvement in the IT infrastructure and the methods used for case administration. For instance, an Automated Court Case Management Information System has been installed which allows for the standardised oversight of cases.¹⁷

BEST PRACTICE

LEGISLATURE

LAW*

- Strongest area: Independence (93 per cent)
- Weakest area: Integrity (59 per cent)

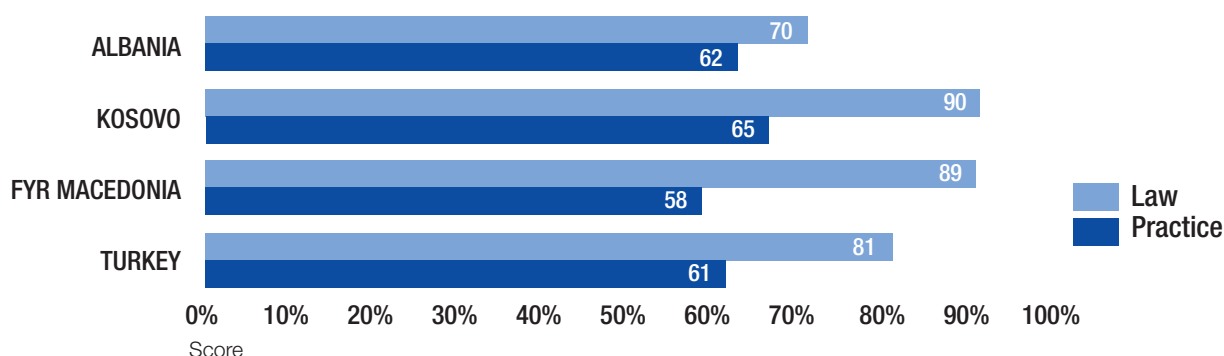
PRACTICE*

- Strongest area: Accountability (69 per cent)
- Weakest area: Integrity (44 per cent)

*Countries were rated on five criteria: resources, independence, transparency, accountability and integrity. These results show the average scores across all four countries in the strongest and weakest areas.

Figure 2
Assessment of EU Criteria – Legislature

Source: Data based on individual country scores: Annex 2



When compared to the findings for other areas in the study, all the countries receive weaker scores for the legal frameworks that govern their legislatures. While Kosovo and FYR Macedonia do fairly well in this category, both Albania and Turkey score poorly (70 and 81 per cent, respectively). The research results, as for other institutions, reveal a notable gap for all countries between laws and how they are applied in practice. At the same time, the findings show how innovation and technology can be used to open up the legislature to citizens, to increase levels of accountability and transparency (see best practice box).

Among the four countries, Kosovo performs best both in terms of its legal framework and its implementation. The strength of the legislature is partly due to legal provisions for providing resources and ensuring independence. For example, the law treats the parliament, known as the Assembly, in the same way as other government bodies and agencies when it comes to its budget and requests. The parliament also sets its own agenda, which the president of the Assembly approves. This differs from laws in other countries. In FYR Macedonia, for example, the president of the legislature proposes the agenda and members of parliament decide on it at the beginning of the legislative session. In practice, however, research findings suggest that the agenda's formulation is largely shaped by the government.

In terms of implementation, Kosovo stands out among the other countries for practices that ensure the legislature is accountable. For example, measures passed in the legislature can be contested by the constitutional court through petitions by civil society organisations, members of parliament and other units

of government. As a result of such requests, the constitutional court ruled in September 2010 that the then-president had to resign given he was violating the law that stipulated he could not hold both the head of his party and the country's presidency simultaneously.¹⁸

OBSTACLES TO LEGISLATIVE TRANSPARENCY IN ALBANIA

The legislature in Albania, known as the parliament, is in a unique situation when compared to the other countries in the study. For most of the last two years, the opposition has refused to attend parliamentary sessions. With a majority vote necessary for certain measures, including appointments, the country has been virtually unable to implement important reforms.

