



SEE2020 SERIES

Public Attitudes to Whistleblowing in South East Europe

Data Analysis of Opinion Survey about Whistleblowing and the Protection of Whistleblowers



Regional Cooperation Council



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Sarajevo, 2017

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* This designation throughout this document is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence

FOREWORD

In May 2016 the Regional Cooperation Council released the second edition of the Balkan Barometer, an annual survey of perceptions and attitudes, both of the public and of the business communities across the economies covered by the RCC's SEE2020 Strategy.

Comparing the Balkan Barometer results from 2015 with those of 2016, one may easily note a sharp increase in the public and businesses' perceptions on corruption as an issue that had grown in importance for SEE. As regional average, about 27% of the respondents mentioned corruption as one of the top problems, up from 15% as compared with 2015. Moreover, the majority of respondents believe that their government should be more effective in the fight against corruption. This may not indicate that there is a sharp increase in corruptive practices in the SEE as compared with the previous year. Rather, it may be an indication that the public in SEE has become more sensitive against this phenomenon and it is asking for more effectiveness in the fight against it.

The overall objective of the Anti-corruption Dimension under the Governance for Growth pillar of the SEE 2020 Strategy is to formulate coordinated regional measures that seek to reduce corruption in public administration, to improve government effectiveness and to enhance business environment. One of the key measures envisaged by the SEE 2020 Strategy is increasing public awareness against corruption by actively supporting the efforts of researchers, whistleblowers and other agencies active in this area, as well as by helping to give ample publicity to their findings.

While efforts in this area are being made on both national and international levels, whistleblowing is seen as one of the most efficient tools to fight and expose corruption. Organizations like the Council of Europe and the United Nations Office on Drugs and Crime have developed international standards in this field, while most of the governments across the SEE region have put in place laws related to protection of whistleblowers.

But how effective are those legal tools in practice? How supportive is the general public in enforcing the respective policies? How long will it take to acknowledge the benefic impact of whistleblowing?

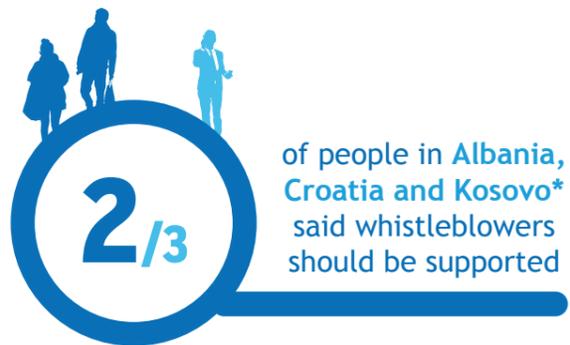
The survey that we are presenting here would help policymakers and activists in understanding public attitudes to whistleblowing and to adopt the right strategies in their public awareness campaigns. This is the first comprehensive survey on whistleblowing and the first public insight into this topic in South East Europe. I hope it will be of help in identifying and better understanding the key issues revolving around whistleblowing, as well as in contributing to more informed development of anti-corruption policies.

I take this opportunity to express my gratitude to our partners in this endeavour, the non-governmental organisation Blueprint for Free Speech for putting its expertise in analysing the data collected, and the Regional Anti-corruption Initiative Secretariat for its dedicated work on whistleblowers protection.

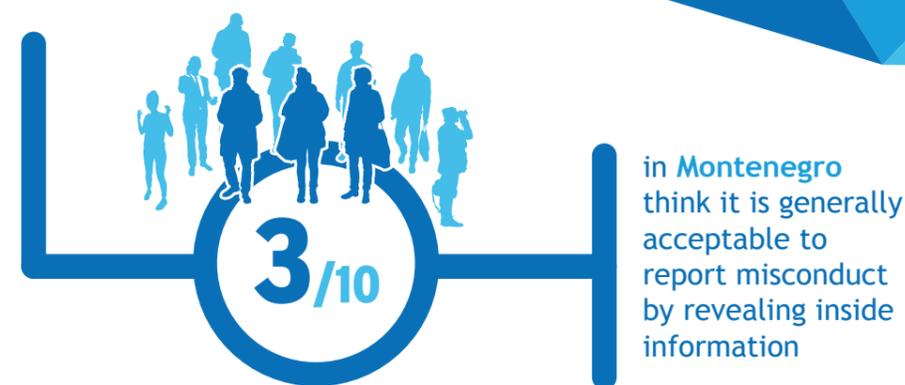
Goran Svilanovic, PhD

Secretary General, Regional Cooperation Council

Whistleblowing Main Findings



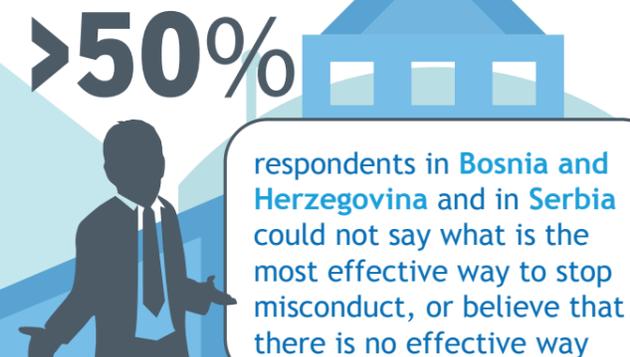
in The Former Yugoslav Republic of Macedonia believe whistleblowers should be punished for their actions - nearly twice the regional average



in Bosnia and Herzegovina, The Former Yugoslav Republic of Macedonia and Montenegro think it is acceptable to report misconduct committed by managers and staff



and in Albania and Croatia, **>50%** said it is acceptable to report wrongdoing committed by managers and staff



INTRODUCTION

This report assesses public attitudes to whistleblowing and whistleblower protection in seven economies in South East Europe (SEE)¹. The report also undertakes a qualitative analysis of the current state of play of whistleblower laws and practices in these economies. By comparing and contrasting public attitudes to whistleblowing against the strengths and weaknesses of whistleblower protection policies, key areas for improvement can be identified.

Survey Overview

A survey of 7,000 people in seven SEE economies measured public attitudes on whistleblowing based on eight key questions, including the acceptability of whistleblowing, the amount of information kept secret within organisations, the best way to get action on wrongdoing, and attitudes to using the media and Internet to expose wrongdoing.

The survey results show that region-wide more than half of respondents believe whistleblowers should be supported in their efforts to expose misconduct, even if it means disclosing information from inside their organisation. Nearly three-fourths of respondents said whistleblowers should be permitted to disclose inside information to the media under certain circumstances, and more than one-third believe too much information in their society is kept secret.

However, fewer than four in ten people said whistleblowing is acceptable in their society, and one in six respondents believes whistleblowers should be punished for revealing inside information.

Though several SEE economies have improved legal protections for whistleblowers in recent years, the survey indicates that more needs to be done to shield employees who report crime and corruption from dismissal, bullying, threats and other forms of retaliation at the hands of management.

The results also reveal a need for improved and sustained public awareness campaigns to educate citizens and policy-makers about the value of whistleblowing in exposing and combatting corruption.

The findings are supported by previous surveys and research indicating that a large portion of citizens in SEE believe politicians are corrupt, and governments are not doing enough to fight governmental misconduct.

Main Findings

Generally positive views of whistleblowers and the practice of whistleblowing were seen in Albania, Croatia and Kosovo*. Comparably weak support was shown in Bosnia and Herzegovina, The Former Yugoslav Republic of Macedonia, and Montenegro. Serbia's results were near the regional average.

The survey reveals many encouraging public perceptions in certain economies:

- ▶ About two-thirds of people in Albania, Croatia and Kosovo* said whistleblowers should be supported.
- ▶ Nearly nine in ten people in Kosovo* said whistleblowers should be able to reveal misconduct to the media or via the Internet. Four in ten said these outlets should be available as a first option - regardless of the situation. Further, seven in eight people said they would feel personally obliged to report misconduct within their organisation.
- ▶ More than half of people in Albania believe whistleblowing is acceptable in their society, and two-thirds said it is acceptable to report wrongdoing committed by managers and staff.
- ▶ In Albania, Croatia and Montenegro, six in ten people said they would feel personally obliged to report misconduct within their organisation, and in Albania and Croatia, more than half said it is acceptable to report wrongdoing committed by managers and staff.
- ▶ Three-fourths of people in Kosovo* said managers are serious about protecting whistleblowers, as did about half of respondents in Albania and Montenegro.

The survey also revealed many viewpoints indicating a lack of support for whistleblowing:

- ▶ Three in ten people in The Former Yugoslav Republic of Macedonia believe whistleblowers should be punished for their actions - nearly twice the regional average.
- ▶ Only four in ten people in The Former Yugoslav Republic of Macedonia and Montenegro believe whistleblowers should be supported.
- ▶ Only three in ten people in Montenegro think it is generally acceptable to report misconduct by revealing inside information.
- ▶ Only three in ten people in Bosnia and Herzegovina, The Former Yugoslav Republic of Macedonia and Montenegro think it is acceptable to report misconduct committed by managers and staff.
- ▶ Only one in three people in The Former Yugoslav Republic of Macedonia would feel personally obliged to report misconduct occurring within their organisation.
- ▶ More than half of respondents in Bosnia and Herzegovina and in Serbia could not say what is the most effective way to stop misconduct, or believe that there is no effective way.

