



CORRUPTION “COPY & PASTE” IN THE WESTERN BALKANS AND TURKEY

ANALYSIS OF SOCIO-ECONOMIC RISKS AND IMPACTS
FROM CAPITAL INVESTMENTS IN THE WESTERN
BALKANS AND TURKEY

The Kosova Democratic Institute is a branch of
Transparency International for Kosovo

KDI's mission is to support the development
of participatory democracy and the fight
against corruption by promoting transparency,
accountability and integrity at all levels and
sectors of society.

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INTRO: THE IMPORTANCE OF CAPITAL INVESTMENTS IN THE DEVELOPMENT OF A STATE

Capital investments play an essential role in economic development and constitute a dynamic effective component of national income. Their size and distribution indicate the direction or contraction of growth, and their relationship to capital accumulation, stock, employment, and state income. While the motives of businesses revolve around profit, the general motives of society are divided between economic, political, and social benefits (OMRAN, 2018). So, public investments by governments, whether central and local, build the capital stock of a state.

Various economic experts (e.g. BIVENS 2012, Zandi 2011, CEA 2010, CBO 2012, Woodford 2011, and Hall 2009) elaborate that states, by investing in basic physical infrastructure (such as roads, bridges, railways, airports and water distribution), innovative activities (research), green investments (clean energy sources, environmental protection, etc.), and education (both primary and advanced, vocational training, etc.), stimulate productivity growth in the country, provide a long-term growth profit, as well as a short-term stimulus to the labour market, which respectively translate into higher living standards. In addition to improving the quality of life of citizens, the development of new projects for the construction of roads and schools affects the employment of teachers, the development of science, circulation of money, job creation to support the implementation of these projects, increased consumption that affects business development, etc. All this in the short term has a chain effect on the creation of new jobs. Moreover, such expertise point out that investing in infrastructure is about the most efficient fiscal support that can be provided to a depressed economy - a finding supported by almost all macroeconomic models and forecasts.

Meanwhile, (MAURO 1997) regression analyses show that corruption is closely linked to the level of investments and economic growth, i.e. the more corruption, the less investment and economic growth (Lin & Zhang 2009). Corruption in capital investments has a direct negative impact on revenue redistribution, government spending on infrastructure, incentives for businesses to invest, and on encouraging workers to provide labour force.

In any society, there are laws and regulations to serve social objectives and to protect the public interest, such as building codes, environmental controls, traffic laws and prudential banking regulations (Myint 2000). Violating these laws for economic gain through corrupt means can cause serious social harm.

Therefore (OECD 2016), in this regard, avoiding capture in public investment projects is essential to maximize their economic and social benefits.

Meanwhile, various researches raise serious concerns regarding the integrity of investments in the Western Balkans (CDI, 2021) and the high level of corruption in these countries (U4: BAK, 2019 & DURİ, 2021).

In addition to the loss of public money, which directly affects economic development by preventing new additional investments, in many different cases capital investments suspected of corruption have directly resulted in the well-being of the citizens of the Western Balkans and Turkey.

LIST OF ABBREVIATIONS

CA	Contracting Authority
ACA	Anti-Corruption Agency
CPA	Central Procurement Agency
EU	European Union
BiH	Bosnia and Herzegovina
WB	Western Balkans
CDI	Cooperation and Development Institute
CoE	Council of Europe
IMF	International Monetary Fund
CPI	Corruption Perceptions Index
KDI	Kosova Democratic Institute s
EC	European Commission
PPRC	Public Procurement Regulatory Commission
LPP	Law on Public Procurement
EO	Law on Public Procurement
OECD	Organization for Economic Co-operation and Development
CSO	Civil Society Organizations
PRB	Procurement Review Body
GDP	Gross Domestic Product
TI	Transparency International
U4	Anti-Corruption Resource Centre
NAO	National Audit Office

EXECUTIVE SUMMARY

Public procurement has a significant share of 7 to 12% in the GDP of the Western Balkan countries ¹, while about 40% of the annual state budgets ² of these countries are spent on capital investments. Given the large value of money that can be put into circulation in local economies or the risk of failure, capital investments should be treated with special care by governments, namely relevant institutions, to ensure the principle of achieving **“value for money”**, and that the return on investment is returned to the real shareholders, who are the taxpayers of these countries.

Risks of corruption in this government activity are estimated to be 20-25% of the value of public contracts (OECD, 2015b), and affecting the reduction of productivity of infrastructure investments, setting incentives for building “white elephants” ³, i.e. infrastructure that nobody needs, or projects much larger than current needs such as oversized energy or water treatment plants ⁴, as well as by creating policies or practices from which individuals benefit at the expense of society.

Also, in order to stimulate a faster and more substantial transition, and in order to alleviate multinational tensions in the Western Balkans region, in 1999, the EU launched the Stabilization and Association Process, a framework for relations between EU and countries in the region, and the Stability Pact, a broader initiative involving all key international actors. In order to support this process, the EU had developed the Instrument for Pre-Accession Assistance mechanism ⁵. Initially, in March 2021, through the Instrument for Pre-Accession Assistance (IPA III), the EU had allocated about \$14 billion for the Western Balkans

and Turkey for the period 2021–2027, but in October 2021, it made a commitment to allocate about EUR 30 billion for the Western Balkans to help develop and push the countries of the region towards full EU membership ⁶.

The package of EUR 30 billion can be used for investments in energy, digital networks, roads and other sectors, while these projects will be implemented by the governments of the beneficiary countries. These projects are implemented through public money spending policies such as relevant specific laws on strategic investments of national interest, public-private partnerships and public procurement. Subsequently, in November 2020, the countries of the Western Balkans had signed the Sofia Declaration on the Green Agenda, in which case these countries committed to taking several actions on climate, energy and mobility, circular economy, elimination of environmental pollution, sustainable agriculture and food production, as well as biodiversity ⁷.