The other challenge for the legislature is that parliamentary decisions are often made behind closed doors and without consultation. It is common not to hold meetings with civil society and other interested groups when measures are up for discussion. This is due to the fact that draft laws are not published and access to them takes time, despite a general access to information law that has been in place since 1999. The other reason for limited public discussion is time pressure. Commission meetings are held weekly and on a tight schedule.

RED FLAG

In looking at the findings for all of the countries, the legislatures exhibit some key areas of weakness. One of these is the absence of laws and practices that promote integrity. In Albania, FYR Macedonia and Turkey, there are no codes of conduct for members of parliament (MPs) or requirements to disclose contacts with lobbyists. Based on good practice, these policies are important to prevent undue influence and the purchasing of policy decisions through unfair lobbying practices. Even when there are clear violations of ethics, due to the immunity provisions for MPs, prosecutions are easily short-circuited. For example, three recent cases of corruption in Albania, involving ministers and members of parliament, could not be investigated or prosecuted because of ex-officio immunity (ministers in Albania are also exempt from prosecution).

Such weaknesses have affected how legislatures function. Among all the countries, the Turkish parliament receives the lowest score (33 per cent) for measures used in the study to assess institutional efficiency and effectiveness in practice. The legislature is seen as weak in its ability to scrutinise appointments, the budget and internal audits of public institutions.

OPENING DECISION-MAKING TO THE PUBLIC

All information on the Turkish parliament is publicly available. The parliament has all of its legislative sessions open to the public and they are broadcast live on television. Also, all draft laws are published, as well as the verbatim minutes of the General Assembly (Turkey's parliament). Brief reports on the different activities of the commissions are placed in the public domain and an annual activity report of the legislature is released. Commissions can also invite civil society participation, although this tends not to be transparent or standardised.

In Kosovo, the Kosovan Assembly's leadership has decided to publish the electronic voting records of members of parliament, thus enabling constituents to see how their elected representatives vote on various issues. Moreover, other public information is available through the Assembly's website. On the site, one can find committee meeting agendas, the biographies of caucus members and information on the composition of relevant committees. Finally, the parliament conducts voter outreach through an event known as Assembly Week, which is an ongoing practice whereby the president of the Assembly visits several municipalities and hosts open question and answer sessions with the public.

BEST PRACTICE

PUBLIC ADMINISTRATION

LAW*

- Strongest area: Independence (97 per cent)
- Weakest area: Integrity (83 per cent)

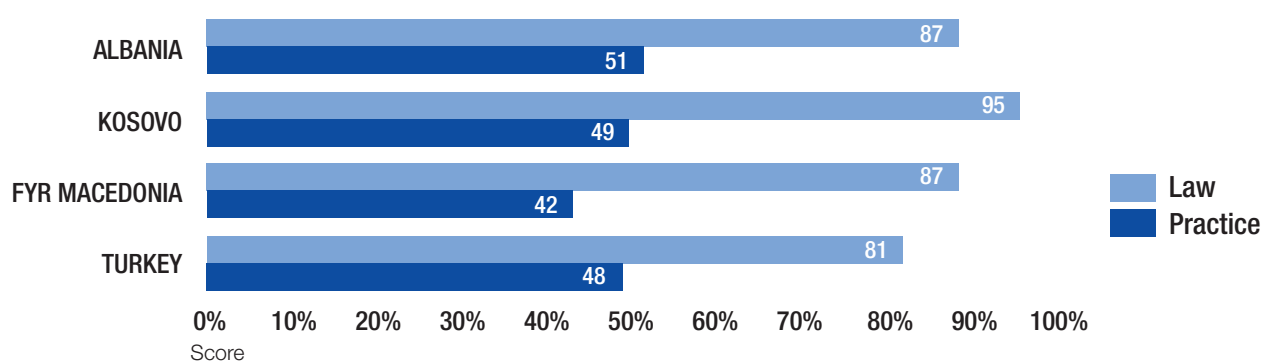
PRACTICE*

- Strongest area: Transparency (60 per cent)
- Weakest areas: Integrity and Accountability (38 per cent)

*Countries were rated on five criteria: resources, independence, transparency, accountability and integrity. These results show the average scores across all four countries in the strongest and weakest areas.