Citizens' willingness to report misconduct to authorities is a strong indicator of the public's trust in government anti-corruption efforts. When asked whether the most effective way to stop misconduct is by using official channels, the regional average is 30%. This ranged from a high of 61% in Kosovo*, to lows of 24% in Bosnia and Herzegovina and 22% in Serbia.

How the Survey Results Reflect other Observed Trends

Important connections can be drawn between some of the survey results and recent developments and trends within certain economies.

Albania: Strong support for whistleblowing among people in Albania mirrors recent findings that many businesses believe it is worthwhile to complain about the public administration,² and that many people believe that the government fights corruption effectively.³ Additionally, Albania recently passed a comprehensive whistleblower protection law and revoked its criminal defamation law, and Freedom House upgraded Albania in 2016 from "partly free" to "free."

Bosnia and Herzegovina: Though Bosnia and Herzegovina passed one of Europe's most progressive whistleblowers laws in 2013, which covers public employees at the state-level, many public attitudes about whistleblowing in our survey rank below the regional average. Among them, only three in ten people were willing to say it is acceptable to blow the whistle on managers and staff. This could indicate more awareness of the law is needed, or that the law was passed in part to raise awareness.

Croatia: Concerns about information secrecy, bribery and government accountability in Croatia may contribute to citizens' very strong public support for whistleblower rights. Additionally, a reluctance to report bribery to authorities may be a reason that more Croatians than the regional average believe the media and Internet are the most effective ways to stop corruption.

Kosovo*: The across-the-board support for whistleblowing in Kosovo* resonates with a prior survey finding that 91% of public officials would feel safe reporting misconduct to superiors. In the survey, the portion of respondents who said the best way to stop wrongdoing is by using official channels was double the regional average. This echoes a previous regional study in which Kosovo* ranked the highest in citizens' beliefs that official procedures are efficient.⁴

The Former Yugoslav Republic of Macedonia: In an apparent discrepancy, support for whistleblowers scored very low, while more people than in any other economy said whistleblowers should be punished. However, other research found that six in ten citizens believe ordinary people can make a difference in fighting corruption, and that The Former Yugoslav Republic of Macedonia ranks among the best regionally in citizens' perceptions of the transparency of public services, and the extent of bribery and abuse of power by public authorities.

Montenegro: Weak support for whistleblowing in Montenegro is confirmed by low rankings in a 2015 survey of citizens' views on government anti-corruption efforts, confidence in the judiciary, and the transparency of public services. In 2016 Montenegro became one of three economies that dropped in Freedom House's ratings from "free" to "partly free."

Serbia: Despite passing a strong whistleblower law in 2014, the survey exposes deep uncertainties

² RCC, Balkan Barometer 2015: Public Opinion Survey, Regional Cooperation Council, Sarajevo, 2015, p. 85.

³ Ibid, p. 85.

⁴ Ibid, pp. 82-85.

¹ Albania, Bosnia and Herzegovina, Croatia, Kosovo*, The Former Yugoslav Republic of Macedonia, Montenegro and Serbia.

about the role of whistleblowing. More than one-third of respondents could not say whether whistleblowing is acceptable in society, whether whistleblowers should be punished, or whether too much information is kept secret. More than half could not cite the most effective method to stop wrongdoing.

Although the survey shows some wide variations in public attitudes towards whistleblowing in different economies, some general trends emerge which show significantly different attitudes than those found in previous surveys⁵ in economies outside SEE, such as the UK and Australia.

More than 80% of respondents in both Australia and the UK said they believe whistleblowers should be supported rather than punished⁶, whereas the SEE average was under 60%. Similarly, between 75% and 80% of British and Australian respondents said they would feel personally obliged to report wrongdoing, whereas the SEE average was just over 50%.⁷

The general trend in this survey is that citizens show comparatively weak support for and understanding of how whistleblowing can be a positive force in their economies, coupled with a higher than usual rate of respondents unable or unwilling to give an opinion. These factors may significantly impact the success of current and future whistleblowing protections.

Through the eyes of citizens in these seven SEE economies, policy-makers will have more comprehensive and accurate information on which to base their whistleblower protection laws regulations and mechanisms. This is particularly the case regarding whom employees trust to report misconduct, the expectations that their reports will be investigated and guilty parties held to account, and the role of the media in receiving whistleblower disclosures.



⁵ Vandekerckhove, Wim, "UK Public Attitudes to Whistleblowing", Project Report, University of Greenwich, London, 2012, <http://gala.gre.ac.uk/10298/>

See also "World Online Whistleblowing Survey" summary page and WOW survey Stage 1 data release <http://people.eng.unimelb.edu.au/smlton/whistleblowing>. Iceland survey conducted for Blueprint for Free Speech by The Social Science Research Institute (SSRI) at the University of Iceland which has not been published.

⁶ Ibid.

⁷ Vandekerckhove, "UK Public Attitudes to Whistleblowing".

ANALYSIS BY ECONOMY⁸

Albania

Summary

Based on the survey results, people in Albania have among the region's strongest views in support of whistleblowers and the practice of whistleblowing. They have strong concerns about corruption while

also having high levels of trust that government itself can solve these problems.

Among seven SEE economies, Albania ranks tied for the highest on the question of whether people who report wrongdoing should be supported⁹, and more people in Albania (45%) than the regional average believe too much information is kept secret in organisations and institutions.

Which one of the following comes closest to your view? (Select one answer)		
1	In your society, too much information is kept secret in organisations	45.06%
2	In your society, about the right amount of information is kept secret in organisations	20.62%
3	In your society, not enough information is kept secret in organisations	16.77%
4	Can't say	17.55%

At least half of respondents believe speaking up about serious wrongdoing is generally acceptable in society and that they have a personal obligation to report wrongdoing in the workplace. About half of those surveyed in Albania said if they reported

misconduct to someone within their organisation, something would be done about it. Almost half also said that management in their organisation was serious about protecting whistleblowers. All four of these results are higher than the regional averages.

Which of the following comes closest to your view? (Select one answer)		
1	In your society it is generally unacceptable for people to speak up about serious wrongdoing, if inside information would have to be revealed	30.00%
2	In your society it is generally acceptable for people to speak up about serious wrongdoing, even if means revealing inside information	51.36%
3	Neither / can't say	18.63%

People in Albania also have trust in the media as recipients of whistleblower disclosures, despite observers' concerns about funding from the government that leads to editorial bias.¹⁰

These views make Albania a standout among the seven economies surveyed.

Overall these results indicate people in Albania place a high premium on the rights of employees and citizens to report wrongdoing, even if it means disclosing information from inside an organisation. The significant percentage of people who believe too much information is kept secret supports this.

On 2 June 2016 the Albanian Parliament unanimously passed the Law on Whistleblowing and the Protection of Whistleblowers. This comprehensive law includes many European and international standards, including retaliation protection for public and private sector employees, and the designation of a government authority to investigate whistleblower cases.

⁸ Note that each economy which has been surveyed has a short summary section followed by a more detailed section. Results and other research materials mentioned in the summary are generally footnoted in the main body of text which follows, where more detail is explained.

⁹ See survey question "Which of the following best describes what you think should happen in your society?"

¹⁰ EC, *Albania: 2015 Report*, European Commission, Commission Staff Working Document, Brussels, November 2015, p.58

Respondents' attitudes towards whistleblowing

The survey reveals strong support for whistleblowers and the practice of whistleblowing in Albania. The results suggest citizens place a high value on the role of citizens reporting crime and corruption, and that they should be protected and supported in doing so.

Two out of three respondents (68 percent) said people should be supported for reporting serious

wrongdoing even if they reveal information from inside an organisation. This is tied for the highest figure of the seven economies surveyed. Nearly half of those surveyed said too much information in Albania is kept secret in organisations and institutions (45 percent), higher than the regional average. Citizens' dissatisfaction with secrecy may have an influence over their endorsement of whistleblowing as a means to report inside information.

Which of the following best describes what you think should happen in your society? (Select one answer)

1	People should be supported for revealing serious wrongdoing, even if it means revealing inside information	67.55%
2	People who reveal inside information should be punished , even if they are revealing serious wrongdoing	16.52%
3	Neither / can't say	15.92%

Slightly more than half of people (51 percent) said it is generally acceptable in Albania to expose wrongdoing by revealing information from inside an organisation. This is far higher than the regional average of 38 percent. Around two-thirds of those surveyed said it is acceptable to expose wrongdoing commit-

ted by managers or other staff, much higher than the regional average of less than one in two. Around six in ten said they would feel obliged to report misconduct taking place within their organisation, the third-highest figure in the region.