While we are talking about extremely high investments intended for the development of the region, the analysis raises serious concerns about the mismanagement of capital projects in the region ⁸ and the risks of corruption, which eventually result in an almost irreversible impact on the environment ⁹ and major negative impact on social welfare ¹⁰, and which fail to provide a stimulus to a genuine economic development ¹¹.

The analysis shows that the countries of the region to a large extent do not ensure the consideration of obligations in the planning and pre-contractual stages, and they do

¹ “Comparative evaluation report on public procurement systems in Bosnia and Herzegovina, North Macedonia, Montenegro, Kosovo and Serbia” 2019, Balkan Tender Watch.

² Corruption Perception Index 2020, Transparency International, <https://www.transparency.org/en/cpi/2020/index/nzl>

³ Can White Elephants Kill? Unintended Consequences of Infrastructure Development in Peru, Bancalari, A. 2019, accessible at: <https://www.lse.ac.uk/economics/Assets/Documents/job-market-candidates-2019-2020/BancalariJMP.pdf>

⁴ Investing in Integrity for Productivity, OECD 2018, p.21, accessible at: <https://www.oecd.org/corruption/ethics/investing-in-integrity-for-productivity.pdf>

⁵ European Commission: The Instrument for Pre-accession Assistance (IPA): https://ec.europa.eu/regional_policy/en/funding/ipa/.

⁶ European Council, Brdo Declaration, 6 October 2021: <https://www.consilium.europa.eu/media/52280/brdo-declaration-6-october-2021-en.pdf>.

⁷ SOFIA DECLARATION ON THE GREEN AGENDA FOR THE WESTERN BALKANS (2020): <https://berlinprocess.info/wp-content/uploads/2021/02/Leaders-Declaration-on-the-Green-Agenda-for-the-WB.pdf>.

⁸ “Integrity Compliance in Infrastructure Projects”, Civil Society Forum (prepared by Cooperation and Development Institute), 2021.

⁹ Industria e shkatërrimit (English: Destruction industry), ÇOHU, 2019.

¹⁰ Varroshja e Lepencit, (English: Burial of Lepenc) KDI, 2020.

¹¹ “The Western Balkan policy focus needs to shift back towards addressing the key structural constraints to job creation and economic transformation” World Bank (2021), Western Balkans Regular Economic Report: Fall 2021: <https://www.worldbank.org/en/region/eca/publication/western-balkans-regular-economic-report>

not establish oversight and accountability mechanisms that guarantee their compliance after the creation of obligations¹² between the parties.

Capital investments, in addition to being tempting for corruption scandals, the negative impact of lack of oversight and non-compliance with legal obligations during their implementation risks long-term consequences in society and the environment. The problem with non-compliance with general obligations seems to be a problem also with public partnership contracts and concessions. But here we seem to have a much bigger problem.

Moreover, while most of these funds are dedicated to “strategic investments” we see that the whole region is facing the chronic problem of state capture in this area in the name of “common good” and fulfilment of obligations on the path towards the EU¹³, but which essentially generate benefits for “individual companies” by circumventing laws or drafting specific laws to suit investors.

A key concern relates to public involvement in these processes. Although the respective countries possess the legal basis for strategic environmental impact assessment and environmental impact assessment, which oblige institutions to consult citizens in both stages, this requirement has been continuously neglected either by doing superficial consultations just to put a “tick” in the checklist of legal obligations, or by completely ignoring the citizen in the name of “general good” through the special laws for the investment in question.

Moreover, in all countries and all large value capital investments, although the public interest is extremely high, apart from the non-involvement of citizens in the planning and oversight process, transparency by the respective governments is almost non-existent.

Although the report fails to fully analyse all the stages in detail in the following illustrated cases, the analysis in question reveals serious concern about the failure of the democratic interdependence triangle, where governments and businesses are extremely close in a deformed ¹⁴ “iron triangle” ¹⁵ leaving under-represented the third pillar of democracy - the citizen ¹⁶.

¹² Terms, special conditions and general conditions of contracts.

¹³ For example, legal violations related to the construction of hydropower plants which, in the name of renewable energy, had a negative impact on society, the environment and households by reducing agricultural productivity.

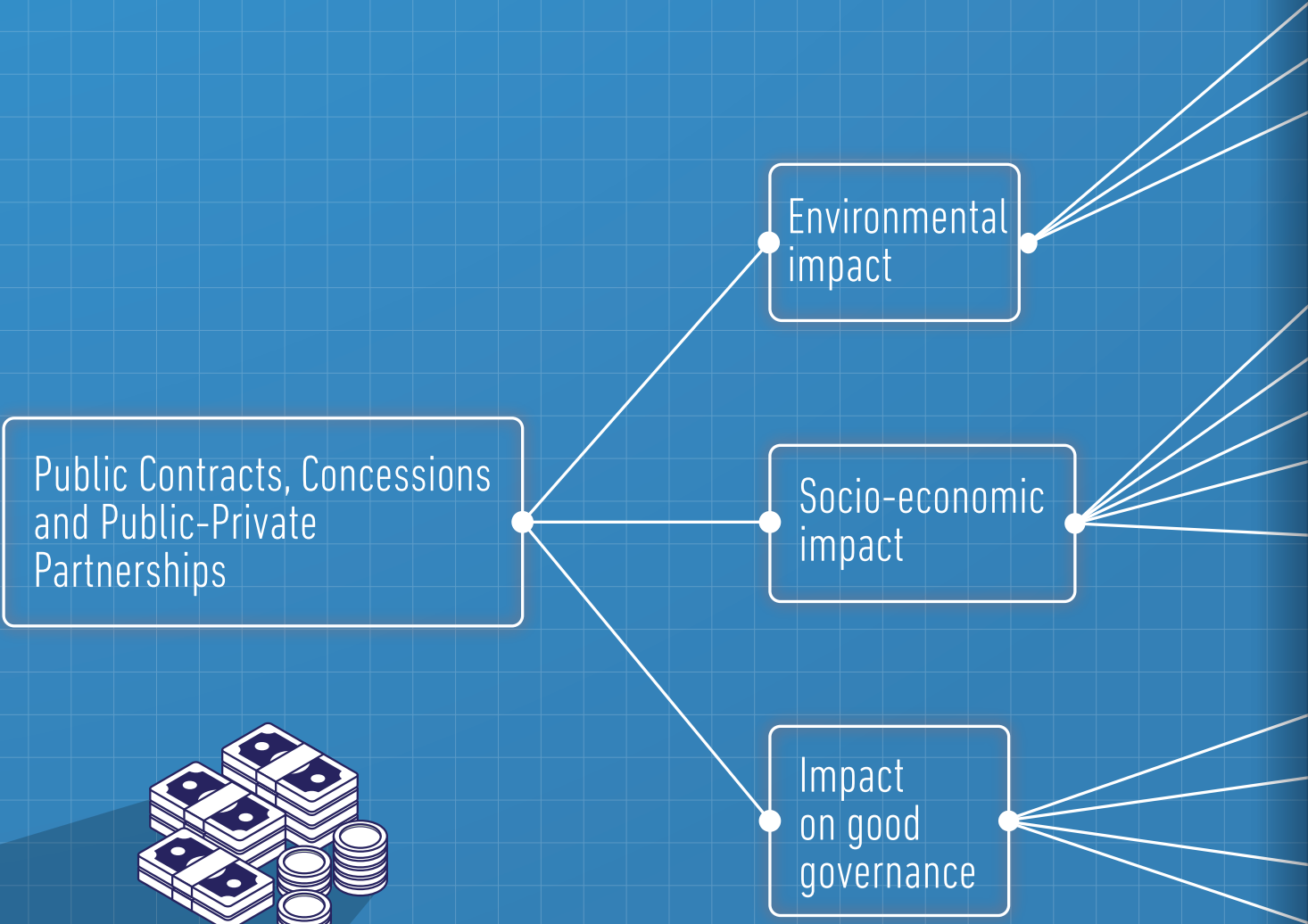
¹⁴ In drafting special laws for investments through concessions, parliament aligns with the government rather than representing the public interest.