Figure 3
Assessment of EU Criteria – Public Administration

Source: Data based on individual country scores: Annex 2



Public administration has some of the highest scores for having the correct policies on the books. All four countries score more than 80 per cent for having laws and regulations in place to promote the institution's independence and accountability, as well as to conduct public procurement processes.

Based on the findings, public administration is the best performer among the three institutions featured in the study when the legal context is considered. The research reveals that there are many strong legal provisions set out through laws and regulations related to capacity and governance. These include for staff training, both upon entering the civil service and throughout a civil servant's career, and official procedures for merit-based hiring to prevent political interference (see best practice box). The study also identifies weaker areas in the current legal framework. In all four countries, for example, there are no

specific whistleblower protections for civil servants. Good practice stipulates that these mechanisms are important for helping to internally flag problems of corruption or wrongdoing early.

In moving from law to practice, the research reveals a wide deficit in how laws are implemented. For example, while Kosovo has 100 per cent of the laws considered necessary for the independence, integrity and transparency of its public administration, the implementation rate is assessed at just over a half (53 per cent) of what is required. In the case of institutional independence, the low results relate to how the hiring of civil servants is conducted versus what is stated in the law. The study finds that it is a common belief in Kosovo that vacancies are advertised months after positions have been filled due to reportedly high levels of political interference in the public sector.¹⁹

Political interference and the lack of institutional independence are also common in FYR Macedonia. The findings suggest that public sector staffing decisions at all levels of government are typically determined by political considerations, despite legal provisions for merit-based hiring.²⁰ In FYR Macedonia, it is viewed as a 'normal' and expected practice to award the party faithful with government jobs.²¹ Research has documented, for example, how political parties in FYR Macedonia employ members in temporary government positions. Many of these jobs are made permanent and then publicly advertised. However, often the temporary staff are automatically transferred to the new positions because of their political affiliations.²² In other cases, legal provisions for employment are not respected, even for independent bodies. For example, in April 2011, the selection of seven new members of the State Commission for the Prevention of Corruption, the oversight body for corruption in the country, did not apply the formal criteria published in the announcement for the vacancies.²³

Accountability is also identified as another problem area for public administration, despite relevant laws being present. The case of Turkey provides a good example. The research reveals that there are no systematic internal audits conducted, although these are required by law for every department at least once every three years.²⁴ However, the permission of the department's superiors is needed prior to an audit, and most do not provide this clearance reportedly because of concerns that by doing an audit, it would signal some form of wrongdoing has occurred.²⁵

WORKING WITH CIVIL SERVANTS TO SERVE THE PUBLIC GOOD

In Turkey, according to law,²⁶ every public institution must have a training department to promote staff development. These departments are tasked with training new employees, as well as conducting in-service training to increase the efficiency of civil servants and prepare them for other positions within the public service. Areas selected for training are to be determined jointly by the relevant public institution and State Personnel Presidency. In addition, the Turkish government has established a Council of Ethics for Public Service and ethical commissions under each ministry to train staff on good conduct and behaviour. This initiative is an attempt to reverse public perceptions that members of Turkey's civil service may be untrustworthy or unethical.

In Albania, similar legal provisions exist for civil servants to be trained upon entry to the civil service and on the assignment of new duties.²⁷ The country has also passed a law to set up a training centre for civil servants. The Training Institute of Public Administration (TIPA)²⁸ is tasked with carrying out obligatory training, international visits and exchanges, and capacity building activities. In 2010, four training courses were held in cooperation with international donors. Most training activities focus on issues related to the alignment of legislation and national policy strategies with those of the European Union.

BEST PRACTICE

Shortfalls in the implementation of laws in public administration are also pronounced when it comes to procurement processes. Although the four countries score relatively well for having established strong procurement laws (all above 80 per cent), these regulations and policies are generally not put into practice. FYR Macedonia is the worst performer in this category scoring 38 per cent, despite having a good legal framework in place (85 per cent). Bidding criteria are often not clearly defined,²⁹ and may be manipulated to ensure that they match the profile of a favoured company. In Turkey companies wishing to submit a formal complaint about such practices with the Public Procurement Agency must pay a fee of up to 4,000 Turkish Liras (2,000 euro).

