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Governance versus Authoritarian Influence in the Western Balkans

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Summary

The Western Balkans are increasingly subject to foreign authoritarian influence. Using new, sophisticated tools, authoritarian countries from outside the region have moved from a fringe and informal involvement to a sophisticated systemic presence that clashes with the transatlantic normative and institutional architecture. Their asymmetric methods and cheap involvement have steadily transformed into a multilayered presence with investment in energy and infrastructure.

As these new methods would not be possible under the host country's regulatory and institutional environment, they have increasingly relied on custom-made arrangements that are contrary to EU-driven reform processes. Institutions in the Western Balkans have lacked the capacity to counter this evolution.

The coronavirus pandemic accelerated this trend by further exposing the distance between the EU and the Western Balkans. Coupled with the prolonged EU accession process, the pandemic gave rise to a new incentive structure and signaled the altered leverage of the EU and the United States in the region.

The ad hoc and incoherent policymaking process in the Western Balkans suits authoritarian countries, which capitalize on unpredictable policy environments. The lack of coordination between governments, line ministries, and the responsible institutions reduces the resilience of countries in the region to the complex multisectoral engagement by external authoritarian ones. Lack of meaningful civil society involvement in policymaking also prevents governments from assessing the long-term strategic effects of policies and regulations.

This paper looks into the behavior of authoritarian countries in critical sectors in the Western Balkans in the context of the region's policymaking, institutional, and regulatory environments. It examines to what extent a sound regulatory environment and good governance can prevent further authoritarian influence in the region. It zooms in on the tools and governance mechanisms necessary for the prevention of authoritarian influence. Finally, it discusses the complementary role of civil society and its vital agency in encouraging and enforcing innovative approaches to tackling authoritarian influence.

Introduction

Robust institutions, sound policymaking, and a stable regulatory environment are vital for sustainable democratization. It is also essential to recognize how these can also increase resilience against foreign authoritarian influence. As institutions operate in a given regulatory environment, resilience in the regulatory process is crucial to prevent the internalization of authoritarian practices. An expanding body of research on authoritarian influence in the Western Balkans tries to unpack the complex relationship between influence activities, domestic demand, and good governance. This paper adds to this crucial discussion by considering an institutional and policymaking layer, micro-level assessment instruments, and the compensatory role of civil society. Bridging the gap between macro and micro-narratives is critical to the effective understanding of authoritarian influence.

This paper looks into the malign agency of authoritarian countries and host-country policymaking, institutional and regulatory environment. It zooms in on the policymaking mechanisms and positive practices in the region that prevent strategic corruption while considering captured regulatory processes that could be utilized as a backdoor for malign influence. The paper also applies a horizontal focus on civil society's complementary role as an active interlocutor. It further expands on research in the current methods of authoritarian influence in the region with examples from critical sectors. Then it notes the role of institutions and their complementarity within the policymaking process. Finally, the paper offers a set of policy and integrity tools that can aid the policymaking process and support institutions in tackling authoritarian influence.

The New Incentive Structure

With an unclear path toward EU membership, the engagement of authoritarian countries from outside the region in the Western Balkans is likely to increase even further. Beyond the shift in the geopolitical balance in the region, this could undermine already fragile democratic processes. Therefore, it is essential

to follow developments that could negatively impact on Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia to incentivize them to stay on the right track or change a negative course. Despite their national differences and varying levels of development, EU integration, and involvement in the Euro-Atlantic security architecture with regard to NATO, these six countries share similarities and challenges when it comes to foreign authoritarian influence. As influence activities in each country fit within a wider regional approach, these processes are best explored regionally.

Despite being the largest donor in the region, in the eyes of many people there, the EU is perceived as a selfish actor with only a partial interest in these countries and no real intention of continuing the accession process. The EU remains the most viable foreign policy option for the Western Balkans countries, but there are questions as to whether that is a rational choice or the result of inertia. The uncertain future of EU enlargement coupled with frequent political crises, authoritarian tendencies of regional leaders, corruption, and economic decay undermine the EU's leverage and negatively affects local perception.

The coronavirus crisis further exacerbated these sentiments and raised doubts about whether the EU is a reliable partner to the Western Balkans. The move by Russia and China to provide vaccines firstly to their "partner" in the region—Serbia's President Alexander Vučić—signaled a failure of the EU and the United States from a geopolitical perspective and framed the Western Balkans as a less important transatlantic priority. The strategic communication by China and Russia overshadowed the EU's and the United States' presence in the region. A recent example was the donation of vaccines to North Macedonia first by Serbia and, shortly after, Russia. Similarly, Serbia provided vaccines for thousands of citizens from Bosnia and Herzegovina.

In addition to its geopolitical impact and influence on public opinion, the coronavirus also affected institutional capacity and created legal precedents that will have a long-lasting impact on the democratiza-

tion process in the region. After the pandemic, there is a risk that the pursuit of investment, coupled with reduced EU leverage and diminished local motivation, will accelerate these processes.

From Cheap to Deep

The methods of foreign authoritarian influence in the Western Balkans are continuously evolving. In addition to traditionally present countries like Turkey and Russia, new actors, such as China and the Gulf States, are showing increased interest in the region. Methods have grown beyond information and political clout to systematic engagement and presence in the economy through investment in energy, infrastructure, technology, education, and culture.

Authoritarian countries apply direct and indirect methods. Direct methods include supporting political parties, providing humanitarian aid, religious influence, investing in education, supporting civil society organizations, controlling parts of the information space, or, more recently, providing coronavirus-related assistance and vaccines. Indirect methods include activities with projected effects beyond the specific sector involved such as economic investment not for profit but to set the stage for political influence. A useful concept in explaining this phenomenon is the term “corrosive capital”, or “financing that lacks transparency, accountability, and market orientation flowing from authoritarian regimes.”¹

A large body of research points to influence activities in politics, economy, culture, education, religion, and civil society. In the Western Balkans, traditionally present countries like Russia and Turkey apply direct methods based on historical, cultural, and religious ties. They are also present with economic projects—particularly Turkey.² With its decreased economic growth over the last five years, Russia leans almost entirely on asymmetric or cheap methods compared to Turkey and China. On the other hand, China

primarily (at least for now) utilizes indirect measures through loans and investments in major infrastructure projects. More recently, it has tended to use direct efforts to accumulate influence through increased media presence, institutionalized presence in culture and education,³ and vaccine diplomacy.

These methods can undermine institutional and legal norms in the host country. The differing nature of influence projects requires adjustments in the host’s institutional and regulatory environment. The failure to do so will prevent addressing systemic fragilities in the regulatory frameworks. Loans for infrastructure projects and environmentally deleterious energy projects exposed significant pressure points and weak spots. Despite the negative local impact of these projects, the narrative around them rarely goes beyond the geopolitical dimension, which often polarized host communities and shifted the focus from good governance.