¹⁵ “In United States Policy, the “Iron Triangle” includes the Policy Making Relationship Between Congress (Parliament), Government, and Stakeholders,” 1981 Adams, G., *The Politics of Defense Contracting: The Iron Triangle*, Taylor & Francis 2020, 466 pp.

¹⁶ Bruce M. Russett and John R. O’Neal, *Triangulating Peace: Democracy, Interdependence, and International Organizations*, WW Norton, 2001, 305 pp.



KEY FINDINGS





- Contracts for wastewater networks are the main polluters of rivers
- Wastewater and hydropower plants have a direct impact on flora and fauna
- Hydropower plants have affected the transformation of the environment
- Increase in diseases derived from environmental pollution
- Impact on agricultural productivity around rivers and product quality
- Emotional impact due to difficulties in securing drinking water
- Denial of the legal right to be part of decision-making and development processes of public interest
- Difficulties of SMEs in accessing public contracts and other incentives
- Lack of law enforcement, accountability and transparency
- Cost of infrastructural and environmental damage management/repair, increase of social burden and increase of health cost
- Direct loss of public money in corruption affairs
- Promotion of Corporatocracy¹⁷ by favouring certain businesses which are close to politics through adapted criteria, specific laws or secret contracts by not achieving the stimulation of general economic development but rather the creation of plutocrats¹⁸ in the region.

¹⁷ Plutocracy: In a plutocracy the rich rule, but not always being elected leaders of the government. In many cases, the wealthy can influence decision-makers through legal and illegal means, such as lobbying, bribery and campaign finance (investinganswers.com).

¹⁸ Plutocracy: In a plutocracy the rich rule, but not always being elected leaders of the government. In many cases, the wealthy can influence decision-makers through legal and illegal means, such as lobbying, bribery and campaign finance (investinganswers.com).



METHODOLOGY

Capital investments in the Western Balkans and Turkey are generally viewed only from the perspective of developing an infrastructure in line with European standards, regional strategies and, superficially, economic benefits. However, they are not addressed or analysed in terms of what would be the percentage of the impetus for local economic development and what are the side risks during their implementation. Furthermore, there is no analysis of opportunity cost in these investments from the economic, social or environmental aspect. In general, when we talk about public investments, we mean only public contracts

for the construction of roads and schools through public procurement, but not public-private partnerships and concessions where facilities are provided in the use of public resources for a public good, which would increase the democratic values of a country. In addition, capital investments are treated only from the perspective of direct loss of public money through corruption scandals, but not from the perspective of losses from the side effects they cause to society, health, environment and economic development.

The analysis tends to raise three questions:

- 1 Which investments have the greatest impact on the environment and society and the loss of public money?
- 2 Is there a legal basis to manage the risk from these investments?
- 3 What can be done to improve this situation?

The analysis is based on several sources of information, such as: Concrete cases analysed for environmental and social damage and corruption scandals, contributions by civil society in the region in specific cases analysed, analysis and preliminary publications by civil society organizations, media, university or scientific research, reports and data from the EU/EC, official laws and documents of the respective countries and specialized literature on the relevant topic,

as well as the organization of a workshop with over 20 participants from the region, in order to share common experiences and recommendations for improvement of the quality of capital investments in the region.

CORRUPTION RISKS IN CAPITAL INVESTMENTS IN THE WESTERN BALKANS AND TURKEY

LOSS OF PUBLIC MONEY, RISK TO HEALTH AND WELL-BEING, ENVIRONMENTAL DEGRADATION AND STIMULATION OF MONOPOLIES

1 Strategic investments in renewable energy and impacts on society and the environment:

In 2003, the countries of the Western Balkan signed the Vienna Treaty, where they pledged that, in terms of environmental protection through reductions in the use of lignite for energy generation, by 2020 they would invest to make 20% of gross domestic product to come from renewable sources.

In all countries of the region, investment in renewable energy was categorized as a state strategy, and incentive policies for investment in this sector were adopted. These investments would be made by the private sector through "Feed-In-Tariff" sale guarantee schemes and in some cases with government grants. Given that renewable energy was a policy driven by the European Union and offered guaranteed sales, investors in this sector had found financial support in local and European banking institutions.