How acceptable do you personally think it is for someone to reveal inside information about serious wrongdoing by each of these different types of people? (Select one answer per row)

	To reveal inside information about...	Acceptable		Neither / can't say	Unacceptable		
		Highly	Fairly		Fairly	Highly	
A	serious wrongdoing by people in charge of an organisation	20.25%	45.29%	26.10%	5.09%	3.26%	100 %
		65.54%			8.35%		
B	serious wrongdoing by other staff or workers in an organisation	20.93%	42.77%	28.28%	5.44%	2.57%	100 %
		63.70%			8.01%		
C	serious wrongdoing by a family member or personal friend working in the organisation	15.57%	32.55%	36.86%	9.30%	5.72%	100 %
		48.12%			15.02%		



Moreover, about half of respondents said if they reported misconduct within their organisation then an appropriate response would follow, and that managers are serious about protecting whistleblowers. These are both higher than the regional average.

(IF MEMBER OF ORGANISATION) Thinking about your role in the organisation you mentioned - how much do you agree or disagree with the following statements? (Select one answer per row)

		Disagree		Neither / can't say	Agree		
		Strongly	Disagree		Agree	Strongly	
A	If I observed wrongdoing, I would feel personally obliged to report it to someone in my organisation	3.98%	10.50%	23.44%	41.32%	20.75%	100 %
		14.48%			62.07%		
B	If I reported wrongdoing to someone in my organisation, I am confident something appropriate would be done about it	6.47%	9.88%	31.37%	40.46%	11.82%	100 %
		16.35%			52.28%		
C	Management in my organisation is serious about protecting people who report wrongdoing	5.19%	10.21%	36.66%	33.64%	14.29%	100 %
		15.40%			47.93%		

Overall these results indicate people in Albania place a high premium on the rights of employees and citizens to report wrongdoing, even if it means disclosing information from inside an organisation. The high percentage of people who believe too much information is kept secret is a solid supporting indicator of this.

Other factors, the researchers said, include low levels of institutional trust and the high importance attached to family members and the strong sense of individualism in Albanian society reinforced in reaction to forced collectivism during communism and the lack of strong public institutions.¹²

Corruption perceptions and concerns

Despite these citizens' views, it has been noted that cultural and historical factors have impacted the advance of whistleblowing in Albania. One group of researchers observes that whistleblowing is linked with "the close surveillance of citizens conducted by the secret police during communism. Consequently, whistleblowers are viewed with suspicion and are perceived as 'snitches' or 'spies' or as individuals acting for mere personal gains."¹¹

According to our survey, 43 percent of respondents said the most effective way to stop serious wrongdoing is by reporting it to people in authority through official channels. This is much higher than the regional average. This resonates with a 2015 survey in which Albania ranked among the top in citizens believing the government fights corruption effectively.¹³

In different societies, there are different views on the most effective way to take action to stop serious wrongdoing. Which one of these do you think is the most effective way in your society? (Select one answer)

1	By reporting the serious wrongdoing to people in authority, via official channels	42.59%
2	By reporting the serious wrongdoing to journalists or news organisations	22.03%
3	By reporting the serious wrongdoing directly to the general public, via the internet, Twitter, Facebook or on online blogs	7.48%
4	Some other way	3.53%
5	None of the above - in my society, there is no effective way to get action to stop serious wrongdoing	17.33%
6	Can't say	7.03%

¹¹ Dyrmishi, Arjan, et al, "Whistleblowers Protection in Albania: An Assessment of the Legislation and Practice," *Institute for Democracy and Mediation*, November 2013; http://idmalbania.org/wp-content/uploads/2014/11/whistleblowers_final_tetor-mentor_2013_anglisht.pdf, p. 13.

¹² Ibid, p. 13.

¹³ RCC, Balkan Barometer 2015: Public Opinion Survey, p. 85.

These findings, along with citizens' concerns about high level corruption, could be a factor in their strong support for whistleblowing and the protection of whistleblowers.

In the 2015 survey, Albania ranked at or near the bottom in terms of citizens believing that the government's acts comply with the law, the law is applied to everyone equally and effectively, and that the courts and judiciary can be trusted. Moreover, people in Albania rank the highest in believing bribery and abuse of power are widespread within judicial and building permit services, and among the highest in believing this of national politicians and the public health system.¹⁴

In a 2013 survey of seven SEE economies, Albania ranks second-highest in the prevalence of bribes paid by private citizens who had at least one contact with a public official, and the average size of bribes paid by businesses to public officials.¹⁵ Although Albania ranks second-highest in business representatives believing it is worthwhile to complain about the public administration in general, it also ranks second-highest in bribe-payers not reporting their experiences to authorities because bribery is a common practice.¹⁶

These findings suggest many people in Albania are greatly concerned about corruption and that although they have a relatively high level of general trust in their government, this has not yet been translated into confidence that government can deal with corruption specifically.

The European Commission has expressed concerns about Albania's corruption-fighting efforts.¹⁷ The Commission noted in 2015 that Albania has adopted a new anti-corruption strategy and action, but that "corruption is widespread and more efforts are needed to make progress with a view to establishing a solid track record of investigations, prosecutions and convictions at all levels." This track record "remains limited."

Anti-corruption institutions are vulnerable to political pressure and other undue influences, the Commission said, and should be more independent. Echoing citizens' concerns about the judiciary, the Commission called corruption in the justice system "widespread," and said judges and prosecutors lack accountability.¹⁸

Media perceptions and freedom

Thirty percent of respondents said that the best way to stop serious wrongdoing is by reporting it to the media or directly to the general public via the Internet (for example, social media). This is much higher than the regional average. In general, four in five people said whistleblowers should be able to contact the media or use the Internet to draw attention to crime or corruption.

One in four said the media or Internet should be available as a first disclosure option for whistleblowers, the second-highest figure among the seven economies surveyed. These results indicate high levels of trust in the media among citizens.

In contrast, Freedom House categorises Albania's media as "partly free," positioned 97th of 199 economies worldwide, and 37th out of 42 European economies assessed.¹⁹

Similarly, Reporters without Borders ranks Albania 82nd out of 180 economies. The organisation praised Albania for revoking its criminal defamation law but raised concerns about the implementation of freedom of expression laws, politicisation of the institution that regulates the broadcast media, and limited access to government information despite passing of two freedom of information laws.²⁰

The European Commission noted that transparency of media ownership has improved but that public information about government funding of the media should be improved.²¹ The media can be "used as a tool to promote political and private interests," the

Commission said, noting that information on many cases of government wrongdoing was leaked to the media but not seriously investigated.²²

The Commission also raised concerns that freedom of expression could be limited by recent proposals to remove caps on media ownership and introduce filtering of offensive comments.²³

Citizens' rights and participation

Freedom House categorises Albania as "free," upgrading it from "partly free" in 2015. On a scale of 1 to 7, with 1 being most free, it scores a 3 in terms of political rights, 3 in civil liberties, and 3 in overall freedom. Albania's freedom score is 67 out of 100.²⁴

Voter turnout in parliamentary elections has fallen from 89 percent in 1996 to 53 percent in 2013.²⁵



¹⁹ FH, *Freedom of the Press 2015*, Freedom House, Washington, 2016, p. 22, 25.

²⁰ *2016 World Press Freedom Index*, Reporters without Borders, 2016. <https://rsf.org/en/ranking>

²¹ EC, *Albania: 2015 Report*, p. 21.

²² Ibid.

²³ Ibid.

²⁴ *Freedom in the World 2016: Anxious Dictators, Wavering Democracies- Global Freedom Under Pressure*, Freedom House, Washington, 2016, p.20

²⁵ *Voter Turnout Database: Albania*, International Institute for Democracy and Electoral Assistance, <http://www.idea.int/data-tools/country-view/47/40>.

If someone in an organisation has inside information about serious wrongdoing, when do you think they should be able to use a journalist, the media, or the internet to draw attention to it? (Select one answer)

	Ever / Never?	When reason to / last resort?	Full details
1 As a first option, in any situation	82.06%	58.07%	24.16%
2 Whenever there become specific reasons to do so			33.91%
3 Only as a last resort, if all else fails		23.99%	23.99%
4 Never	4.13%	4.13%	4.13%
5 Can't say	13.81%	13.81%	13.81%

¹¹ Ibid, p. 83.

¹⁵ UNODC, *Business, Corruption and Crime in the Western Balkans: The Impact of Bribery and other Crime on Private Enterprise*, United Nations Office on Drugs and Crime, Vienna, 2013, pp. 20, 25, 36-37.

¹⁶ Ibid.

¹⁷ EC, *Albania: 2015 Report*, p. 4.

¹⁸ Ibid.

Bosnia and Herzegovina

Summary

The survey shows people in Bosnia and Herzegovina generally have little confidence in public institutions to address corruption cases and risks.