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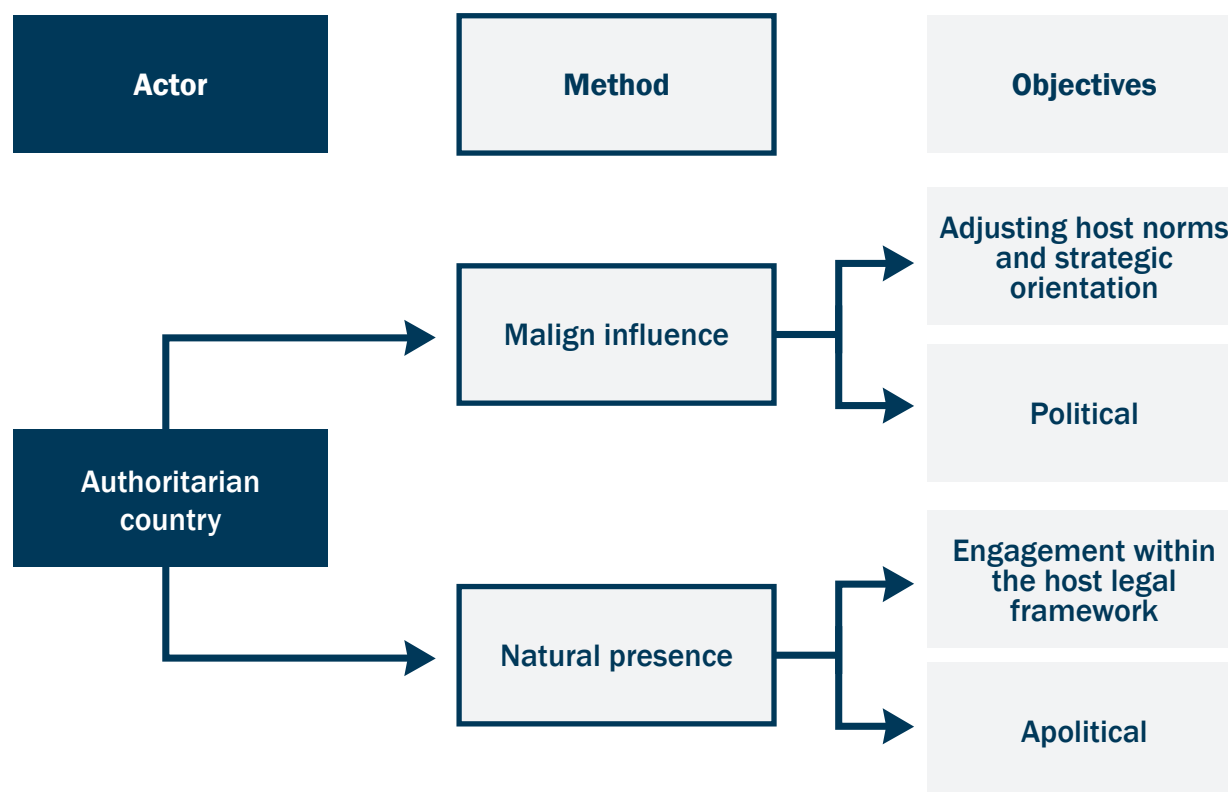
The institutional setup and policy and regulatory framework in the host countries lack the capacity to comprehend this evolution. One of the reasons behind this is the lack of understanding of their role and inability to distinguish between authoritarian countries’ legitimate and malign agency.

What makes these activities authoritarian is the regime type of foreign countries involved, the applied methods, the effects on the norms of host countries, and the idea that the ultimate objective is political influence. Host-country institutions maintain the formality of the process while remaining unable to flag possible instances of negative norm adjustment that

1 The term was coined by the Center for International Private Enterprise.

2 Political Capital, [Foreign Authoritarian Influence in the Western Balkans](#), 2020.

3 Vladimir Shopov, [Decade of patience: How China became a power in the Western Balkans](#), European Council on Foreign Relations, February 2021.

Figure 1. Actors, methods, objectives

could be connected to authoritarian countries. This affects the institutions' capacity to comprehend their role in the process. This lack of awareness prevented policymakers from amending legislation and the regulatory environment to equip institutions with the tools relevant to the new reality in terms of competencies and capacities. Finally, the policymaking process failed to adjust to the unique points of pressure (See Figure 1).

The EU and the countries in the Western Balkans have invested extensively to establish a solid policy and institutional framework aligned with the best international standards. The current crisis in the EU accession process puts this structure to the test. The coming period will determine whether the institutions can keep the region's countries on track. Until now, evidence of the growing regional influence of authoritarian countries suggests that the policymakers and institutions in the Western Balkans have failed

to secure their work in areas affected by this foreign influence. Lack of coordination and capacities are frequent problems even in the countries that are more advanced in the accession process, like Montenegro.⁴ Considering that regulation is a significant policy-making tool in the Western Balkans, a strong focus on the legislative process is necessary.

Risk Sectors and Affected Institutions

The strategic presence of authoritarian countries at the sectoral level in the Western Balkans provides additional perspectives in policymaking. Some of these sectors are subject to significant corruption risks. The regional network of civil society organizations for good governance and anti-corruption in South-east Europe SELDI runs the State Capture Assess-

⁴ Interview with a public policy expert.

ment Diagnostics tool, which assesses enablers of state capture and key affected economic sectors. This finds that lack of integrity, lack of impartiality, private-interest bias, and ineffectiveness of anti-corruption policies are strong institutional enablers of state capture in the region.⁵ The energy and infrastructure sectors are considered as high-risk given the primary interest of authoritarian countries.

The energy sector in the Western Balkans is attractive as it provides authoritarian countries an opportunity to further expand their strategic presence in three important EU energy corridors: the Central-South Eastern Electricity Connection, the North-South Gas Interconnections and Oil Supply, and the Southern Gas Corridor.⁶ Russia has an extensive presence in natural-gas supply and infrastructure in Bosnia and Herzegovina, North Macedonia, and Serbia. Bosnia is most dependent in this regard as the city of Sarajevo is wholly reliant on Russian gas. North Macedonia has limited dependence on natural gas, which has a 13 percent share in total electricity production and minimal household usage. In Serbia, natural gas is important but not a strategic asset as it amounts to only 6 percent of total energy consumption.⁷ While there is a movement to diversify sources and reduce oil and gas dependence, Russia remains an essential factor in the energy sector. In Montenegro, Russian private capital was present in the Podgorica Aluminum Plant (KAP), which was sold to a local company, after a deterioration in Russian-Montenegrin relations and following its bankruptcy in 2013.⁸

China is a relatively new actor in the region's energy sector but with a steadily increasing portfolio, particularly in Serbia and Bosnia and Herzegovina. Its investments involve coal-extraction projects and thermo and hydro plants. In Bosnia and Herzegovina, China invested in a coal-fired plant in Tuzla with

significant environmental effects and deterioration of local norms.⁹ Turkey, though not as large a presence as Russia and China, remains an important player considering the importance of the Turk Stream natural-gas pipeline that provides Turkey with increased leverage for future local projects.