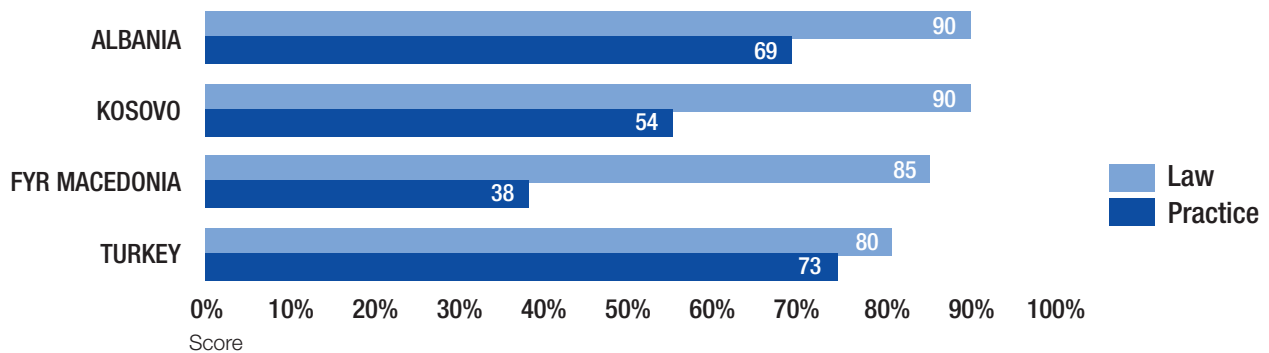
SETTING UP OVERSIGHT OF PROCUREMENT – THE ALBANIAN EXAMPLE

In Albania public procurement processes are widely hailed as a good practice model, given the mandatory electronic publication of all tenders and the creation of a watch-dog agency. This agency, under government auspices, monitors all public procurement processes and is tasked with overseeing complaints. According to the office's 2009 annual report, there have been 526 complaints about unfair practices in procurement.³⁰ Of these, more than a half have been investigated, the results of which can be used to start court litigation. The other complaints have been administratively resolved.³¹ Only 14 per cent of all the complaints received were rejected, usually for reasons of not being well-founded or substantiated.

BEST PRACTICE

Figure 4
EU Criteria Assessment –
Procurement by Public Administration

Source: Data based on individual country scores:
Annex 2



5. RECOMMENDATIONS

The findings of the CIMAP study show key areas where a group of countries – Albania, Kosovo, FYR Macedonia and Turkey – have progressed towards meeting the anti-corruption requirements for EU membership. For each country, the assessment highlights that there are many laws and policies that promote the capacity and governance of the judiciary, legislature and public administration. Each institution forms an important part of the governance structures that the EU considers when assessing candidate countries.

The study also highlights that there are serious institutional shortfalls that compromise the implementation of laws and policies in each country. Many of the problems, such as poor working conditions and access to information, are evident across all the institutions and countries, despite laws that dictate otherwise. These challenges have affected the ability of the judiciary, legislature and public administrations to function effectively and efficiently.

The fact that these shortfalls are common to all countries suggests that institutional deficits are not related to pending reforms, but rather a lack of political will that has stalled their implementation. The implementation failures identified through the study need to be corrected as part of moving each country towards EU accession. The aim is for the study to be conducted annually in candidate and pre-candidate countries to continually measure progress.

Recommendations that all four countries can use to advance their efforts towards meeting EU anti-corruption requirements include:

- **Ensure public access to information:** Guarantee that all relevant government bodies fully implement existing access to information laws and sanction violations.
- **Adopt and monitor the use of asset declarations:** Establish asset declaration procedures for all judges, members of parliament and high-ranking civil servants, and ensure that the relevant oversight bodies have the capacity to monitor submissions and punish non-compliance.
- **Establish and apply codes of conduct:** Adopt, implement and enforce codes of conduct for members of parliament, judges and civil servants. Implementation includes providing clear procedures for prosecuting and sanctioning violations.
- **Eliminate and punish political interference:** Monitor and sanction political interference in other branches of government through the use of independent oversight bodies that have the resources and power to carry out their functions.