Compared to other economies in the region, citizens of Bosnia and Herzegovina also exhibit low confidence in the judiciary and courts, low support for whistleblowers and the practice of whistleblowing, low trust in reporting wrongdoing to the authorities, and little faith that making a report would make a positive difference.

Reflecting Bosnia and Herzegovina's rank near the bottom in Europe in media freedom,²⁶ people do not view the media as a particularly strong partner for reporting corruption, compared to other economies in the region. Media independence in Bosnia and Herzegovina ranks poorly in Europe, according to Freedom House and Reporters Without Borders. Most people say they do not know who to contact, or believe there is no one to report information on misconduct to.

At the same time, Bosnia and Herzegovina has enacted one of the region's strongest whistleblower protection laws. Passed unanimously by Parliament

of Bosnia and Herzegovina in 2013, the state level law has protected from retaliation several public service employees who exposed government wrongdoing - in some cases leading to arrests. The law, which only covers public employees at the state-level, has several innovative provisions that have aided in its enforcement.

Respondents' attitudes towards whistleblowing

The survey reveals several findings that expose the need to better educate the general public not merely about the benefits of whistleblowing, but about the mechanisms themselves.

Somewhat fewer people than the regional average - just under 50 percent - said people should be supported for reporting serious wrongdoing despite revealing information inside their organisation, as opposed to being punished. When asked to consider specific examples, this number dropped even lower. Very few people said it is acceptable to expose serious wrongdoing being committed by:

- ▶ people in charge of an organisation (31 percent)
- ▶ other organisational staff (30 percent)
- ▶ a family member or personal friend working in the organisation (28 percent)

Accordingly, far more people than the regional average said it is either unacceptable, or couldn't say whether it is acceptable, to reveal information inside their organisation about serious wrongdoing committed by these groups of people (69, 70 and 72 percent, respectively, based on the same three categories listed above).

The feedback illustrates a lack of support of whistleblowers and the practice of whistleblowing itself. It may also indicate a lack of basic knowledge of whistleblowers among the public.

These views persist despite the fact that Bosnia and Herzegovina is home to one of the region's most notable whistleblower cases. The case played an important role in convincing policy-makers to pass the Law on Whistleblower Protection in the Institutions of Bosnia-Herzegovina in 2013.

Višnja Marilović worked as an accountant for 12 years at the Skenderia Cultural and Sport Centre, a public institution in Sarajevo. Marilović was fired in 2011 after reporting financial misconduct by the centre's director. She reported the director had spent €1.5 million in public funds on his private hotel, to support a football team of which he was the president, and on shopping, entertainment and accommodation. The courts have indicted the director for economic crimes and found that Marilović's dismissal was unlawful.²⁷

Bosnia and Herzegovina's new whistleblower protection law, which applies only to state-level employees, is unique to Europe by virtue of a provision that can grant *preemptive* protection to employees who report misconduct. Employees can request whistleblower status from the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption even if they only suspect retaliation could occur. The Agency has up to 30 days to grant or deny the request. If approved, the Agency can order the employer to stop the retaliation or reinstate the person if he or she has been fired or demoted.

Directors of public institutions personally can be fined up to €10,000 for failing to follow the Agency's orders. The threat of such a fine succeeded in pressuring the Indirect Taxation Authority to reinstate Danko Bogdanović, who was fired in 2013 after revealing a large-scale bribery scheme that allowed



companies to pay lower import and export fees. Bogdanović was reinstated on 4 June 2015 with the support of the Sarajevo-based NGO Center for Responsible Democracy-Luna.²⁸

Public discussion of cases such as this could help improve citizens' awareness and confidence in whistleblowing as a corruption-fighting measure.

Corruption perceptions and concerns

The survey confirms earlier reports that the public has a tentative approach toward whistleblowing and lacks trust in the police and other authorities. Many people fear that reporting crimes will cause problems for themselves, or that little or nothing will result.²⁹

The survey found:

- ▶ Far fewer people than the regional average are confident something would be done if they reported wrongdoing within their organisation (34 percent).
- ▶ More than half of respondents (53 percent) could not say which is the most effective method to stop wrongdoing (e.g. by contacting officials, journalists or social media), or said there is no effective way. This is higher than the regional average.
- ▶ Fewer people than the regional average said the most effective way to stop serious wrongdoing is by contacting authorities via official channels (24 percent).

²⁷ Worth, Mark, *Whistleblower Protection in Southeast Europe: An Overview of Laws, Practice, and Recent Initiatives*, Regional Anti-Corruption Initiative, Sarajevo, 2015, p.15

²⁸ Novakovic, Ana (ed.). *Whistleblower Protection: Theory and Practice*, Center for Development of Non-Governmental Organizations, Podgorica, 2016, p.28

²⁹ Worth, *Whistleblower Protection...*, p.17

Which of the following best describes what you think should happen in your society? (Select one answer)		
1	People should be supported for revealing serious wrongdoing, even if it means revealing inside information	49.19%
2	People who reveal inside information should be punished , even if they are revealing serious wrongdoing	17.65%
3	Neither / can't say	33.16%

How acceptable do you personally think it is for someone to reveal inside information about serious wrongdoing by each of these different types of people? (Select one answer per row)							
	To reveal inside information about...	Acceptable		Neither / can't say	Unacceptable		
		Highly	Fairly		Fairly	Highly	
A	serious wrongdoing by people in charge of an organisation	15.80%	15.10%	47.28%	10.30%	11.52%	100 %
		30.90%		21.82%			
B	serious wrongdoing by other staff or workers in an organisation	15.19%	14.64%	48.66%	8.97%	12.54%	100 %
		29.83%		21.51%			
C	serious wrongdoing by a family member or personal friend working in the organisation	14.38%	14.09%	47.76%	10.91%	12.87%	100 %
		28.47%		23.78%			

²⁶ *Freedom of the Press 2015*, p. 23, 25.

(IF MEMBER OF ORGANISATION) Thinking about your role in the organisation you mentioned - how much do you agree or disagree with the following statements? (Select one answer per row)

		Disagree		Neither / can't say	Agree		
		Strongly	Disagree		Agree	Strongly	
A	If I observed wrongdoing, I would feel personally obliged to report it to someone in my organisation	7.37%	11.14%	33.80%	23.27%	24.42%	100 %
		18.51%			47.69%		
B	If I reported wrongdoing to someone in my organisation, I am confident something appropriate would be done about it	16.16%	16.17%	33.98%	18.29%	15.40%	100 %
		32.33%			33.69%		
C	Management in my organisation is serious about protecting people who report wrongdoing	10.22%	12.84%	42.29%	16.70%	17.96%	100 %
		23.06%			34.66%		

In different societies there are different views on the most effective way to take action to stop serious wrongdoing. Which one of these do you think is the most effective way in your society? (Select one answer)

1	By reporting the serious wrongdoing to people in authority , via official channels	24.37%
2	By reporting the serious wrongdoing to journalists or news organisations	11.69%
3	By reporting the serious wrongdoing directly to the general public, via the internet, Twitter, Facebook or on online blogs	4.38%
4	Some other way	6.95%
5	None of the above - in my society, there is no effective way to get action to stop serious wrongdoing	26.25%
6	Can't say	26.36%

More people in Bosnia and Herzegovina (32%) than the regional average could not say whether too much (35%), not enough (16%), or the right amount (17%) of information is kept secret in organisations.

This suggests citizens do not understand the role and nature of secret information, and to what extent they have a right to have access to it.

Which one of the following comes closest to your view? (Select one answer)

1	In your society, too much information is kept secret in organisations	34.65%
2	In your society, about the right amount of information is kept secret in organisations	17.26%
3	In your society, not enough information is kept secret in organisations	15.75%
4	Can't say	32.34%

To improve its anti-corruption performance, Bosnia and Herzegovina's Agency for the Prevention of Corruption and Coordination of the Fight against Corruption prepared the guidelines in 2013 for developing and implementing integrity plans for public institutions. It is worth noting that pursuant to the Law on protection of reporting persons in institutions of Bosnia and Herzegovina, most of institutions

at the state-level introduced a Rulebook on internal reporting of corruption and protection of reporting persons. As of 2015, 30 institutions had set up working groups to prepare integrity plans and 17 had prepared plans. Ministries and other public institutions are required to implement the plans, but there are no sanctions for non-compliance because the strategy is a policy document with no force of law.³⁰

³⁰ Selinsek, Liljana, *Corruption Risk Assessment in Public Institutions in South East Europe: Comparative Research and Methodology*, Regional Cooperation Council, Sarajevo, 2015, p.42

The survey supports some previous findings of the public's lack of faith in public institutions in the area of anti-corruption.³¹

In a survey released in 2013, the most important reason respondents gave for not reporting bribery is the belief that nobody will care.³² This ranked the highest among seven SEE economies surveyed. Sixty percent of respondents do not consider it worthwhile to complain to public authorities when feeling treated unfairly - tied for the highest ranking in the survey. In a survey of households, requests by public officials accounted for 60 to 70 percent of all bribes paid by private citizens.³³