The energy sector in the Western Balkans is attractive as it provides authoritarian countries an opportunity to further expand their strategic presence in three important EU energy corridors.

An example of bending local norms and institutional rules is the privatization of the Brod and Modriča oil refineries in the Republika Srpska part of Bosnia and Herzegovina. For this to occur, the Law on Privatization of State-Owned Capital was amended and a protocol on the sale of the refineries was signed with the Russian company NeftGazInKor, with a complete lack of transparency in the process.¹⁰ Another example is the opaque agreement in 2013 between North Macedonia¹¹ and Russia that allowed Gazprom to remain the sole operator of the South Stream pipeline.¹²

Infrastructure is another vulnerable sector in the Western Balkans with a significant presence of authoritarian countries. China is a major factor, while Russia is not involved in major infrastructure projects. The projects originating from Turkey are small to medium-sized and generally commercially driven.¹³ China's investments occur through the Belt and Road

5 [State Capture Assessment Diagnostics data](#), 2020.

6 Sead Turčalo, [Energy Geopolitics in the Western Balkans](#), Friedrich Ebert Stiftung, April 2020.

7 Political Capital, [Foreign Authoritarian Influence in the Western Balkans](#), 2020

8 Ibid.

9 Tena Prelec, [Eco-monsters & eco-fighters: China's investments in Serbia's heavy manufacturing industry as seen through an environmental lens](#), Prague Security Studies Institute. January 2021.

10 Žurnal, "[Takeover of the country: Russia is controlling import, refinement and distribution of oil in BiH](#)," September 9, 2020.

11 At that time, the Republic of Macedonia.

12 Interview with an energy expert.

13 European Investment Bank, [Infrastructural investments in the Western Balkans](#), 2018.

Initiative and include investments in major regional infrastructure projects. These have come through the 17+1 format, which brings China together with all the countries in the Western Balkans but Kosovo. Despite China's comparatively low economic contribution to the region (it accounts for 10 percent of imports compared to 60 percent from the EU and for 2 percent of exports compared to 70 percent to the EU),¹⁴ it is disproportionately present in strategic infrastructure projects. Examples include the Bar-Boljare Highway in Montenegro and the Kichevo-Ohrid and Miladinovci-Stip highways in North Macedonia. All three projects raised legal, governance, and environmental concerns apparently breaching host regulatory frameworks. In the case of the Bar-Boljare Highway, the unfavorable terms negotiated with the Export-Import Bank of China were different from the original procurement.¹⁵ In North Macedonia, the same bank conditioned loans on the awarding of the contract to the Chinese company Sinohydro through direct and undisclosed negotiations between the two governments.¹⁶ A similar pattern was detected in the case of a section of Corridor 11 in Serbia.¹⁷

Cases of adjusting host-country legal norms show an alarming fragility to external influence in the legislation process.

These cases of adjusting host-country legal norms show an alarming fragility to external influence in the legislation process. Particularly concerning is

that the three projects were procured in violation of national fair-bidding procedures, thus undermining good governance. These cases further point to a lack of integrity and the inability of affected institutions to address breaches in the process. Finally, they signal that oversight institutions in the Western Balkans lack the political will and means to keep the executive branch accountable. This practice directly undermines the EU integration process and widens the divide in norms and practices.

The Role of Institutions

The extensive and profound presence of authoritarian countries directly affects a large number of institutions in the Western Balkans. While their influence affects society and democratic institutions, there are legally competent institutions that could act as first responders in directly affected areas. The EU accession process contributed to the development of shared and comparable institutional infrastructure and competencies. Many of the potential first-responder institutions are relatively new entities that originate directly from reforms within the EU accession process.

There are three types of first-responder institutions in each vulnerable area. First are the line ministries with competences in different aspects of a given policy area, the sector-specific agencies, and the quasi-regulatory bodies. Second are horizontal institutions and independent agencies with competencies that are not sector-specific. This includes institutions supporting the prime minister and play a role in policy development and coordination (the “center of government”—CoG), the parliament, anti-corruption agencies, public procurement authorities, anti-trust bodies, state audit offices, and state inspectorates. Third are regulatory bodies that exercise autonomous authority over an area, such as ensuring competition, adherence to international standards, and assessing environmental impact.

The parliaments in the region struggle to perform their legislative and oversight role. They are subject to the will of the executive and have limited independent agency. Coronavirus restrictions has further

¹⁴ See Marcin Przychodniak, [The Importance of the Western Balkans in China's Foreign Policy](#), Polish Institute of International Affairs, 2020

¹⁵ Emilia Gray, [The European Silk Road: Montenegro's Decision to Build a New Highway](#), Freeman Spogli Institute for International Studies, 2018.

¹⁶ Zoran Nechev and Ivan Nikolovski, [Hustled Into a Dead End: The Delusional Belief in Chinese Corrosive Capital for the Construction of North Macedonia's Highways](#), Institute for Democracy “Societas Civilis” – Skopje and Center for International Public Enterprise, 2020.

¹⁷ Heather A. Conley et al., [Red Flags—Triaging China's Projects in the Western Balkans](#), Center for Strategic and International Studies, 2021.

limited their activity since last year. The parliaments exercise their oversight role in a rather technical and formalistic manner, with the committees responsible for overseeing critical institutions in the most vulnerable sectors rarely conducting extraordinary oversight meetings outside of regular annual hearings. An additional challenge is the lack of cooperation between the parliaments and the agencies and regulatory bodies beyond oversight. The members of parliaments are relatively uninformed about the role of these institutions and do not recognize their oversight responsibility, which is reflected in the budgeting process. The inclusion of civil society in committee hearings is sporadic and dependent on the political environment.¹⁸

The integrity and capacity of institutions play an essential role in keeping the policymaking process accountable. Despite the critical role horizontal institutions play in policy implementation, they lack the capacity and integrity to report irregularities. This is due to the high level of politicization and centralized control along with the lack of institutional mechanisms for integrity. This environment affects their ability to establish and enforce transparent processes.¹⁹ While a particular institution cannot change the rules of the game, an institution with integrity can certainly prevent efforts at undue political influence.