- **Conduct hiring practices with integrity:** Ensure the full implementation of merit-based and competitive criteria for public sector positions and political appointments. Processes should be independently monitored and violations sanctioned.
- **Close the resource gap:** Provide the required resources – in terms of personnel, budgets, training and workplaces – that are guaranteed by law to institutions.
- **Identify wrongdoing early:** Extend protection and mechanisms, both in law and practice, to enable civil servants to safely disclose corruption, wrongdoing and mismanagement.
- **Guarantee institutional accountability:** Strengthen independent oversight institutions – such as ombudspersons offices, judicial investigations councils, independent auditing bodies, procurement offices and anti-corruption agencies – to enable them to identify problems early and sanction abuse.

Although this list is a partial selection of recommendations, it offers a map of initiatives that are needed in all countries to bridge the gap between law and practice; between past policies and current reforms.

This study provides a baseline and guide for the international community, national governments and civil society to advance anti-corruption efforts that are consistent with EU requirements and international good practice. For the EU and other regional actors, the findings provide a de facto action plan for how to strengthen institutions and reduce corruption. For national governments, the country-level scores provide information on where best to focus their anti-corruption efforts, and determine the institutional reforms that have been successful. Finally, for civil society organisations and citizens, the results for each country offer the empirical support needed to advocate for change related to key anti-corruption initiatives. In this sense, citizens are the ultimate beneficiary of the study's findings.

For actions to be successful, they must be supported by the international community (including the European Commission and regional organisations) and national governments that have the resolve and political will for change. They also must involve all actors, including civil society, to ensure that the key governance deficits that prevent EU accession are effectively closed.

ANNEX 1: BACKGROUND AND METHODOLOGY OF THE CIMAP INITIATIVE

BACKGROUND

The CIMAP initiative (Comparative Indicator-based Monitoring of Anti-Corruption Progress) is designed by Transparency International to monitor the progress of accession and potential accession governments on governance and anti-corruption related issues in the judiciary, legislature and public administration. As such, it is hoped that the tool will be used for monitoring progress (or lack thereof) over time – ideally once a year – since this is likely to bolster advocacy and policy reform messages emerging from the review.³²

From November 2010 to April 2011, the CIMAP methodology was applied in Albania, Kosovo, FYR Macedonia and Turkey. This is the first time that the study was implemented in these countries, or used for candidate countries seeking membership to the European Union. The methodology applied and process of validation are explained below.

INDICATOR FRAMEWORK

The indicator framework developed for the CIMAP methodology is based on anti-corruption and good governance standards applied by the EU to accession countries, covering the judiciary, legislature and public administration. The standards upon which the indicators are based were assembled on the basis of: (a) a detailed review of the documentation regulating the reforms to be undertaken by candidate and potential candidate countries towards EU membership; and (b) several informal interviews with Commission Officials in the Directorate General for Enlargement (DG Enlargement) and the former Directorate General for Justice, Freedom and Security (DG JLS). International best practice in each of the three areas – the judiciary, legislature and public administration – was also taken into account when developing the indicators.

The indicators measure the legal provisions surrounding governance and anti-corruption related issues in the judiciary, legislature and public administration, as well as their implementation in practice. More specifically, indicators focus on analysing the resources (capacity), independence (capacity), transparency (governance), accountability (governance) and integrity (governance) of the institutions in question.

DATA COLLECTION METHODS

The data collection process involved compiling objective and comprehensive information in response to the indicator questions for each of the three areas. Data collection methods included:

- an analysis of the pertinent laws, regulations and other official documents
- a thorough desk review of existing studies and available information on the topics
- key interviews with experts on the judiciary, legislature and public administration, as well as those working in relevant positions in the respective institutions.