In a Public Opinion Survey of seven SEE economies released in 2015, Bosnia and Herzegovina ranks the lowest in terms of citizens believing that:

- ▶ the government fights corruption effectively
- ▶ government acts are in accordance with the law
- ▶ the law is applied equally and effectively
- ▶ courts and the judiciary can be trusted
- ▶ all citizens can go to court to defend their rights
- ▶ public institutions' procedures are efficient.³⁴

In the same survey, Bosnia and Herzegovina ranks near the bottom in the transparency of public services, such as schools, police, health care, judiciary and public transportation. It ranks the highest in terms of the police giving and taking bribes, and abusing positions of power for personal gain.³⁵

According to the European Commission's Progress Report on Bosnia and Herzegovina, which officially applied for EU membership in February 2016, "corruption continues to be widespread and the political commitment on this issue has not translated into concrete results... The lack of enforcement of the law negatively affects citizens and institutions. Penalties in force do not constitute a sufficient deterrent against corruption... Moreover, there is no policy in place to prevent corruption in the private sector."³⁶

Media perceptions and freedom

In the survey, fewer people in Bosnia and Herzegovina than the regional average - 64 percent - said that whistleblowers should be able to turn to a journalist, the media or the Internet to draw attention to wrongdoing.

If someone in an organisation has inside information about serious wrongdoing, when do you think they should be able to use a journalist, the media, or the internet to draw attention to it? (Select one answer)

		Ever / Never?	When reason to / last resort?	Full details
1	As a first option , in any situation	63.83%	45.12%	15.46%
2	Whenever there become specific reasons to do so		29.66%	
3	Only as a last resort , if all else fails		18.71%	18.71%
4	Never	10.34%	10.34%	10.34%
5	Can't say	25.83%	25.83%	25.83%

This finding tends to correlate with the level of media freedom in Bosnia and Herzegovina. Freedom House ranks the media as "partly free," positioned 107th of 199 economies worldwide. Among 42 European economies assessed, only The Former Yugoslav

Republic of Macedonia and Turkey rank lower than Bosnia and Herzegovina.³⁷ Reporters without Borders ranks Bosnia and Herzegovina 68th out of 180 economies assessed for press freedom. This is 10 positions lower than in 2012.³⁸

³¹ These are provided in the footnotes that immediately follow this.

³² UNODC, *Business, Corruption and Crime in the Western Balkans...*, p.36

³³ Ibid.

³⁴ RCC, *Balkan Barometer 2015: Public Opinion Survey*, pp. 82-85.

³⁵ Ibid, p. 87.

³⁶ EC, *Bosnia and Herzegovina: 2015 Report*, European Commission, Commission Staff Working Document, Brussels, November 2015, p. 17.

³⁷ *Freedom of the Press 2015*, p. 23, 25.

³⁸ *2016 World Press Freedom Index*.

These assessments could be due to do the widely known fact that many media outlets receive direct funding from the government, which can hinder their independence and can lead to editorial bias in favour of their political donors.

According to the South East European Media Observatory the range of financial relations and interference between the government and the media, both public and private, is overwhelming. Considerable public funds are being constantly invested in media, with some media being regularly financed out of the budget, and some receiving direct subsidies. The ruling parties are also believed to be in control of the advertising practices of two public telecommunication companies that are at the same time major advertisers in the economy.³⁹

These two factors make the government “one of the most powerful actors in the market,” according to the NGO. This government support is becoming more crucial as traditional advertising revenues for the media shrink.⁴⁰



Citizens' rights and participation

On a scale of 1 to 7, with 1 being most free, Freedom House ranks Bosnia and Herzegovina 4 in terms of political rights, 3 in civil liberties, and 3.5 in overall freedom. Bosnia and Herzegovina's overall freedom score is 57 out of 100.⁴¹

Voter turnout in presidential and parliamentary elections rose from 1996 to 1998, but has since fallen by nearly a fourth, from 71 percent to 55 percent in 2014.⁴²

In the authors' opinion, a strongly enforced whistleblower law could improve Bosnia and Herzegovina's freedom rank, while positive media coverage of whistleblower cases could give citizens a stronger sense of personal empowerment that could increase voter participation. Expanding these protections to other layers of government might also improve all of the above.

³⁹ Stankovic-Lukovic, Mirna, “Sarajevo Canton TV: Citizens are Paying Three Times for this Television Station's Work,” *South East European Media Observatory*, 29 March 2016.

⁴⁰ Hodzic, Sanela, “State-Media Financial Relations in Bosnia and Herzegovina: Increasingly Dependent and Disciplined Media,” *South East European Media Observatory*, November 2015, p.1; and SEEMO, “Unacceptable Treatment of the Media in a Democratic Society,” *South East European Media Observatory*, 30 December 2014.

⁴¹ *Freedom in the World 2016*, p.20.

⁴² *Voter Turnout Database: Albania*.

Croatia

Summary

The survey shows very strong support for whistleblowers and the practice of whistleblowing among the citizenry in Croatia. On the question of whether people who report wrongdoing should be supported, the results in Croatia rank tied for the highest of seven economies surveyed.

Many people in Croatia - more than the regional average - believe too much information is kept secret. Previous surveys indicate citizens have a poor view of government accountability and a strong perception that public officials at both the national and local levels accept bribes and abuse their power (see “Corruption perceptions and concerns” below).

Croatia is the home of many prominent whistleblowers, including those who have disclosed alleged financial irregularities, wrongdoing by government officials and state-owned companies, and public health and environmental hazards. These cases not only have brought to light serious misconduct and public dangers, they have led some whistleblowers to become public activists.

The media in Croatia generally has been ranked among the least free in Europe, and many concerns have been raised accordingly.

Taken together, these views and factors make Croatia a strong candidate for the passage of a whistleblower protection law. It has no law on the books, and existing legal provisions are considered ineffective.



Respondents' attitudes towards whistleblowing

This survey reveals strong support for whistleblowers and the practice of whistleblowing in Croatia. The results suggest citizens place a high value on the role of citizens reporting crime and corruption, and that they should be protected and supported in doing so.

Two out of three respondents (68 percent) said people should be supported for reporting serious wrongdoing even if it means revealing inside information. This is tied for the highest figure of the seven economies surveyed. Nearly half of those surveyed reported too much information is kept secret in organisations and institutions, higher than the regional average. Citizens' dissatisfaction with secrecy may have an influence over their endorsement of whistleblowing as a means to report inside information.

Which of the following best describes what you think should happen in your society? (Select one answer)

1	People should be supported for revealing serious wrongdoing, even if it means revealing inside information	67.66%
2	People who reveal inside information should be punished , even if they are revealing serious wrongdoing	17.67%
39	Neither / can't say	14.67%

Which one of the following comes closest to your view? (Select one answer)

1	In your society, too much information is kept secret in organisations	47.20%
2	In your society, about the right amount of information is kept secret in organisations	23.20%
3	In your society, not enough information is kept secret in organisations	17.34%
4	Can't say	12.26%

⁴³ *Freedom of the Press 2015*, p.22.

More than half of those surveyed said it is acceptable to expose wrongdoing committed by managers and other staff, and six in ten said they would feel obliged to report misconduct taking place within their organisation - both higher than the regional average. However, 44 percent % - also higher than the

regional average - said it is generally unacceptable for people to speak up about serious wrongdoing in society. This indicates that exposing misconduct within an organisation may be more acceptable than doing so in society.

Which of the following comes closest to your view? (Select one answer)		
1	In your society it is generally unacceptable for people to speak up about serious wrongdoing, if inside information would have to be revealed	43.67%
2	In your society it is generally acceptable for people to speak up about serious wrongdoing, even if means revealing inside information	38.67%
3	Neither / can't say	17.66%

How acceptable do you personally think it is for someone to reveal inside information about serious wrongdoing by each of these different types of people? (Select one answer per row)							
	To reveal inside information about...	Acceptable		Neither / can't say	Unacceptable		
		Highly	Fairly		Fairly	Highly	
A	serious wrongdoing by people in charge of an organisation	24.01%	30.81%	27.94%	9.14%	8.10%	100 %
		54.82%			17.24%		
B	serious wrongdoing by other staff or workers in an organisation	17.10%	35.56%	31.33%	8.14%	7.87%	100 %
		52.66%			16.01%		
C	serious wrongdoing by a family member or personal friend working in the organisation	12.31%	31.56%	37.04%	11.77%	7.33%	100 %
		43.87%			19.10%		

(IF MEMBER OF ORGANISATION) Thinking about your role in the organisation you mentioned - how much do you agree or disagree with the following statements? (Select one answer per row)							
		Disagree		Neither / can't say	Agree		
		Strongly	Disagree		Agree	Strongly	
A	If I observed wrongdoing, I would feel personally obliged to report it to someone in my organisation	3.06%	4.81%	33.15%	41.59%	17.39%	100 %
		7.87%			58.98%		
B	If I reported wrongdoing to someone in my organisation, I am confident something appropriate would be done about it	9.56%	13.54%	37.76%	26.00%	13.13%	100 %
		23.10%			39.13%		
C	Management in my organisation is serious about protecting people who report wrongdoing	9.62%	11.93%	44.18%	25.10%	9.17%	100 %
		21.55%			34.27%		

Overall these results indicate that people in Croatia place a high premium on the rights of employees and citizens to report wrongdoing, even if it means disclosing inside information. The high percentage of people who believe too much information is kept secret is a solid supporting indicator of this.