The Importance of Central Policy Coordination

Authoritarian countries do not like predictability in the policy environment in the Western Balkans. Their agency thrives in an environment without planning, where they can capitalize on ambiguity, chaos, and confusion. Three aspects of the policymaking process in the region enable or deter foreign authoritarian influence: whether the process is based on planning and evidence or on ad hoc decisions; the depth of coordination between the CoG, line ministries, and

the affected institutions; and the meaningful involvement of civil society in the policymaking process. In this context, sound policy planning should pair effective resource management with a predictable method that minimizes the ability of authoritarian countries and their representatives to maneuver (See Figure 2). The Support for Improvement in Governance and Management (SIGMA) joint initiative of the Organization for Economic Cooperation and Development (OECD) and the EU, which cooperates closely with the governments in the Western Balkans to strengthen public governance defines five criteria for an effective policymaking process. These are: good organization, consistency, and competence within the CoG; harmonized policy planning; transparent, legally compliant, and accessible government decisions; parliamentary scrutiny; and inclusive and evidence-based policy and legislation.²⁰

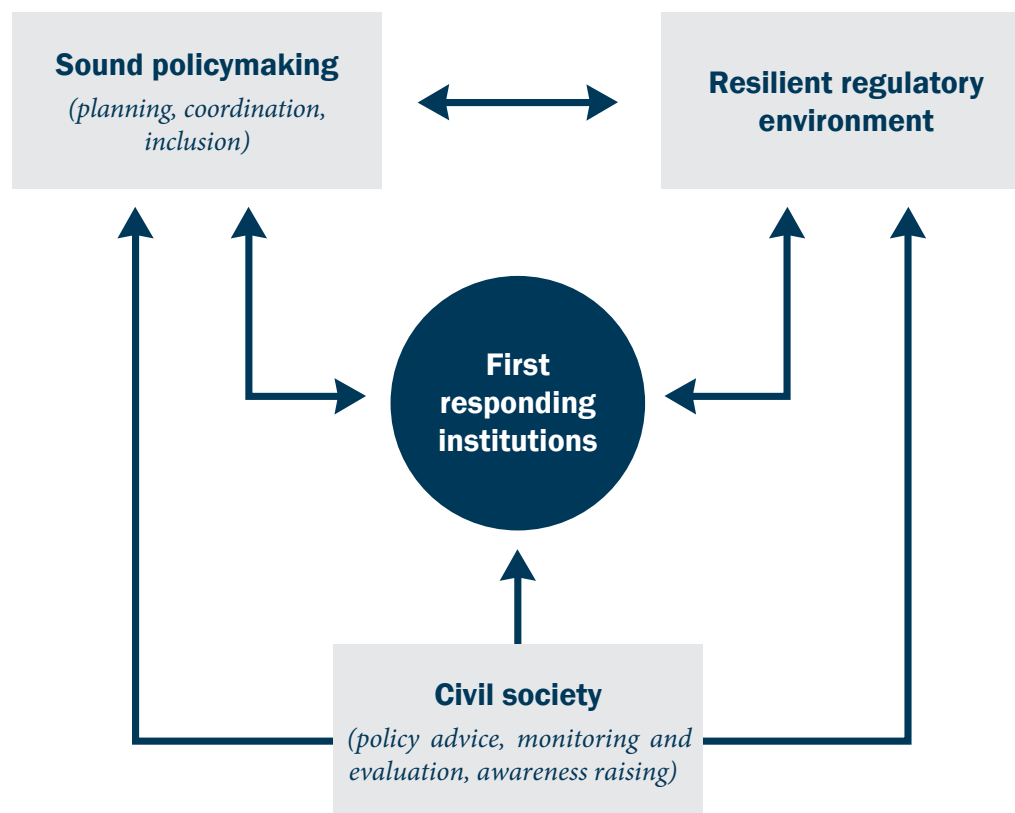
Authoritarian countries do not like predictability in the policy environment in the Western Balkans.

The CoG struggles to detect the role of institutions in tackling authoritarian influence, despite its key coordination role in connecting macro processes with institutional support. Horizontal institutions have a crucial role in upholding anti-corruption mechanisms that promote good governance. However, the CoG has not strategically developed horizontal approaches to tackling authoritarian influence despite its flexibility to coordinate with line ministries, other countries with similar experiences, and civil society in mapping affected processes and institutions. The CoG needs to establish concrete steps and roles for every relevant institution, beyond their narrow legal competencies. The fragmented institutional structure in Bosnia and Herzegovina is an example of a system that cannot effectively prevent the engagement of authoritarian countries in different entities.

¹⁸ See Institute for Democracy “Societas Civilis” – Skopje, [Parliamentary oversight over the anti-corruption institutions: analyses of practices in the Western Balkans](#), 2020.

¹⁹ Interview with an anti-corruption expert.

²⁰ SIGMA, [Policy development and co-ordination](#).

Figure 2. Policy Environment of First Responding Institutions

Despite the potential for CoG involvement in central policy coordination against authoritarian influence, there are not many examples of central-level policy approaches against authoritarian influence in the Western Balkans. A rare one is the 2019 Plan for Resolute Action against the Spreading of Disinformation developed by the government of North Macedonia.²¹ This is a “compilation of processes, projects, measures and recommendations for fighting disinformation.” To implement the plan, the government developed a task force of more than ten institutions for combating disinformation and attacks on democracy. Unfortunately, the plan was not rigorously implemented and only modest results were achieved. Despite the chal-

lenges, this plan remains an example of a centrally coordinated approach against authoritarian influence.

Policymaking in the Western Balkans is often ad hoc and inconsistent although the countries have invested significant efforts to develop effective processes. In the context of EU accession—together with the European Commission, SIGMA, foreign governments, and donors—they have developed extensive regulation for robust, transparent, and inclusive policymaking. However, the application of this faced challenges in all countries. Frequent political crises and lack of capacity created a climate of urgency that often disrupted the policymaking process.

The ability of the Western Balkans countries to plan, coordinate, and include stakeholders in the policymaking process varies from country to country. The European Commission assesses their level of preparedness in policy coordination in its annual country

²¹ Government of the Republic of North Macedonia, “[Proposed Plan for Resolute Action against the Spreading of Disinformation](#)”

progress reports (See Table 1). The biggest reason for inconsistent policymaking in the Western Balkans are ad hoc interventions by the governments, outside the annual governmental program, and the National plans for adoption of the *acquis* for EU accession. Lack of planning and the frequency of ad hoc decisions are considerable risks for ill-intended interventions in the regulatory framework. Current practices point to challenges in implementing long-term planning. Policy interventions are primarily due to ad hoc government decisions and do not originate from annual or multiannual plans. The ratio of planned legislation to ad hoc decisions is high, reflecting an uncertain legal environment and risks for importing private interests in a nontransparent manner. This poses an increased risk for policy influence by authoritarian countries.

In Albania, the legal basis and the institutional setup are only partially in place for consistent policymaking. It needs to upgrade mid-term policy planning, enhance the quality-control function in policymaking, and ensure control of policy implementation. The Office of the Prime Minister needs to improve coordination in policy processes and promote managerial accountability. Improvement and capacity building is also required for ensuring inclusive, evidence-based policy and legislative development. Public consultation is required with some level of formalization but with limited usage and focus on “process rather than content.”²²

The biggest reason for inconsistent policymaking in the Western Balkans are ad hoc interventions by the governments.