TIME-SPAN

The CIMAP monitoring report reflects the current situation in each country for each institution, and reflects roughly the same period as is covered by the European Commission progress report 2011 (which covers activities between mid-2010 to mid-2011).³³

SCORING

The information gathered to answer the indicator questions was used to score each question. The score represents merely a 'quantitative summary' of the qualitative information assembled by the project coordinator and presented in the notes. In cases of insufficient information, no score is assigned.

For legal indicators, a 3-point scale was used, where:

- 1 = no
- 3 = partial
- 5 = yes

For practice indicators, a 5-point scale was used, where:

- 1 = to a very small extent
- 2 = to a small extent
- 3 = to a moderate extent
- 4 = to a large extent
- 5 = to a very large extent

The final indicator scores for each question were added up to reach a single score for each category, which was then transformed from its original 5-point scale to a 0-100 scale, and expressed as a percentage of the theoretically possible maximum score. An overall percentage score for each of the institutions – the judiciary, legislature and public administration – can then be calculated for any one of the categories by taking a simple average of the scores for each country. Also a simple average for a country's performance in law and practice can be calculated for each institution. However, no further aggregation to find an overall country score can be made, since the assessment does not cover the entire anti-corruption system of each country. Overall country scores would reflect those of the three institutions assessed rather than the complete anti-corruption activities (laws and practice) of a country.

VALIDATION

A key step in the research process was the validation of the results, including the scores and qualitative information contained in the report. There are a number of ways in which the validity of the data was tested and verified.

The methodology recommended that the draft notebook (before the scoring exercise began) was shared with the respective institution being assessed, and a request was made for that institution to add missing information and to point out factual errors or misrepresentations.

The research and knowledge team at the Transparency International Secretariat also reviewed the qualitative and quantitative data and provided recommendations where there were gaps or issues in need of clarification.

Further validation via roundtables and/or workshops involving governance stakeholders was also conducted.

ANNEX 2: OVERVIEW OF CIMAP SCORES BY COUNTRY AND INSTITUTION*

JUDICIARY		LAW				PRACTICE				AVERAGE	
		Albania	Kosovo	FYR Macedonia	Turkey	Albania	Kosovo	FYR Macedonia	Turkey	Law	Practice
Capacity	Level of Resources	52%	92%	90%	84%	55%	65%	65%	70%	80%	64%
	Independence	93%	89%	89%	82%	76%	55%	60%	57%	88%	62%
Governance	Integrity	88%	87%	80%	87%	40%	60%	60%	56%	86%	54%
	Transparency	100%	92%	84%	60%	60%	48%	68%	64%	84%	60%
	Accountability	100%	100%	100%	60%	100%	60%	80%	40%	90%	70%
AVERAGE		87%	92%	89%	75%	66%	58%	67%	57%	-	-
Average for Capacity		73%	91%	90%	83%	66%	60%	63%	64%	-	-
Average for Governance		96%	93%	88%	69%	67%	56%	69%	53%	-	-
Effectiveness/Efficiency		80%	60%	100%	80%	47%	47%	47%	60%	80%	50%

LEGISLATURE		LAW				PRACTICE				AVERAGE	
		Albania	Kosovo	FYR Macedonia	Turkey	Albania	Kosovo	FYR Macedonia	Turkey	Law	Practice
Capacity	Level of Resources	60%	100%	100%	100%	40%	60%	40%	100%	90%	60%
	Independence	70%	100%	100%	100%	85%	70%	50%	60%	93%	66%
Governance	Integrity	49%	77%	66%	43%	46%	63%	46%	20%	59%	44%
	Transparency	100%	87%	87%	87%	67%	53%	93%	60%	90%	68%
	Accountability	73%	87%	93%	73%	70%	77%	60%	67%	82%	69%
AVERAGE		70%	90%	89%	81%	62%	65%	58%	61%	-	-
Average for Capacity		65%	100%	100%	100%	63%	65%	45%	80%	-	-
Average for Governance		74%	84%	82%	68%	61%	64%	66%	49%	-	-
Effectiveness/Efficiency		87%	73%	60%	73%	67%	53%	47%	33%	73%	50%