Corruption perceptions and concerns

Citizens' concerns about government corruption and their own rights could be a factor in their strong support for whistleblowing and the protection of whistleblowers.

In the 2015 survey of seven SEE economies, Croatia ranks near the bottom in the region in terms of citizens believing that the government's acts are in accordance with the law, that the law is applied and enforced effectively, and that all citizens can go to court to defend their rights.⁴⁴

In the same survey, people in Croatia rank the highest in believing bribery and abuse of power by public officials are widespread at both the national and local levels. The survey concluded that on questions regarding the rule of law, Croatia may rank poorly because of economic deterioration.

Results from another opinion poll reveal reluctance by many to report corruption. In a 2013 survey of seven SEE economies, more than a third of business representatives in Croatia - the highest figure in the region - consider payments or gifts to civil servants to be a sign of gratitude, which bribe-payers feel no need to report. Moreover, about 60 percent of business representatives said it is not worthwhile to complain to public authorities, ranking among the highest in the region.⁴⁵

Similarly, the European Commission has said more than half of people in Croatia think people who report corruption are likely to regret it and that nothing constructive will result.⁴⁶

These findings suggest many people in Croatia, though supportive of whistleblowing, lack confidence in its effectiveness. These views open opportunities to develop a whistleblower protection law and framework.

Citizens' concerns about corruption are echoed by a recent report by the European Commission. Croatia's Anti-corruption Strategy for 2015-20 "provides little clarity on the main priorities and how the main risks would be specifically addressed," the Commission said in early 2016. Three-fourths of companies - the third-highest figure in the EU and a 12-point increase since 2013 - say the practice of tailoring public procurement specifications for certain companies is widespread.

The Commission added that amendments to the Croatia's Freedom of Information Act "represent a step backwards for transparency" by giving public officials the right to deny access to information if requests cause work overloads, and shifting the responsibility for violations from agency heads to lower-ranking employees.⁴⁷

Media perceptions and freedom

Freedom House categorises Croatia's media as "partly free," positioned 80th of 199 economies worldwide, and 34th out of 42 European economies assessed.⁴⁸ Similarly Reporters without Borders ranks Croatia 60th out of 180 economies.⁴⁹

According to Reporters without Borders, journalists who investigate crime and corruption can suffer harassment campaigns. Defamation is criminalised and insulting "the Republic" is punishable by up to three years in prison. Further, "humiliating" media content has been criminalised since 2013; the following year a journalist was accused of this crime for writing that a medical company was in debt despite being supported by the government.⁵⁰

Concerns about media freedom were aired in April 2016, when ambassadors from Austria, Germany, Netherlands, Norway, the UK and US met to discuss the issue.⁵¹

Recent personnel moves taken against two journalists have raised concerns of political bias in the media. The daily newspaper Novi list dismissed veteran journalist Boris Pavelic in June 2015 after he wrote about accusations concerning an opposition politician. A month earlier another journalist was barred from reporting on the politician.⁵²

In terms of coverage, an independent researcher has assessed the media's view of whistleblowers as "positive and supportive." The media considers whistleblowers "heroes," and regularly reports on cases.⁵³

⁴⁴ RCC, *Balkan Barometer 2015: Public Opinion Survey*, pp. 82-85.

⁴⁵ UNODC, *Business, Corruption and Crime in the Western Balkans...*, p. 36.

⁴⁶ EC, *EU Anti-Corruption Report: Annex - Croatia*, European Commission, Brussels, 3 February 2014, p. 12.

⁴⁷ EC, *Country Report Croatia 2016*, European Commission, Commission Staff Working Document, Brussels, 3 March 2016, p. 77.

⁴⁸ *Freedom of the Press 2015*, p.22.

⁴⁹ *2016 World Press Freedom Index*.

⁵⁰ *Ibid.*

⁵¹ Milekic, Sven, "Croatia's Media Policy Concerns EU Ambassadors," BIRN, 19 April 2016.

⁵² Milekic, Sven, "Croatian Journalist Fired After Article on Opposition Leader," BIRN, 18 June 2015.

⁵³ Vasiljevic, Snjezana, "Whistleblowing in Croatia," *Government Gazette*, 15 April 2014.

Citizens' rights and participation

Freedom House categorises Croatia as “free,” upgrading it from “partly free” in 2015. On a scale of 1 to 7, with 1 being most free, it scores a 1 in terms of political rights, 2 in civil liberties, and 1.5 in overall freedom. Its freedom score is 87 out of 100.⁵⁴

Despite rising levels of political freedom, fewer people are participating in democratic processes.

Voter turnout in presidential elections fell from 85 percent in 1990 to 61 percent in 2015. Participation in parliamentary elections dropped from 75 percent in 1992 to 59 percent in 2015.⁵⁵ Falling participation in both sets of elections may indicate an opportunity to re-engage and personally empower the citizenry by building awareness of whistleblowing as the citizen's own tool in the fight against corruption.



⁵⁴ Freedom in the World 2016, p.21.
⁵⁵ Voter Turnout Database: Croatia.

Kosovo*

Summary

The survey shows that the people in Kosovo* exhibit strong and consistent views in support of whistleblowers - that they deserve protection, and that whistleblowing generally is an accepted practice that is also a personal obligation. They have strong concerns about certain types of corruption while

also trusting that government itself can solve these problems.

Two-thirds of those surveyed said people should be supported not punished for revealing wrongdoing inside their organisation, and more people than the regional average believe too much information is kept secret. Kosovo* ranks the highest in the region in terms of believing that wrongdoing in the workplace by managers, other staff, and friends and family members should be reported.

Which of the following best describes what you think should happen in your society? (Select one answer)		
1	People should be supported for revealing serious wrongdoing, even if it means revealing inside information	64.77%
2	People who reveal inside information should be punished , even if they are revealing serious wrongdoing	21.88%
3	Neither / can't say	13.35%

Taken together, these views make it exceptional among the seven economies surveyed. They should provide an impetus to improve a whistleblower protection passed in 2011, with particular attention to tracking the success or failure of implementation. Despite including a number of recognised international standards, the law contains loopholes and does not function well in practice.

a high value on the role of citizens reporting crime and corruption, and that they should be protected and supported in doing so.

Respondents' attitudes towards whistleblowing

Our survey reveals strong support for whistleblowers and the practice of whistleblowing. They have a strong belief that employees should take matters into their own hands when witnessing misconduct, and that managers are serious about protecting whistleblowers. The results suggest citizens place

Two out of three respondents (65 percent) said people should be supported for reporting serious wrongdoing even if it means revealing information from inside their organisation, instead of punished. This ranks among the strongest views in the seven economies surveyed.

Nearly half said it is generally acceptable in society for people to speak up about serious wrongdoing, and more than half said too much information is kept secret in organisations and institutions - both higher than the regional averages. Citizens' dissatisfaction with secrecy may have an influence over their endorsement of whistleblowing as a means to report inside information.

Which of the following comes closest to your view? (Select one answer)		
1	In your society it is generally unacceptable for people to speak up about serious wrongdoing, if inside information would have to be revealed	40.63%
2	In your society it is generally acceptable for people to speak up about serious wrongdoing, even if means revealing inside information	47.63%
3	Neither / can't say	11.74%

Three-fourths of those surveyed said it is acceptable to expose wrongdoing committed within organisations by other staff and workers, with similarly high outcomes for revealing such information about those in charge (73%), and friends and family members working in the organisation (70%). This is

by far the highest result among the seven economies surveyed. Fewer than 10 percent of respondents believe reporting on these people, as grouped response, is not acceptable, half of the regional average.

How acceptable do you personally think it is for someone to reveal inside information about serious wrongdoing by each of these different types of people? (Select one answer per row)

	To reveal inside information about...	Acceptable		Neither / can't say	Unacceptable		
		Highly	Fairly		Fairly	Highly	
A	serious wrongdoing by people in charge of an organisation	39.85%	33.28%	18.27%	4.59%	4.01%	100 %
		73.13%			8.60%		
B	serious wrongdoing by other staff or workers in an organisation	40.74%	34.52%	16.93%	4.79%	3.02%	100 %
		75.26%			7.81%		
C	serious wrongdoing by a family member or personal friend working in the organisation	36.58%	33.08%	23.14%	4.24%	2.95%	100 %
		69.66%			7.19%		

Seven out of eight people surveyed said they would feel obliged to report misconduct taking place within their organisation. Additionally three-fourths said their report would be met with a response (76%), and that managers are serious about protecting whistleblowers. These results are also significantly higher than any other economy surveyed.