Bosnia and Herzegovina faces considerable challenges in policy planning due to a high level of fragmentation. The capacity for mid-term policy planning is incomplete. A rather worrying situation is the extensive variation between different entities in the

Table 1. Level of Preparedness in Policy Coordination, European Commission assessments, 2020

Country	Summarized assessment
Albania	Partially prepared
Bosnia and Herzegovina	Fragmented
Kosovo	Complex, under revision
Montenegro	Further strengthening
North Macedonia	Further strengthening
Serbia	Weaknesses with focus on formal and procedural issues

country with limited legal or methodological guidelines for countrywide strategic planning and coordination. The example of the privatization of the Brod and Modriča oil refineries in Republika Srpska illustrates this problem. This divergence further decreases the predictability of policies and provides increased maneuvering space for authoritarian countries. The legal framework for inclusive and evidence-based policymaking is incomplete and lacks consistent implementation while that for public consultations does not allow monitoring of government planning documents and prevents public scrutiny.²³

In Kosovo, a national strategic management framework is still being developed to better coordinate sectoral strategies and improve prioritization. The European Commission envisages a role for the Office of the Prime Minister to ensure quality control and support implementation. There is a basis for inclusive and evidence-based policy and legislative development, but ad hoc policymaking persists with influence by special interests. While common practice in Western Balkan countries, ad hoc policymaking allows less scrutiny and creates opportunities for foreign actors to influence the process. A system of consultation with civil society is in place, but civil society and public engagement remain limited.²⁴

²² European Commission, [Albania 2020 Report](#).

²³ European Commission, [Bosnia and Herzegovina 2020 Report](#).

²⁴ European Commission, [Kosovo 2020 Report](#).

North Macedonia has an established legal framework and institutional structures with a need for strengthened policy planning and the government General Secretariat's limited role in central coordination and quality control. Evidence-based policy and legislative development are partially ensured while the quality of public consultation needs to improve.²⁵

In Montenegro, the government's General Secretariat conducted efforts to monitor the quality of strategic documents and implementation reports. The European Commission notes that coordination with policy development stakeholders needs to be further strengthened. The medium-term policy planning and reporting system were strengthened with specifications on drafting, harmonizing, and monitoring the implementation of strategic documents.²⁶ Inclusive and evidence-based policy and legislative development are partially ensured. Public consultations are developed with a good framework and acknowledgment of the role of civil society, but the consultation process needs better planning, transparency, and openness.²⁷

Serbia has an institutional setup for a policymaking system but this is too focused on legal and procedural issues. The strategic planning system is clearly defined in a new law but there is limited information on its implementation. An inclusive and evidence-based policy and legislative development need further strengthening of capacity. The ministries should conduct the consultations earlier in the process and publicly report the outcome of the discussions.²⁸

The countries in the Western Balkans share similar features and challenges in policymaking. First, the level of institutionalization and regulation of the process is relatively advanced and formalized primarily because of the EU accession process. Mechanisms of policy coordination at the central level are in place, but proper implementation is lacking due to strong centralization and lack of capacity. In addition, while some countries

have mechanisms for quality control, their application remains a challenge.

The legal frameworks provide an opportunity for consultations. While these occur in all countries, they are often formally conducted and lack meaningful civil society involvement. The coronavirus outbreak has further tested policymaking mechanisms and exposed additional flaws and vulnerabilities. The uncertain environment and the pressure to react quickly resulted in the bypass of internal procedures and a significant level of improvisation.

The Role of Regulators

Different regulatory bodies govern first-responder institutions. As independent entities, they are a mechanism to supervise and exercise control over developments in key sectors of society, and they are essential institutions in ensuring good governance and transparency. The fitness of regulatory bodies to adapt is crucial for society to increase resilience in sensitive areas subject to regulatory action. The OECD sets seven principles for the governance of regulators: role clarity, preventing undue influence and maintaining trust, principled decision making and governing body structure, accountability and transparency, engagement, funding, and performance evaluation.²⁹ Enforcing these principles while consulting civil society could enhance regulatory bodies' ability to counter authoritarian influence while ensuring their independence and impartiality. It would also contribute to maintaining the confidence and trust of regulated sectors and the broader community.³⁰ Their role is vital in the highly regulated energy sector as the energy regulators ensure environmental protection and protect a competitive energy market.

The Case of Media Regulation

The media is a crucial tool for generating support for or opposition to harmful projects. It is also often used to exploit local political or ethnic divisions, both prev-

25 European Commission, [North Macedonia 2020 Report](#).

26 European Commission, [Montenegro 2020 Report](#).

27 European Commission, [Montenegro 2019 Report](#).

28 European Commission, [Serbia 2020 Report](#).

29 OECD, [The Governance of Regulators](#), 2014.

30 Ibid.

alent vulnerabilities in the Western Balkans. Authoritarian countries use these to build a supportive environment for malign activities.³¹

The Western Balkans is a relatively unified information space. Thus, authoritarian countries apply regional approaches due to linguistic similarities between the countries and their small individual media markets. While Turkey is significantly more active in Albania, Bosnia and Herzegovina, and Kosovo, Russia's presence is evenly distributed but with a strong focus on Serbia and Republika Srpska. China has a lower but steadily increasing presence.³²

The countries in the Western Balkans have similar systems for media regulation, is particularly challenging in light of the need to balance freedom of speech and content regulation. The ability to broadcast and project information beyond borders while adhering to national laws makes regulation particularly challenging. The process of regulatory reform led to a legal framework aligned with international standards and requirements within the EU accession process, those specified by the Council of Europe, and in the Organization for Security Cooperation in Europe. Media regulation rests on three pillars: what constitutes media entities as legal persons, regulation of online and offline content, and ownership and financing regulation. It is strict in the context of elections, where the risk of abuse is high. The independence and impartiality of media regulatory bodies are crucial to their work. However, the appointments of these bodies' members are frequently politicized, casting doubts on their independence. For example, in Serbia, the Regulatory Body for Electronic Media is slow to react to media attacks against opposition leaders or civil society activists.³³

Media regulatory bodies do not possess mechanisms to prevent online disinformation as content regulation is still ambiguous. Despite the relatively

advanced framework and clear competencies for traditional media, the level of disinformation as a tool to exploit nationalism and weaknesses in the region is high.³⁴ Coupled with a lack of prevention capacities, this often leads to hate speech online and offline, further fueling political incidents and even hate crimes. Media regulation in this context is rather sensitive as local elites can easily justify over-extended regulation and suppression of freedom of speech with the pretext of fighting disinformation—for example, in the case of two draft laws proposed by the government of Albania on state regulation and compulsory registration of online media to fight fake news, which journalists' associations and media organizations quickly condemned. Beyond the scope of the regulatory institutions, self-regulation has strong potential to address disinformation as media ethics councils and ethical media alliances in the region adopt codes connected to whitelisting for advertising.