PUBLIC ADMINISTRATION		LAW				PRACTICE				AVERAGE	
		Albania	Kosovo	FYR Macedonia	Turkey	Albania	Kosovo	FYR Macedonia	Turkey	Law	Practice
Capacity	Level of Resources	100%	87%	87%	73%	60%	47%	40%	47%	87%	49%
	Independence	100%	100%	100%	87%	53%	53%	47%	67%	97%	55%
Governance	Integrity	70%	100%	70%	90%	40%	53%	30%	30%	83%	38%
	Transparency	87%	100%	87%	73%	73%	53%	60%	53%	87%	60%
	Accountability	80%	87%	90%	80%	30%	40%	35%	45%	84%	38%
AVERAGE		87%	95%	87%	81%	51%	49%	42%	48%	-	-
Average for Capacity		100%	94%	94%	80%	57%	50%	44%	57%	-	-
Average for Governance		79%	96%	82%	81%	48%	49%	42%	43%	-	-
Public Procurement		90%	90%	85%	80%	69%	54%	38%	73%	86%	59%

*For more information on the scoring methodology, see Annex 1.

END NOTES

¹ The results of Transparency International's Corruption Perceptions Index (CPI) and Global Corruption Barometer (GCB) were used as a basis for this project. For more information, see: www.transparency.org/policy_research/surveys_indices/cpi/2010 and www.transparency.org/policy_research/surveys_indices/gcb/2010.

² Unless otherwise cited, all evidence in this regional report is based on the national studies. For more on the National Integrity System (NIS) methodology, see: www.transparency.org/policy_research/nis.

³ Civil society participation was organised by Transparency International and funded by a grant from the European Commission. The civil society organisations involved were: Transparency International - Albania (Albania); Kosova Democratic Institute (Kosovo); Transparency International - Macedonia (FYR Macedonia); and Seffaflik Dernegi – Transparency International – Turkey (Turkey).

⁴ The research notebooks are available online, under www.transparency.org/regional_pages/europe_central_asia.

⁵ TEPAV (The Economic Policy Research Foundation of Turkey), 'Household View on the Causes of Corruption' (Ankara: TEPAV, 2009).

⁶ For more information, see: www.milliyet.com.tr/2006/06/01/ekonomi/eko01.html.

⁷ OSCE Spillover Monitor Mission to Skopje, 'Legal Analysis: Independence of the Judiciary', (Skopje, Macedonia: Organization for Security and Co-operation in Europe, December 2009), p.33, available at: www.osce.org/skopje/67584.

⁸ Omer Faruk Genckaya, 'Conflict of Interest' in Ethics for the Prevention of Corruption in Turkey, Academic Research Report Vol. 1 (Ankara: Council of Ethics for the Public Service and the Council of Europe, November 2009) pg. 370-373, available at: www.coe.int/t/dghl/cooperation/economiccrime/corruption/projects/TYEC/1062-TYEC-Academic%20Researches%20on%20Public%20Ethics%20Volume%201.pdf. TEPAV, 'Household View on the Causes of Corruption' (Ankara: TEPAV, 2009).

⁹ Interview with Mehdi Geci, Independent Oversight Board (Kosovo), 12 January 2011.

¹⁰ Recent legal changes have helped to eliminate this gap. In April 2011, the new government budget increased the average wage for civil servants to 273 euro per month. The minimum wage also has been raised to 170 euro per month. It is important to note that in compiling this information on Kosovo, the Department of Public Administration was not willing to provide any information and requested that a formal information request be made if access was desired.

¹¹ Information is based on findings presented by Mrs. Shpresa Becaj, Head of High Court and National Judicial Conference, at the National Judicial Conference, April 2011, Tirana, Albania, see: www.noa.al/tag/konferenca-gjyqesore.

¹² Ibid. See the High Council of Justice (www.kld.al) for more information on the financing of Albania's judiciary. Also see: American Bar Association (ABA), Judicial Reform Index for Albania, 4th Vol., (Washington, DC: ABA, April 2009), pg. 29-33, available at: http://apps.americanbar.org/rol/news/news_albania_judicial_reform_index_released_0409.shtml.