In the region, the focus of renewable energy production was through the use of water, solar, air and biomass resources. Because investing in hydropower was faster and cheaper of all options, and under the pretext that water was not disappearing but was only being used for an additional purpose, small hydropower plants began to flourish in the Western Balkans. Unlike large hydropower plants, the increase of production capacity in small hydropower plants would be done by inserting a large part of the water from the river into pipes for a certain length, and not through the accumulating dams.

But in this process, the respective governments had failed to consider all the possible dangers that might result by inserting the river into pipes. Moreover, all countries in the region had failed to involve citizens in this process, to consult and obtain their approval as required by the constitutions of the respective countries. Small hydropower plants began to be built along the rivers of the Balkans within national parks, along agricultural lands, various villages which were being put at risk of having no supply of drinking water, etc.¹⁹. After the construction of the first hydropower plants, and the emergence of risks to agriculture, households and flora and fauna, the dissatisfaction and resistance of the citizens of the region against these investments had started from 2012 until today. Moreover, various concerns were raised regarding the efficiency of these investments.²⁰

In Albania, Bosnia and Herzegovina²¹ and Kosovo²², citizens and civil society had raised their voices regarding environmental degradation, endangering agricultural productivity, namely households, and endangering the

supply of drinking water. Concerns were also raised about possible corruption with various permits during the process of construction and operationalization of hydropower plants which were in conflict with environmental protection laws. In Kosovo, in a specific case, concerns were raised regarding the conflict in the use of water resources in the Lepenc River Basin. This action of the government either threatens to extinguish the major project from which about 550 thousand inhabitants of Kosovo would benefit drinking water, or the loss of tens of millions of euros from liabilities through permits issued and the "Feed-In-Tariff" scheme guaranteed for hydropower plants in this territory.²³

However, in Montenegro²⁴, North Macedonia and Serbia, although the citizens' reaction was the same and the risks of degradation were identical to those of Albania, Bosnia and Herzegovina and Kosovo, research reports had identified high political links, nepotism and state capture in the energy sector, especially in hydropower²⁵.

Throughout the region, due to the categorization as a strategic investment of public/national interest, in the projects for the construction of hydropower plants, the legal provisions for water, equipment with the necessary permits, and public participation were circumvented. All this was done in the absence of transparency.²⁶

Following the rise of numerous social, economic and environmental problems at the global level related to the construction of hydropower plants, the focus of providing renewable energy at EU²⁷ level had changed, where 77%

of energy would be provided by air and sun (solar), 13% by natural gas, and the rest by other sources. However, during this research, no study was found at state or regional levels on the possible environmental consequences²⁸ in flora

19 [Small Hydro: Harmful to everyone - except investors, 2018 Heinrich Böll Foundation](#)

20 [Consequences of the construction of small hydropower plants in BiH \(3\): Austrian SHPPs, co-financed by BiH citizens, operate at a loss, 2020, Centre for Environment, Banja Luka, BiH](#)

21 (1) [A tale of two communities successfully resisting the Balkan hydropower tsunami, CEE Bankwatch Network](#); (2) [Transparency International Bosnia and Herzegovina](#).

22 Ujë pak e nevoja shumë (English: Little water available and huge need for it), 2020 KDI.

23 Ibid.

24 [State Capture in the Energy Sector in Montenegro: Small Hydropower Plants bring Large Profits, 2018 MANS](#)

25 (1) [Western Balkans hydropower: Who pays, who profits?, 2019 CEE Bankwatch Network](#); (2) [KDI Focus group 04-05 September 2021](#)

26 Ibid

27 EU Green Deal 2019.

28 [Lambert Q, Bischoff A, Cluchier A, Cuff S, and Gros R: Mediterranean Institute of Biodiversity and Marine and Continental Ecology; Effects of solar parks on soil quality, CO2 effluxes and vegetation under Mediterranean climate, ECO-MED, INRAE Île-de-France-Versailles-Grignon; Published 2021 Jun 6](#)

and fauna from covering hundreds of hectares with solar panels ²⁹, impact on protected areas ³⁰ and the impact on agriculture, given that this economic segment is part of the development strategies of all Western Balkan countries.

But hydropower plants are not the only ones attacking the rivers of the Balkans, with a direct impact on the well-being of citizens.

2 Public investments in clean water pollution with wastewater:

In 2010, the Government of Kosovo had invested in the construction of a business park in Drenas, which would provide a proper infrastructure to support businesses in Kosovo. Although promoted as a success story, the failure to finish the park's wastewater canal ³¹ had resulted in industrial wastewater being dumped into the stream and fields along the park causing chemical waste to contaminate groundwater and the village to lose access to drinking water, which had increased household expenses by over €150 per month just for supply with this essential product. ³² Similar water pollution had occurred in North Macedonia ³³, where the tailings dam material from the Sasa Mine had affected the sediment of Kamen Lake by adversely affecting the ecosystems around it. While in the case of Albania, there are reports about the pollution of rivers from untreated discharges of organic and industrial wastewater in an untreated way, with an emphasis on waste from oil products, which had affected the river fauna. ³⁴

The problem of discharging organic and industrial wastewater into rivers is common throughout the Western Balkans. Although wastewater network coverage varies from 47% to 90% of settlements in the countries of the region, reports reveal concerns that only 1–15% of wastewater at the regional level is treated before discharge into rivers, ³⁵ thus affecting groundwater contamination and agricultural land content in rural areas ³⁶. Such pollution, in addition to increasing household expenditures for drinking water supply, raises concerns about the health implications of citizens who are in constant contact with these waters. ³⁷ The analysis of the existing legal frameworks for the assessment of the environmental impact of the construction of wastewater networks shows that the countries of the Western Balkans region, although possessing laws for water protection, do not possess mandatory mechanisms for risk assessment before their construction, endangering water quality through this capital investment.