Micro-level Tools

Regulatory Impact Assessment

Regulatory impact assessment or analysis (RIA) allows for predictive, impact-oriented, inclusive, and transparent policymaking. It is a structured tool that enables policymakers to decide whether and how to regulate a particular sector to achieve public policy goals. RIA is a vital part of the legislative process for almost all members of the EU.³⁵ In the early 2000s, the countries in the Western Balkans embarked on considerable reforms and embedded this in their national policy frameworks. This transition was somewhat challenging in a region with a tradition of over-regulation and centralized decision-making. The adoption of RIA now allows the line ministries to plan better, be more transparent, assess policy options, measure impact, and consult relevant stakeholders.

31 Institut für Auslandsbeziehungen, [Understanding Russian Communication Strategy: Case Studies of Serbia and Estonia](#), 2018.

32 Vladimir Shopov, [Decade of patience](#).

33 Interview with CSO expert from Serbia.

34 Veronika Vichova (ed.), [Assessment of the Kremlin's Malign Influence in Bosnia And Herzegovina, Montenegro And North Macedonia](#), European Values, 2020.

35 OECD, [Regulatory impact assessment across the European Union](#), 2019

Regulatory reform is also a crucial step in the EU accession process. This and RIA align directly with the EU Better Regulation Strategy to improve the regulatory framework at the European and national level. The strategy includes initiatives to “(i) to consolidate, codify and simplify existing legislation and (ii) improve the quality of new legislation by better evaluating its likely economic, social and environmental impacts.”³⁶

The advanced setup of RIA is not followed up with practical implementation in the Western Balkans. At the same time, the process’s formal setting is relatively developed despite the national differences. Serbia adopted RIA in 2003, Kosovo in 2007, North Macedonia in 2008, Bosnia and Herzegovina in 2011, and Montenegro and Republika Srpska in 2013, Bosnia and Herzegovina 2017, and Albania 2018. However, implementation is inconsistent and focuses on procedure rather than substance. The lack of political will, administrative capacity, and training are shared challenges and affect the proper performance of the RIA process,³⁷ which still needs substantial quality control. While regulatory bodies are set in in every country (CoG or line ministries), they do not properly perform their oversight functions.³⁸

In most Western Balkans countries, RIA includes assessing the economic, fiscal, societal, environmental, and administrative influence of proposed regulatory options. The principle of proportionality connects the depth of RIA with the envisaged effects of the proposed regulation. Accordingly, interested parties can strive toward more rigorous RIA in areas they find vulnerable. The lack of environmental impact assessments in Kosovo, Montenegro, and Serbia is particularly problematic in the context of increased environmental concerns around China’s investments. Particularly concerning are its investments in the steel and copper

industry in Serbia that overlooked environmental assessments, raised questions regarding air pollution, and provoked local protests.³⁹ Impact on competition is another aspect that most countries overlook⁴⁰ as monopolization pressure is closely related to state capture.⁴¹ Only Albania, Bosnia and Herzegovina, and Serbia at least formally assess the impact on competition. The investment of the China Everbright Group in the Tirana airport in Albania and subsequent negotiations around its monopoly on international flights illustrate how foreign investments can create monopolizing pressure.

A critical method for RIA is annual planning, which schedules laws that are subject to change in the following year. Sourced from the annual program of the governments, this can provide a transparent overview of the forthcoming legislation process, which is essential for three reasons. First, it decreases corruption pressure on specific institutions. Second, it allows civil society time to prepare for participation in the consultation process for sensitive laws. Third, observers, including civil society, can monitor and highlight discrepancies between planned and executed legislative changes. This setup could be an early-warning mechanism.⁴²

In addition to the benefits of transparency in the policymaking process, RIA is an essential tool for systematic and sustained inclusion of civil society. The idea that civil society and relevant stakeholders need to be invited early in the policymaking process is vital for their inclusion. Except in Kosovo and Montenegro, ministries need to publish RIA documents for consultation with the public. In some countries, ministries must publish the provided comments and justify the rejection of proposals.

36 Slavica Penev and Andreja Marušić, [Regulatory Reform in Western Balkan Countries and its significance for their EU Accession Process](#), Institute of Economic Sciences, 2011.

37 Branko Radulović and Genc Alimehmeti, [Better Regulation in the Western Balkans](#), Regional School of Public Administration, 2018.

38 Ibid.

39 Tena Prelec and Barbora Chrzova, [“It’s Time to Act on Air Pollution in the Balkans.”](#) Balkan Insight, January 28, 2021.

40 See Radulović and Alimehmeti, [Better Regulation in the Western Balkans](#).

41 [State Capture Assessment Diagnostics data](#), 2020.

42 Marko Pankovski, [Challenges in the RIA planning](#), Institute for Democracy “Societas Civilis” – Skopje. February 2018.

Table 2. Status of Anti-Corruption Proofing of Legislation

Country	Designated body	Status
Albania	National Coordinator for Anti-Corruption	Established methodology, APL trainings conducted
Bosnia and Herzegovina	Agency for the Prevention of Corruption and Coordination of the Fight against Corruption	Established methodology, APL trainings conducted Legal framework on state level
Kosovo	Kosovo Anti-Corruption Agency	Methodology draft
Montenegro	Agency for the Prevention of Corruption	Developed methodology Established "Section for monitoring of legislation and opinions on anti-corruption regulations" within the Agency for the Prevention of Corruption
North Macedonia	State Commission for the Prevention of Corruption	Developed framework and methodology
Serbia	Anti-Corruption Agency	Developed framework and methodology

Proper implementation of RIA can significantly improve policymaking processes in the Western Balkans. The CoG and line ministries need to develop this process further and add elements to the assessment process. For example, as infrastructure projects are a particular risk and an essential asset for authoritarian influence, RIA needs to be updated or more thoroughly implemented accordingly. That includes evaluating infrastructural needs, prioritization of conditions, and assessment of project implementation and monitoring.⁴³ Sticking to these principles while allowing for the continuous involvement of civil society could significantly decrease the risks of regulatory capture leading to the legalization of malign projects.

Anti-corruption Proofing of Legislation

Anti-corruption agencies in the Western Balkans have essential competencies in ensuring the resilience of the regulatory framework. To various extents, all the countries have adopted anti-corruption policy frameworks. According to the OECD, Montenegro has the most advanced one, followed by Serbia, North Macedonia, Albania, Bosnia and Herzegovina, and Kosovo.⁴⁴ However, implementation is challenging, affecting overall anti-corruption efforts, including in the legislative process. A positive development is establishing

mechanisms for anti-corruption proofing of legislation (APL).⁴⁵ This entails a "review of the form and content of legal acts (drafted or adopted) to detect and minimize the risks of corruption that these acts could facilitate during their implementation."⁴⁶ The methodology mostly has a preventive character and aims to prevent the "legalization of corruption." It needs to address ambiguity, unidentified competencies, delegation, split or overlapping of competencies, procedures, and gaps in prevention mechanisms.⁴⁷ Considering the risk of corruption in the legislative process, APL provides an additional filter. As this methodology deals with the final product only, RIA remains a more viable and comprehensive tool for building resilience in the legislative process.