(IF MEMBER OF ORGANISATION) Thinking about your role in the organisation you mentioned - how much do you agree or disagree with the following statements? (Select one answer per row)

		Disagree		Neither / can't say	Agree		
		Strongly	Disagree		Agree	Strongly	
A	If I observed wrongdoing, I would feel personally obliged to report it to someone in my organisation	2.57%	1.69%	9.71%	42.59%	43.44%	100 %
		4.26%			86.03%		
B	If I reported wrongdoing to someone in my organisation, I am confident something appropriate would be done about it	2.70%	3.71%	17.53%	38.21%	37.85%	100 %
		6.41%			76.06%		
C	Management in my organisation is serious about protecting people who report wrongdoing	2.06%	3.10%	19.12%	39.08%	36.64%	100 %
		5.16%			75.72%		

A 2013 survey mirrors these findings.⁵⁶ Ninety-one percent of central- and local-level public officials said they would feel somewhat or very safe reporting misconduct to their superiors. Among eleven reports, eight were taken into consideration and three said they were not. However, seven people said they were threatened with retaliation, while three were not.

As an indication of trust in public authorities, six in ten said the most effective way to stop serious wrongdoing is by reporting it through official channels. This is double the regional average. Only one in twenty said there are no effective reporting channels, by far the lowest among the seven economies.

Overall these results indicate citizens place a high premium on the rights of employees and citizens to report wrongdoing, even if it means disclosing inside information to their organisation.

Corruption perceptions and concerns

Even though 61 percent of respondents in the survey said the best way to stop serious wrongdoing is by reporting it to public authorities via official channels, only 14 percent of people surveyed in 2015⁵⁷ said the government fights corruption effectively. Moreover, only 22 percent said the government acts are in accordance with the law. These are the second-lowest figures among seven economies surveyed in 2015.

In different societies there are different views on the most effective way to take action to stop serious wrongdoing. Which one of these do you think is the most effective way in your society? (Select one answer)

1	By reporting the serious wrongdoing to people in authority, via official channels	60.94%
2	By reporting the serious wrongdoing to journalists or news organisations	17.43%
3	By reporting the serious wrongdoing directly to the general public, via the internet, Twitter, Facebook or on online blogs	4.13%
4	Some other way	5.67%
5	None of the above - in my society, there is no effective way to get action to stop serious wrongdoing	5.51%
6	Can't say	6.31%

However, Kosovo* ranks the highest in terms of people believing that administrative procedures in public institutions are efficient - 56 percent. This could serve to explain citizens' trust in reporting misconduct to authorities.

The 2015 survey also found people in Kosovo* rank the highest in believing bribery and abuse of power are widespread among officials who award public tenders and issue building permits, and second-highest in believing this of national and local politicians.

Citizens' concerns about corruption, combined with their very strong support for whistleblowing and apparent trust in public authorities, could provide opportunities to develop stronger legal protections for employees and citizens who report misdeeds.

Concerns about bribery may also fuel public attitudes of whistleblowing. In a 2013 survey of seven SEE economies,⁵⁸ Kosovo* ranks the lowest in the prevalence of bribery among private businesses. However, it ranks the highest in:

- ▶ the average number of bribes paid by citizens
- ▶ the average size of bribes paid by businesses and citizens to public officials
- ▶ the portion of bribe-payers who don't report their experiences to authorities because it is pointless and nobody would care.

These findings suggest many people are greatly concerned about corruption yet have a certain degree of trust that the government can address these problems. These views and factors serve to open opportunities to further develop a whistleblower protection law and framework.

Kosovo* is in an "early stage of preparations in the fight against corruption," the European Commission noted in 2015.⁵⁹ The Commission cited an uneven record of successful prosecution and conviction of guilty parties, in particular those involving high-level corruption. "Fighting organised crime and corruption," the Commission said, "remains fundamental to countering criminal infiltration of the political, legal and economic systems."

Media perceptions and freedom

Trust in media scored well in the survey. Nearly nine in ten people said whistleblowers should be permitted to contact the media or use the Internet. Four in ten said people should be able to use these outlets as a first option, regardless of the situation. Both results are much higher than any other economy.



⁵⁶ FOL, "Officials Do Not Whistle Corruption: Policy Brief - The Level of Knowledge and Experiences of Public Officials about the Law on Protection of Informants," FOL Movement, Prishtina, 2013.

⁵⁷ RCC, Balkan Barometer 2015: Public Opinion Survey, pp. 82-85.

⁵⁸ UNODC, Business, Corruption and Crime in the Western Balkans..., p.16, 36.

⁵⁹ EC, Kosovo*: 2015 Report, European Commission, Commission Staff Working Document, Brussels, November 2015, p. 60.

If someone in an organisation has inside information about serious wrongdoing, when do you think they should be able to use a journalist, the media, or the internet to draw attention to it? (Select one answer)

	Ever / Never?	When reason to / last resort?	Full details
1 As a first option , in any situation	88.03%	72.34%	39.73%
2 Whenever there become specific reasons to do so			32.61%
3 Only as a last resort , if all else fails		15.69%	15.69%
4 Never	4.73%	4.73%	4.73%
5 Can't say	7.24%	7.24%	7.24%

Despite these views of citizens, Freedom House categorises Kosovo's* media as "partly free," positioned 97th of 199 economies worldwide, and 37th out of 42 European economies assessed.⁶⁰

Similarly, Reporters without Borders ranks it 90th out of 180 economies. "All of the worst Balkan symptoms are to be found in Kosovo*. Its media suffer from direct and indirect political interference, financial pressures and concentrated ownership," the organisation reported in 2016. "Journalists who criticize the Kosovar authorities are often accused of being 'traitors' or 'Serbian sympathizers.' Media that do not toe the government line may be subjected to intimidation in the form of financial or tax inspections."⁶¹

Moreover, government funding of the media has been a concern. The European Commission noted in 2015 that the overall media environment is not conducive to the full exercise of freedom of expression, and that cases of physical attacks against jour-

nalists and other forms of pressure should be thoroughly investigated. In 2015, 26 cases of attacks, threats and obstruction of journalists were under investigation.⁶²

The Commission added that a lack of long-term funding for the public broadcaster makes it "vulnerable to political pressure and influence." And, low-wage, non-contracted jobs leave journalists vulnerable to corruption and self-censorship.⁶³

Citizens' rights and participation

Freedom House categories Kosovo* as "partly free." On a scale of 1 to 7, with 1 being most free, it scores a 3 in terms of political rights, 4 in civil liberties, and 3.5 in overall freedom. Its freedom score is 52 out of 100.⁶⁴

Voter turnout in parliamentary elections fell slightly from 50 percent in 1994 to 43 percent in 2014.⁶⁵



⁶⁰ Freedom of the Press 2015, p. 23, 25.

⁶¹ 2016 World Press Freedom Index.

⁶² EC, Kosovo*: 2015 Report, p.5.

⁶³ Ibid.

⁶⁴ Freedom in the World 2016, p.22.

⁶⁵ Voter Turnout Database: Kosovo*.

The Former Yugoslav Republic of Macedonia

Summary

In November 2015 The Former Yugoslav Republic of Macedonia passed one of the strongest whistleblower protection laws in South East Europe. The law covers all employees in the public and private sectors, and contains many recognised international standards and principles.

Yet, the survey indicates very weak support for whistleblowers and the practice of whistleblowing among the population, compared to other economies in the region. One in three respondents said people who expose serious wrongdoing by revealing information from inside their organisation should be punished - even though this goes against the core purpose of a whistleblower protection law. Only one in three people believes they have a personal obligation to report crime or corruption occurring within their organisation.

At the same time, according to other findings, respondents have a comparably very positive view

of their government's anti-corruption efforts and their rights as citizens. Many people view bribes as a gift, and say they feel no need to report bribery for this reason.

The survey and other recent survey reveal sometimes conflicting results that call for the need for additional and targeted polling of citizens, particularly on their role in reporting wrongdoing and their perceptions of corruption.

Respondents' attitudes towards whistleblowing

The survey reveals a strong lack of support for whistleblowers and the practice of whistleblowing itself. The results suggest citizens place a low value on the role of citizens reporting crime and corruption.

Far fewer people than the regional average - only 41 percent - said people should be supported for reporting serious wrongdoing by revealing information from inside their organisation. Thirty percent said people should be punished for doing so. This is nearly double the regional average and significantly higher than any other economy surveyed.

Which of the following best describes what you think should happen in your society? (Select one answer)

1	People should be supported for revealing serious wrongdoing, even if it means revealing inside information	41.38%
2	People who reveal inside information should be punished , even if they are revealing serious wrongdoing	30.37%
3	Neither / can't say	28.25%

Only 36 percent of respondents surveyed said they would feel personally obliged to report wrongdoing

within their organisation - far lower than the regional average.