29 Choi Chong Seok, Cagle Alexander E., Macknick Jordan, Bloom Dellena E., Caplan Joshua S., Ravi Sujith; *Frontiers in Environmental Science: Effects of Revegetation on Soil Physical and Chemical Properties in Solar Photovoltaic Infrastructure*; Published 2020 Aug 11

30 *Solar energy development and land cover change*; Rebecca R. Hernandez, Madison K. Hoffacker, Michelle L. Murphy-Mariscal, Grace C. Wu, Michael F. Allen; *Proceedings of the National Academy of Sciences* Nov 2015, 112 (44) 13579–13584; DOI: 10.1073/pnas.1517656112

31 The canal was completed in 2019 following the raising of environmental and social impact concerns by the Kosovo Democratic Institute in 2017.

32 Patched Investments 2017, Kosovo Democratic Institute.

33 Vrhovnik, Petra & Rogan Šmuc, Nastja & Dolenc, Tadej & Serafimovski, Todor & Tasev, Goran & Dolenc, Matej. (2011). Geochemical investigation of Sasa tailings dam material and its influence on the Lake Kalimanci surficial sediments (Republic of Macedonia) – Preliminary study. *Geologija*. 544. 183–190. 10.5474/geologija.2011.013.

34 Bani, Aida & Rroco, Evan & Malltezi, Jamarbër & Shallari, Seit & Libohova, Zamir & Sinaj, Sokrat & Qafoku, Nikolla. (2018). Water quality in Albania: An overview of sources of contamination and controlling factors.

35 The Swedish International Development Cooperation Agency, individual country factsheets (as of 2/12/2021)

36 (1) Belis CA, Pisoni E, Degraeuwe B, et al. Urban pollution in the Danube and Western Balkans regions: The impact of major PM2.5 sources. *Environ Int*. 2019;133(Pt A):105158. doi:10.1016/j.envint.2019.105158; (2) Bajoriniene A, Leitmeyer KC, Struelens MJ, Kokki MH; Observers and Alternate Observers to the ECDC National Microbiology Focal Points in Western Balkan Countries. Investing in Public Health Microbiology Laboratories in Western Balkan Countries Enhances Health Security From Communicable Disease Threats in Europe. *Front Public Health*. 2019;7:8. Published 2019 Feb 4. doi:10.3389/fpubh.2019.00008; (3) Lumenjtë e zi të Kosovës (English: The Black Rivers of Kosovo), 2020, Kosovo Democratic Institute.

37 Ibid.



A worrying fact is that when analysing the laws on environmental impact assessment, no legislation of the respective countries requires to make an environmental impact assessment for sewerage (organic wastewater) network construction projects, although research in each of these countries identifies this investment as the biggest polluter of rivers.”

A more alarming case regarding the risk of water contamination and endangering the health of citizens is that of the mine operated by Rio Tinto in the Jadar Valley, Serbia, where, according to the work plan, in addition to dumping over 90 million tons of sterile waste from the mine to the river, it was planned to make a landfill, where over 7,000 tons of arsenic would be dumped in the vicinity of the river, and a diversion and discharge into the river would seriously endanger the health³⁸ of citizens of both Serbia and Bosnia and Herzegovina.³⁹

3 Projects of “national importance” only for the benefit of companies

Corruption and the benefits of urban development appear to be a risk of corruption throughout the Western Balkans and Turkey.⁴⁰

Despite the continuous protests of the citizens of Loznica (Serbia) against the operation of the mine in the Jadar Valley by Rio Tinto, in the name of supporting economic development, in this case, the Government of Serbia, in addition to violating the legal provisions for planning and construction, mines, agriculture, forest protection and strategic environmental impact assessment, had spent over 450 million euros on

ancillary infrastructure (roads, pipelines, railways and expropriations) in favour of the economic operator⁴¹. Suspicious decisions favourable to the mining industry were also identified in Kosovo, where in 2017, the government had cancelled the decision to declare the Gadime area⁴² as a protected area of national and geo-tourism interest, leaving it at risk from the quarry which, in addition to environmental degradation by not respecting legal obligations related to mining standards and cultivation of the area, had also won public contracts of over 8 million euros in the construction of public roads, all of which had raised suspicions of corruption and favouritism.⁴³

Further, in order to meet the needs of construction which experienced a major boost in Kosovo by both public investment and the private sector, over 200 quarries are ruthlessly destroying Kosovo forests, endangering the health and well-being of residents along through noise pollution, dust and frequent traffic of large trucks⁴⁴. Although, the Independent Commission for Mines and Minerals in Kosovo had filed over 200 criminal charges with the relevant basic prosecutions, and a significant number of them were against public institutions for allowing the use of illegal stone in public road construction projects at both local and central level despite the legal provisions available for this field, unfortunately, most of these reports were not processed⁴⁵. Research shows that one of the reasons for failing to address them is the political links between the mining industry operators and the political elite.⁴⁶

Another strategic public contract for the construction of the

38 [Arsenic, World Health Organization](#)

39 [PAKT Srbija](#)

40 Examining State Capture: Undue Influence on Law-Making and the Judiciary in the Western Balkans and Turkey, 2020, Transparency International.

41 Ibid

42 [Shpella e Gadimes, destinacione turistike i pazevendesueshem!](#) (English: [Gadime Cave, irreplaceable tourist destination!](#)), Kosovo Environmental Protection Agency.

43 Pyje për Asfalt (English: Forests for Asphalt), 2020, Kosova Democratic Institute.

44 Pyje për Asfalt (English: Forests for Asphalt), 2020, Kosova Democratic Institute.

45 Amnistimi i degraduesëve të mjedisit (English: Amnesty for environmental degraders), 2021, ÇOHU.

46 State capture in Kosovo: The political economy of gravel.

"Arben Xhaferi" motorway, which would connect Kosovo with North Macedonia, in addition to being developed in complete lack of public transparency, and despite public reactions not to be signed on the eve of a change of government due to chronic government negligence, had cost citizens 53 million euros in compensation for the implementing company⁴⁷ and raised suspicions of corruption. Although three governments have changed so far, the annex contract and its content regarding this compensation, which potentially cost Kosovo some 4,000 new jobs,⁴⁸ remain closed to the public.