The implementation of APL is in various stages of development in the Western Balkans (See Table 2). This is supposed to be done by anti-corruption agencies, which have limited capacity to do so thoroughly. The expert community questions whether this process should be transferred to the ministerial level or the legislation-proofing branch within the government's General Secretariats. An advantage of this approach

43 OECD, [Towards a Framework for the Governance of Infrastructure](#), 2015.

44 [Anti-corruption policy in South East Europe](#). OECD, 2018.

45 Different international organizations use different terms. Here, the term anti-corruption proofing of legislation is used.

46 Council of Europe, [Workshop on corruption proofing of legislation](#), July 14, 2020.

47 Regional Cooperation Council and Regional Anti-Corruption Initiative. [Anti-Corruption Assessment of Laws in South East Europe \(Corruption Proofing\)](#), 2014.

is that it can complement the current RIA process and allow anti-corruption proofing of a broader set of legislation, which is a limitation when conducted by anti-corruption agencies. On the other hand, a severe disadvantage is the lack of independence of the ministries, making the process vulnerable to external influence.⁴⁸ While such agencies operate in all Western Balkans countries, their capacities, independence, and performance vary significantly. A key institution in advancing this process is the Regional Anti-corruption Initiative, which trains and advises in anti-corruption proofing of legislation while closely working with anti-corruption agencies and civil society. As their capacity is limited, anti-corruption agencies need to work closely with civil society to prioritize legislation related to the agency of authoritarian countries.

Corruption Risk Assessment

Another important mechanism that allows for increased institutional and regulatory resilience is corruption risk assessment (CRA). This is a preventive tool for “identifying corruption, integrity risk factors, and risks in the public sector (on institutional, procedural, sectoral or project level).”⁴⁹ Its implementation is intended to improve governance in a specific public-sector institution, sector, project, or process.⁵⁰ It is a self-assessment mechanism, but it is frequently conducted in cooperation between institutions and civil society organizations in the Western Balkans. The SELDI network of civil society organizations conducts CRA through the Monitoring Anticorruption Policy Implementation tool (MACPI) in different institutions across the Western Balkans. As the implementation of this tool is dependent on in-depth cooperation the institutions, the CoG and the line ministries must support these processes and recognize their importance. While CRA is not a silver bullet, it can

contribute to the increased integrity of institutions.⁵¹ The MACPI assessment pointed out the unsatisfactory level of implementation of national policies and laws at the level of public organizations, the generally weak governance environment, and “scattered” legal authorities of institutions that lack human and financial resources.⁵²

The Compensatory Role of Civil Society

The Western Balkans has a relatively large and active civil society. Civil society increases the resilience of the policymaking process by holding institutions accountable, contributing to policy, and communicating the local effects of projects related to authoritarian influence. Since the beginning of the 1990s, many civil society organizations (CSOs) have formed in the region, with a clear vision and mission to contribute to democratization and civic engagement in the new pluralist setting. Development aid, primarily from the West, contributed to this process as many programs recognized civil society as an essential agent of democratization. On several occasions and in different contexts, civil society played a crucial role in preventing democratic backsliding and holding institutions accountable. In Serbia, it played an essential role in the downfall of Slobodan Milošević in 2000 by campaigning for democratic elections and mobilizing support for the opposition.⁵³ From 2014 to 2016, civil society in North Macedonia played an essential role in pointing out democratic backsliding, and it was a principal actor in anti-government protests that eventually contributed to the fall of the government led by Nikola Gruevski. Additionally, countless regional initiatives have aimed to uphold democratization, aid the EU accession process, and hold governments accountable.

48 Interview with an expert on anti-corruption proofing of legislation.

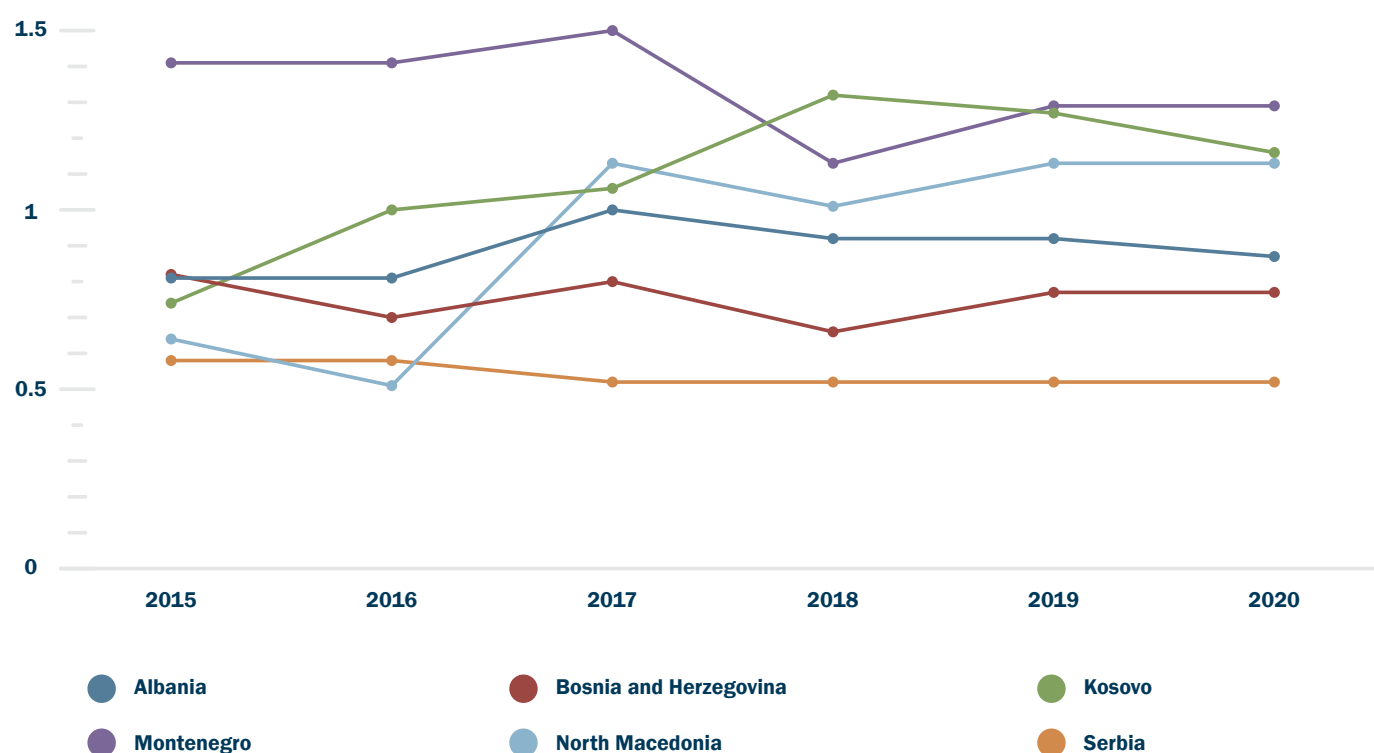
49 Regional Cooperation Council, [Corruption Risk Assessment in Public Institutions in South East Europe - Comparative Research and Methodology](#), 2015.