¹³ For more information on the resources dedicated to the judiciary in Albania, see: The Office for Administration of Judicial Budget, www.zabgj.gov.al.

¹⁴ Interview with Selvije Bajrami from the Zëri daily newspaper, 21 January 2011.

¹⁵ See: www.echr.coe.int/NR/rdonlyres/596C7B5C-3FFB-4874-85D8-F12E8F67C136/0/TABLEAU_VIOLATIONS_2010_EN.pdf.

¹⁶ Hakim ve Savcılara Dizüstü Bilgisayar Verilmesi Hakkında Yönetmelik (7.10.2010-27722).

¹⁷ Ministry of Justice, Assessment of the Implementation of the Strategy for Judicial Reform: Report and Assessment (Skopje: Ministry of Justice, May 2010), available at: www.justice.gov.mk/documents/Procenka%20na%20Strategija%20za%20reformi%20vo%20pravosudstvo.pdf.

¹⁸ The Constitutional Court of the Republic of Kosovo, 'Mr. Naim Rrustemi and 31 other Members of Parliament of the Republic of Kosovo vs. his Excellency, Fatmir Sejdiu, President of the Republic of Kosovo' (Pristina: Constitutional Court, 28 September 2010), p.12, available at: www.gjk-ks.org/repository/docs/ki_47_10_shq_2.pdf.

¹⁹ SIGMA, 'Kosovo Public Service and the Administrative Framework Assessment' (Pristina: Sigma, May 2008), p.9, available at: www.sigmaweb.org/dataoecd/48/31/41637624.pdf.

²⁰ Global Integrity, Macedonia Scorecard 2009 (Washington, DC: Global Integrity, 2009), available at: [http://report.globalintegrity.org/reportPDFS/2009/Macedonia%20\(FYROM\).pdf](http://report.globalintegrity.org/reportPDFS/2009/Macedonia%20(FYROM).pdf).

²¹ For more information see: www.makdenes.org/content/article/2191627.html.

²² For more information see: www.vreme.com.mk/DesktopDefault.aspx?tabindex=3&tabid=1&EditionID=2101&ArticleID=146940 and www.time.mk/read/bc45fd83c1/0becb65bed/index.html.

²³ Information based on findings from FYR Macedonia's CIMAP notebook, produced for Transparency International.

²⁴ Interview with Atalay Ergüven, Chairman of the Association for the State Supervision Personnel (DENETDE).

²⁵ Interview with Atalay Ergüven, Chairman of the DENETDE; Interview with a senior official from the General Directorate of Titles and Cadastral Services.

²⁶ Article 214 of the Law 657 on Public Servants, Article 214 (Değişik: 31/7/1970 - 1327/72 md).

²⁷ Article 20(h) of the Law on Civil Servants, No. 8549, 11 November 1999.

²⁸ For more information, see: www.itap.gov.al/new%20web/html/aktivitete.htm.

²⁹ CIMAP Project Validation Committee, 24 March 2011.

³⁰ Government of Albania, Procurement Advocate Report 2009 (Tirana: Government of Albania, 2009), available at: www.avp.gov.al/ppadv/AnnualReports.aspx.

³¹ These findings are classified based on the fact that there is no result of the court investigation and the department has discontinued the case.

³² It should be noted that the tool is not suitable for direct cross-country comparisons of scores. The data sources, the contents of the respective accession agreements and possibly some of the indicators differ across countries. There also has been no international peer review of the nationally-assigned scores.

³³ While the EU Progress reports 2011 will aim to include developments until September 2011, CIMAP research ended in April 2011.

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The full country findings, including country reports and indicators, can be found online at www.transparency.org. Unless otherwise cited, all evidence in the regional report is based on these national studies.

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Transparency International
International Secretariat
Alt-Moabit 96
10559 Berlin
Germany

Phone: +49 - 30 - 34 38 200
Fax: +49 - 30 - 34 70 39 12

ti@transparency.org
www.transparency.org