Suspicious of political connections and misuse of public money have also been raised in connection with the expropriation for construction of roads and motorways in Kosovo, highlighting that senior political officials had purchased land at extremely low prices in these areas, which then had been expropriated by the state with values thousands of times higher. Moreover, despite the fact that these expenditures are related to public expenditures, the lists of beneficiaries of these actions still remain closed to the public, despite the legal provisions on the right to public information⁴⁹. In 2018, the then government had decided that local companies would be contracted for the construction of the Prishtina-Gjilan motorway, and that this motorway would cost the citizen of Kosovo half the price⁵⁰ of the two previous motorways implemented by international companies⁵¹. However, in this "success" promoted by the government, the local media (Kallxo.com 2021) had reported on the profits of the companies owned by the ruling officials of the Ministry of Infrastructure from subcontracting in this project.⁵² Moreover, in 2021, the Special Department of the Basic Court in Prishtina had confirmed the indictment filed by the Special Prosecution of the Republic of Kosovo against four officials of the Ministry of Infrastructure regarding allegations of abuse in the tender for the Gjilan motorway, while in the process

suspicious were raised about the involvement and exercise of influence by the then Minister of Infrastructure.⁵³

State capture in the investment sector through concessions and public partnership was identified as a major problem in Albania, as well. From 2004 to 2019, 219 concession contracts were awarded in Albania, where about 87% were for the use of natural resources, with 95% of them for HPPs, worth close to 3.2 billion euros⁵⁴. Although when this process started, the then opposition (PS) criticized the position for lack of transparency and for many mistakes and risks of corruption, after assuming office, the PS had followed the path of the PD in granting concessions with even less transparency than before,⁵⁵ followed by risks to the environment and raising suspicions of corruption and links between competing companies and political representatives in power⁵⁶. But, in Albania, a greater concern was raised about the strategic laws drafted specifically for specific concession projects, which were generally not initiated by the government, but had come with the recommendation of businesses such as the Vlorë airport project, the laboratory concession, the gambling industry and the plan for the New National Theatre and the surrounding business complex in Tirana⁵⁷.

Problems with state capture were also identified in Montenegro⁵⁸, with an emphasis on drafting specific laws to support energy development, urban planning and expropriation. Similarly as in the entire Western Balkans region, the "Feed-in-Tariff" scheme of guaranteeing the sale of generated energy, as a means of stimulation and guarantee, had made investments in hydropower quite attractive to investors in Montenegro. But, research (MANS, 2015) had found that businesses that had benefited from these investments (which had also provoked reactions by society for environmental and social damage)

47 KDI: Neglizhenca kronike e qeverive 2014 – 2018 i kushton qytetarëve të Kosovës 53 milion euro (English: KDI: Chronic negligence of governments during 2014 – 2018 costs the citizens of Kosovo 53 million euros), Press Conference, 2018 Dec 24.

48 Sa kushton krijimi i një vendi të ri të punës? (English: How much does it cost to create a new job?), 2016 Democracy 4 Development [D4D]

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The project of national strategic interest for the construction of the

"Arbën Xhaferi"

highway cost to the citizens of Kosovo

53 million

in compensation as a result of a poorly drafted contract and the negligence of the three governments in managing their obligations. The details of the compensation remain concealed to the public since 2018.



In Albania, for 15 years were awarded

219 kconcession contracts

for strategic investments, where about

87%

of them were for the use of natural resources, with

95%

of them for HPPs worth close to

3.2 billion

Many of these investments were opposed by citizens for their negative environmental impacts.



In the strategic project for the construction of a Wastewater Treatment Plant in Budva, Montenegro, in addition to stealing

3 million euros

in fictitious bills, another

20 million

were lost in price inflation.

While the municipality risks to lose

millions

more, due to mandatory disputes, the project was facing various problems, among them environmental pollution, as a result of poor quality work.

were closely linked to the political elite through direct family ties or through party leaders. An amendment to the law on spatial planning and construction of buildings (opposed by civil society) to centralize decisions regarding spatial plans, permits and their management, had enabled the government to favour certain businesses, even for local level constructions, where until then they could not exert any influence. The amendment to the law on spatial planning also provided for the construction of luxury hotels and resorts as a public interest, which with the approval of the law on expropriation gave the state the right to hope for private property, even if they did not reach an agreement with their owners. The law came into force after several government attempts to develop the remaining undamaged parts of the Montenegrin coast. This failed due to a number of private owners who were unwilling to sell their land. This was done so that access to these properties by potential investors would be provided by the government. The most obvious example is the case of the government's plans for the mass urbanization of Buljarica Bay ⁵⁹. Another affair related to the use of the "strategic project for the public good" was the construction of a wastewater treatment plant in Budva. In 2009, the Municipality of Budva had signed a contract with the German company WTE of DBFO (design-build-finance-operate) type, for the construction of three wastewater treatment plants in Becici, Jaz and Buljarica, as well as a sewerage system in Sveti Stefan. The overall capacity was to serve the population

of 130 thousand. The value of the project was 58.56 million euros plus interest and variable costs, on condition that the total investment shall not exceed the tender prescribed limit of 85 million euros. The contract also provided for annual management costs of €1.7 million until 2042 while Budva was to repay the investment by 2034. The project was only partially completed when the water treatment plant in Becici began its trial operation in July 2014. It was officially opened in early October 2014. After the opening of this plant, various problems began to appear, with an emphasis on environmental pollution, which resulted from poor construction works. During the investigation of the case and the analysis of the works and invoices paid according to the documents for handling the case by the court, it turns out that, in this project, three million euros were stolen in false invoices, and about 20 million more were lost in price inflation, while the municipality risks losing millions more due mounting disputes ⁶⁰.