50 Ibid.

51 Interview with an anti-corruption expert.

52 Center for Public Private Enterprise and Center for the Study of Democracy, [Promoting Resilient Economies in the Western Balkans. Tackling Corrosive Capital at Sectoral Level](#), 2021.

53 Adam Fagan and Mladen Ostojic, “[The EU and Civil Society in Serbia: Governance rather than politics](#),” *Balkanologie, Revue d'études pluridisciplinaires*, XI:1-2, 2008.

Figure 3. Level of CSO Consultation in Policymaking in the Western Balkans, 2015-2020

Source: V-Dem Institute

In the Western Balkans, regulatory frameworks for the inclusion of civil society in policy processes are in place. Civil society is frequently consulted and involved in most countries at the sectoral level and in strategic macro functions such as the Berlin Process as an intergovernmental initiative to enhance regional cooperation in the Western Balkans and aid the EU accession process. Civil society is also included in UN peer-review mechanisms such as the UN Convention against Corruption⁵⁴ and the human-rights Universal Periodic Review.

The level of consultation with civil society varies from country to country. While the environment is improving, there are still instances of tokenism. In some countries, especially Serbia, consultation is used

as a tool for legitimizing policies with the participation of “government-organized non-governmental organizations” that hijack the process. The CoG and the line ministries in some countries include civil society as a socialization tool.

The V-Dem Institute at the University of Gothenburg rates the extent to which policymakers consult CSO, on a scale where 0 means a high degree of government insulation from CSO input and 3 means that critical CSOs are recognized as stakeholders in important policy areas and are given voice through formal or less formal arrangements. In 2020 Montenegro scored highest with 1.29, followed by Kosovo (1.16), North Macedonia (1.13), Albania (0.87), Bosnia and Herzegovina (0.77), and Serbia (0.52). Except for Montenegro, all scored higher compared to 2015. (See Figure 3).

Civil society plays a vital role in communicating the local effects of projects related to authoritarian influence. CSOs need to cooperate regionally and draw

⁵⁴ The UN Convention against Corruption Review mechanisms that promotes the role of civil society in the review mechanism. This mechanism allows the civil society to monitor the country progress of their commitments and provide oral and written suggestions to the government.

examples from other regions like Central Europe, where more advanced methods of authoritarian influence are applied.⁵⁵ Civil society needs to build effective communication strategies to avoid alienating the general population.

Conclusions

The Western Balkans will go through the 2020s facing the altered leverage of the EU and the United States as well as blurred local motivations. This will shake Euro-Atlantic consensus in the region and lead to increased norm competition while increasing pressure on institutions affecting democratization and good-governance efforts. The coronavirus pandemic has further exacerbated these processes and brought new tools of foreign authoritarian influence into play. Despite the gloomy environment and the unpredictable future of the accession process, the EU remains a key actor and can still provide credible alternatives to the offers by authoritarian countries. In this context, the EU and the local pro-democratic forces (whether governments or civil society) must capitalize on shaping the regulatory framework and institutional setup through conditionality. The ability of the EU to do this is the most vital factor of resilience as it limits authoritarian countries to informal and fringe involvement. However, this should not be taken for granted as the EU also needs to restore the accession perspective and provide responsive investment mechanisms in the Western Balkans. One important area is procurement, which is a major inroad for authoritarian influence. While the countries in the region continuously improve their procurement frameworks to ensure transparency, these efforts are simultaneously undermined by closed-door arrangements for critical infrastructure projects with adverse long-term economic, political, and environmental effects.

More than ever before, the Western Balkans and the EU need to invest in coherent and inclusive policymaking. The ability of the countries to plan, coordinate, and include stakeholders in policymaking

varies but inconsistency and limited capacity are common. Large infrastructure projects funded mainly by China illustrate this as they affect policy areas such as procurement, environment, anti-corruption, and even media. This shows how hybrid threats cannot be tackled with single-sector strategies but require intensive cooperation and policy coordination. Currently, governments in the Western Balkans do not apply coordination mechanisms that support multisectoral approaches in policy areas relevant for tackling authoritarian influence. Depending on the perceived threat in a particular sector, governments could even temporarily securitize some processes and alter the agency of affected institutions. They need to invest in capacity building and innovative, forward-looking approaches that will reflect the strategic challenges the countries face.

More than ever before, the Western Balkans and the EU need to invest in coherent and inclusive policymaking.

The Western Balkans countries also need to invest in practical tools. Regulatory impact assessment, anti-corruption proofing of legislation, and corruption risk assessment can reduce authoritarian influence. These mechanisms must build upon the relatively advanced regulatory and institutional framework to ensure full implementation of these processes. As they improve transparency, they can be an effective early-warning mechanism, especially when coupled with an engaged civil society that reports irregularities. As the countries in the region have relatively developed legal frameworks around these mechanisms, there is now a need for investment to expand and implement them.

The affected institutions need to be continuously strengthened, aware of their role, and independence. Their competencies need to be updated to reflect emerging risks and unconventional methods faced. Their governing structures (managers, governing boards, supervisory boards) need to be aware of the importance of each institution in the overall effort to tackle authoritarian influence. Once the CoG develops

⁵⁵ European Values, [The Prague Manual](#), April 2018.

a national strategy or action plan on a particular issue, it needs to ensure that these are operationalized in the multi-annual strategies and annual programs of these institutions. The regulatory bodies should develop mechanisms to regularly consult relevant stakeholders while remaining impartial.

Civil society in the Western Balkans reflects European values and has a crucial role in building a resilient institutional and regulatory environment. Institutions have to ensure that it contributes to the policymaking process and to utilize its expertise. Citizen-driven demand for sound policymaking, accountability, and transparent impact assessment will make it more difficult for political elites to exploit governance gaps. Strong demand will increase the cost for politicians of allocating projects to authoritarian countries and increase the pressure on them to undertake active resilience measures. In addition to reducing the political and governance risks of authoritarian influence activities, civil society is crucial to communicating their local effects, particularly environmental ones. This will strengthen the legitimacy of civil society among the population. The EU and the Western Balkans countries need to work with civil society to build awareness at the institutional level and among the public. In addition to cooperation, civil society has a crucial role in monitoring policies and holding institutions accountable.

This work represents solely the opinion of the author and any opinion expressed herein should not be taken to represent an official position of the institution to which the author is affiliated.

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