In Serbia (Transparency International Serbia, 2021), high concerns were raised about laws drafted for certain private sector interests, with a particular emphasis on corruption in the management of public property, urban plans and the expropriation process.⁶¹ In the Belgrade Waterfront construction project, in the name of economic development and making Belgrade a tourist and business attraction, the local and central level governments had signed several

⁵⁹ Ibid

⁶⁰ [Two international arbitrations loom over water treatment plant in Budva amidst accusations of pollution and corruption: invoices inflated by millions while investigation takes forever, 2021 Centar za istraživačko novinarstvo Crne Gore.](#)

⁶¹ High-level corruption and forgotten laws for private interests in Serbia, 2021, Transparency International Serbia.



In Serbia, in addition to the fact that citizens had paid over

450 million €

in ancillary infrastructure (roads, gas pipelines, railways and expropriations) in favour of the investor in the mine of Jadar valley, according to the work plan, in addition to discharging over 90 million tons of sterile waste from the mine to the river, it was planned to make a landfill where over 7,000 tons of arsenic would be discharged near the river, whereby a possible diversion and exit to the river would seriously endanger the health of the citizens of Serbia and Bosnia and Herzegovina.



The Skopje 2014 project in North Macedonia, which was initially said to cost around

80 million €,

has so far reached the value of

560 million €,

while for the completion of all started and planned objects, the cost is expected to reach over

1.3 billion €.

Researches show that from this project had benefited people closely associated with the former government.



Researches in Bosnia and Herzegovina raise concerns that according to the concession contract for the Banja Luka - Prijedor highway in Bosnia and Herzegovina, the implementing company will earn

297 million €

out of the

975 million €

invested. Also, according to the contract, the government must compensate the company up to

50 million KM

per year to cover the difference between real turnover and projected revenues.



The government of Turkey, for 13 years had made 150 amendments to the law on public procurement (including public-private partnership) where until 2014, the PPP scale had reached

88 billion

with 167 national strategic projects. One of these projects was the third bridge project over the Bosphorus, which had cost about

USD 3 billion

and inaugurated in 2016, has had consistently poor performance, not reaching a satisfactory utilization quota, but the public continues to pay the price for this because of the guarantees the government had provided to the companies implementing the project.

“strategic” contracts with specific companies of countries that would invest in this project, by circumventing all legal provisions that oblige competition in public procurement, legal provisions for public-private partnerships, the law on privatization of public property, and making changes to the Belgrade urban plan to suit investors. From the beginning of this project, the citizens had protested against various actions related to this development, but their concerns were not supported by accountability mechanisms. Further, the illegal demolition of some buildings on Hercegovacka Street had also resulted in the injury and subsequent death of a witness. Moreover, as Belgrade has a strong need to restructure public transport, a new white elephant was introduced in the new metro development strategy, with the government declaring that it would start working on the new line of the metro from Makis Field to Belgrade Waterfront as soon as possible. Both of these areas are currently under construction and uninhabited, while the strategy excluded from the underground network some of the areas most frequented by citizens where the regulation of public transport is more than necessary. Moreover, all government actions were accompanied by a lack of transparency, making it impossible for citizens and the media to be proactive in decision-making.⁶²

The Skopje 2014 project, which was initially said to cost around 80 million euros, has so far reached the value of 560 million euros, while for the completion of all started and planned facilities the cost is expected to reach 1.3 billion euros. In the meantime, after years of complete lack of transparency, the publication of some of the contracts for the implementation of this project reveals serious concerns of profits by companies and individuals directly or closely related to the then government⁶³. Playing with public property seems to be quite tempting in North Macedonia as well. While under the previously approved laws the public agricultural properties could not be sold, in 2021, the government hastily initiated legal changes to pave the way for the benefit of private businesses. The government's plan is to sell 10-15% of public agricultural land worth 200-300 million euros. The minimum planned size is less than 10 hectares of land per buyer. Initially, the plan is to allow only local natural and legal persons, but companies are allowed to have foreign capital. The planned price will be €250-450 per hectare, and priority will be given to the owners with a concession and the land will not be allowed to be redefined as a construction plot. Another law that is expected to be amended is the one on construction permits, which is expected to provide for the exemption from penalties for all properties built without a permit and without paying relevant taxes if they are completed at the time of entry into force of the new law, and this applies also to those built in public properties and inside national parks.⁶⁴

⁶² “Assessing State capture in high risk sectors - urban planning example-” Transparency International Serbia presentation in the focus group 04-05 September 2021, Albania.

⁶³ [True cost of “Skopje 2014” revealed, 2015, BIRN.](#)

⁶⁴ Stojanovski A, Nikolovski D., 2021 The controversy of ‘more (economic) freedom’: Can liberalisation in North Macedonia cause more problems than benefits?, WB2EU project

According to Transparency International BiH⁶⁵, the Government of Republika Srpska (RS), Bosnia and Herzegovina, had granted a concession to the Chinese HI-Speed Group Shandong to build the Banja Luka-Prijedor Motorway. The Chinese will own the motorway for 30 years and the RS, without an analysis of vehicle traffic, guaranteed the Chinese company that it would collect 60 million KM (Konvertibilna Marka) tolls on the motorway per year and that as time passes they will be paid less by RS budget. According to current forecasts and trends in revenue collection, the RS government will have to compensate the Chinese company up to 50 million KM per year for the Banja Luka-Prijedor motorway. The pressure on public finances will be great considering the repayment of the loan for the other two motorways. Due to negative economic trends (COVID-19), Republika Srpska risks falling into the debt trap and finding itself unable to meet its obligations. The RS government is currently hiding the contract from the public, so that citizens are not yet aware of all the elements of the contract, except what the government has published in the media. The reason why the project was unprofitable is the private interests of companies affiliated with the authorities, which should occupy jobs from the construction of that motorway. According to what was announced, from the 297 million euros invested, it is estimated that Chinese companies will earn 975 million euros. The current legal framework gives the government broad powers in the field of concessions, which is why a number of harmful contracts have been concluded.

In Turkey (Transparency International Turkey, 2020), the analysis of legal amendments made from 2002 to 2015 had revealed various concerns about laws drafted in favour of businesses close to the government. Since the arrival of the AKP⁶⁶ in power (Gürakar, 2017), the government had made over 150 amendments to the public procurement law, essentially reopening the door to friendship and favouring certain businesses affiliated with the current government. Corruption had profoundly affected the privatization process benefiting companies which were further rewarded with strategic mega-projects through public-private partnerships, which also benefit from larger contracts through public procurement (Transparency International Turkey 2020). The escalation of

privatization and PPPs in Turkey started after the double crisis of 2001. In 2014, the PPP scale had reached USD 88 billion with 167 projects. The practice of PPPs has gone beyond large typical infrastructure projects. Currently, the Build-Operate-Transfer (BOT) model is used to build private prisons, major airports, ports, hydropower plants, nuclear power plants, dams, motorways, city hospitals, bridges and tunnels. Some major projects are: 3rd Bosphorus Bridge, 3rd Istanbul Airport, Osman Gazi, Yavuz Sultan Selim and Canakkale Bridges, dozens of hydropower plants, Marmaray and Avrasya tunnels in the Bosphorus. According to Gürakar (2017), the third bridge over the Bosphorus, a project that had cost Turkish taxpayers about USD 3 billion and inaugurated in 2016, has had consistently poor performance failing to reach a satisfactory utilization quota, but that the public continues to pay the price for this because of the guarantees that the government had provided to the companies running the project. The main actors that have benefited from these investments are Kolin, Limak, Cengiz, Çalık, ERG, Torunlar and Rönesans, all with close ties to the political elite in Turkey. Moreover, a concern stemming from these benefits is political corruption, where these companies donate part of their profits to the community to provide voter support for the current government⁶⁷.

But these companies had not benefited from PPP concessions only in Turkey. In 2010, LIMAK had taken over, with concession, the airport of Prishtina (Kosovo)⁶⁸, while in consortium with Çalık, they had privatized the electricity distribution network in Kosovo. Meanwhile, in Albania, LIMAK had taken over, with concession, the construction of two dams (Banja and Moglica)⁶⁹ and hydropower plants.⁶⁹ In North Macedonia, LIMAK had made numerous investments in the construction of residential and commercial buildings (Cevahir Sky City, Limak Holding, Koç)⁷⁰. Meanwhile, Çalık Holding bought the Albanian BKT (Banka Kombetare Tregtare/National Commercial Bank) in 2006, which has branches in Albania and Kosovo. The KOLIN-Juksel-Makwol consortium had signed a contract with the Government of Serbia for the construction of a section of the motorway (445 km) stretching from the Serbian capital (Belgrade) to the Montenegrin port of Bar, through the Sandzak region⁷¹.

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CONCLUSIONS AND RECOMMENDATIONS

In response to the three questions posed in the methodology

- 1 Which investments have the greatest impact on the environment and society and the loss of public money?,
- 2 Is there a legal basis to manage the risk from these investments?, and
- 3 What can be done to improve this situation?:

- The report provides us with concerning data that the greatest environmental and social impacts stem from strategic investments in the renewable energy sector, and that unfortunately, apart from the laws drafted for favours to certain businesses, for these damages or even the opportunity cost, there was no estimate of the opportunity cost in advance, or even now after many reactions by citizens. But, wastewater networks turn out to be the most pronounced polluters of rivers in the Western Balkans region. While the favourite projects for corruption and large loss of public (movable and immovable) resources are strategic projects of national importance but for enormous private profits.

- The analysis of the laws of the countries of the region has found that, although from the addressing of the above situations the wastewater networks turn out to be the main polluters of the rivers in the Western Balkans, the laws on environmental impact assessment do not provide that this assessment of be mandatory for this type of investment and then create the conditions for risk management. However, all countries possess adequate legislation for environmental impact assessment in terms of energy, road

infrastructure, and many other investments. But, these assessments apparently failed, provided that they had allowed degradations to occur, and that they had completely neglected the involvement of the public as legally required. These legal circumventions turn out to be done in favour of certain businesses, under the pretext of strategic projects to meet obligations on the path to the EU. Moreover, although the relevant laws on obligations between the parties oblige the implementation of all special conditions and general conditions (meaning the implementation of all applicable laws), these laws seem to be less applicable in practice, given the reported violations related to water conditions, building codes, etc. This seems to be an even bigger problem in the case of construction of roads and various public facilities, where public procurement serves as a bridge for violation of other relevant laws, and then the poor quality of work is "attributed" to the lowest price and not responsiveness. The report also reveals concerns indicating that the greater the value of investments, the more the responsiveness is reduced through the approval of specific laws for the investment in question, thus making the concessions a corruption bank. Moreover, in these projects the public is completely ignored, dealing only with



the consequences, but without having the opportunity to influence prevention.

- Seeing that the greatest risk of corruption and negative impact on the environment and society falls precisely in the range of the strategy for the development of the region supported by IPA III and the Sofia Agreement, in a region where justice remains the weakest pillar of state functionality, in order for the funds to be used as fairly as possible and for the general good,

We recommend the following:

- 1 The European Union should impose rules on the respective countries for citizen involvement in these projects through the "Integrity Pacts" which are a tool developed to monitor a much higher level of spending of EU funds in the most accountable and transparent way.
- 2 According to the relevant laws on obligational relationships, for a contract to be valid, all applicable laws must be complied with. The countries of the Western Balkans and Turkey should be engaged in identifying all applicable legal provisions and should be engaged in establishing oversight mechanisms during all stages of project development to ensure institutional and contractual accountability.

- 3 The countries of the Western Balkans and Turkey should be as close as possible to the public, and establish stable communication between the two parties, thus avoiding confusion from secrecy, dissatisfaction with investments, and making the citizen an integral part in developing the country but also in risk prevention or as a support mechanism in accountability.
- 4 The countries of the Western Balkans must urgently address the problem of river pollution from wastewater networks and fill the legal gaps in the evaluation and management of this public investment.





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Transparency International Turkey -
<https://en.seffaflik.org/>



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