(IF MEMBER OF ORGANISATION) Thinking about your role in the organisation you mentioned - how much do you agree or disagree with the following statements? (Select one answer per row)

	Disagree		Neither / can't say	Agree		
	Strongly	Disagree		Agree	Strongly	
A	5.37%	14.55%	43.94%	26.26%	9.88%	100 %
	19.92%			36.14%		
B	4.43%	12.84%	45.09%	24.40%	13.24%	100 %
	17.27%			37.64%		
C	5.31%	13.26%	46.03%	23.81%	11.59%	100 %
	18.57%			35.40%		

Reflecting this view, relatively few people - only about one in three - said it is acceptable to reveal inside information about serious wrongdoing by managers, other organisational staff, and family members or personal friends.

Accordingly, far more people than the regional average said it is unacceptable, or they couldn't say whether it is acceptable, to report wrongdoing committed by these groups of people.

How acceptable do you personally think it is for someone to reveal inside information about serious wrongdoing by each of these different types of people? (Select one answer per row)

	To reveal inside information about...	Acceptable		Neither / can't say	Unacceptable		
		Highly	Fairly		Fairly	Highly	
A	serious wrongdoing by people in charge of an organisation	15.51%	19.33%	36.76%	10.99%	17.43%	100 %
		34.84%			28.42%		
B	serious wrongdoing by other staff or workers in an organisation	14.81%	19.05%	37.06%	11.16%	17.92%	100 %
		33.86%			29.08%		
C	serious wrongdoing by a family member or personal friend working in the organisation	10.98%	18.92%	39.11%	12.02%	18.97%	100 %
		29.90%			30.99%		

Related to these doubts about the role of whistleblowing, nearly half of respondents - much higher than the regional average - could not say whether management is serious about protecting whistleblowers, whether they are confident a report would make an impact,⁶⁶ and whether they feel personally obliged to report wrongdoing internally.

Other surveys have provided additional insights into these questions. A 2013 survey by Transparency International found 61 percent of citizens of The Former Yugoslav Republic of Macedonia believe ordinary people can make a difference in fighting corruption. Citizens are generally willing to involve themselves in anti-corruption efforts, but many fear retaliation and backlash.

According to a 2015 Transparency International in Skopje survey, 72 percent of private sector employees and 69 percent of public sector employees in The Former Yugoslav Republic of Macedonia said they believe they would face consequences if they reported misconduct.⁶⁷ These figures correspond with the survey, in which only 35 percent of the people said managers are serious about protecting whistleblowers.

Corruption perceptions and concerns

When these results are taken into consideration with other findings, one possible conclusion could

be that people in The Former Yugoslav Republic of Macedonia are generally satisfied with public institutions and therefore do not feel a need or desire to report misconduct.

In the 2015 survey of seven SEE economies,⁶⁸ The Former Yugoslav Republic of Macedonia ranks first or second in the region in terms of citizens believing that:

- ▶ the government fights corruption effectively,
- ▶ the government acts are in accordance with the law,
- ▶ the law is applied and enforced effectively to everyone equally,
- ▶ all citizens can go to court to defend their rights,
- ▶ public institutions' procedures are efficient.

In the same survey, it ranks near the top in citizens' perceptions of the transparency of public services (e.g. schools, police, health care, judiciary, public transportation), and bribery and abuse of power by public officials and authorities. The survey concluded that on questions dealing with the rule of law, citizen's views are more positive in The Former Yugoslav Republic of Macedonia than Croatia, which is a member of the EU.

A 2013 survey of seven SEE economies⁶⁹ reveals a possible reason that citizens do not commonly re-

port corruption. More than 20 percent of people who had paid bribes said the most important reason for not reporting their personal corruption experiences to authorities is because they considered the payments a sign of gratitude. This ranks among the highest in the region. Fewer than 10 percent of bribe-payers said the reason for not reporting is because bribing is a common practice. This ranked the lowest among the seven economies.

The Former Yugoslav Republic of Macedonia ranks the lowest in terms of businesses considering corruption an obstacle to doing business, and near the bottom in the prevalence of bribery.

These findings suggest citizens do not consider bribery and corruption as significant problems, which could serve to explain their apparent lack of support for whistleblowing. The cultural context is important in assessing this.

Notwithstanding these views of citizens, the European Commission (EC) has been critical of official anti-corruption efforts.

The EC said in 2015 that the government's corruption prevention and conflict of interest programmes "lack visibility" and are not considered a priority by public institutions. In its annual progress report, the EC wrote that "the credibility of the track record in fighting high-level corruption is weakened by

the failure to investigate serious allegations made against senior public officials."

From 2013 to 2014, the number of complaints to the State Commission for the Prevention of Corruption dropped by nearly a third - from 201 to 141. "This raises concern over the level of public trust and confidence" in the agency, the EC said.⁷⁰ This statement conflicts with survey results showing relatively high levels of trust of public institutions among citizens.

The number of complaints to the Ombudsman's Office fell 27.5 percent from 2012 to 2013, according to the EC.⁷¹

A report published by the Regional Anti-Corruption Initiative⁷² said that reports of corruption and violations in public procurement are widespread, but that no institution ensures effective and timely oversight. Penalties for violating administrative regulations, and criminal investigations and convictions for abusing public procurement rules - though on the increase - are not commonplace.

Media perceptions and freedom

In the survey, 71 percent of respondents said they would turn to the media or the Internet to draw attention to wrongdoing - just slightly less than the regional average. However, 13 percent of the people said these outlets should never be contacted - nearly double the regional average and second-highest in the region.

If someone in an organisation has inside information about serious wrongdoing, when do you think they should be able to use a journalist, the media, or the internet to draw attention to it? (Select one answer)

	Ever / Never?	When reason to / last resort?	Full details
1	70.92%	45.09%	13.59%
2			31.50%
3		25.83%	25.83%
4	13.06%	13.06%	13.06%
5	16.01%	16.01%	16.01%

Media freedom in The Former Yugoslav Republic of Macedonia does not rank well, according to a range of indicators.

Freedom House says it is "partly free," positioned 125th of 199 economies worldwide. Among 42 European economies assessed, only Turkey ranks low-

⁶⁶ See survey question A82 above.

⁶⁷ Worth, *Whistleblower Protection...*, p.37

⁶⁸ RCC, *Balkan Barometer 2015: Public Opinion Survey*, pp. 82-85.

⁶⁹ UNODC, *Business, Corruption and Crime in the Western Balkans...*, p.36

⁷⁰ EC, *The Former Yugoslav Republic of Macedonia: 2015 Report*, European Commission, Commission Staff Working Document, Brussels, November 2015, p. 17, 54.

⁷¹ Ibid, p. 9.

⁷² Worth, *Whistleblower Protection...*, p. 34.

er. Its score declined 10 points from 2010 to 2014, making it the “worst performer in the region.” Several opposition-oriented media organisations were forced to close during this period, according to Freedom House, and journalist Tomislav Kezarovski remained in detention throughout 2014 on “questionable” charges.⁷³

Similarly, Reporters without Borders ranks it 118th out of 180 economies assessed for press freedom. Since the end of 2014 several dozen defamation suits have been brought against journalists. More than half of journalists say they censor themselves.⁷⁴ In 2015 Reporters without Borders documented “large-scale spying” on journalists through “illegal wiretapping.”⁷⁵

The South East European Media Observatory has reported large-scale and increasing government support of media organisations, to the point of “misuse” and “corruption of media” in recent years. Such financial support is “enabling government influence over and control of editorial policies” and has created “a network of servile media outlets that report in its favour.”⁷⁶

It is unclear whether citizens’ views of the media are shaped by these concerns.

Citizens’ rights and participation

Citizens’ relatively high levels of satisfaction with the government in certain areas do not seem to correlate with other indicators.

Freedom House categories The Former Yugoslav Republic of Macedonia as being only “partly free,” On a scale of 1 to 7, with 1 being most free, it scores a 4 in terms of political rights, 3 in civil liberties, and 3.5 in overall freedom. Its overall freedom score is 57 out of 100.⁷⁷

Voter turnout in presidential elections has fluctuated since 1994, though it has fallen from 77 percent in that year to 63 percent in 2014. Turnout in parliamentary elections has fallen from 78 percent in 1994 to 54 percent in 2014.⁷⁸

Nearly twice as many respondents as the regional average said not enough information is kept secret in institutions and organisations (27 percent). This is much higher than any other economy surveyed. At the same time, far fewer people (25 percent) said too much information is kept secret. This is significantly lower than all other economies except for Montenegro and Serbia.

Which one of the following comes closest to your view? (Select one answer)		
1	In your society, too much information is kept secret in organisations	24.72%
2	In your society, about the right amount of information is kept secret in organisations	27.78%
3	In your society, not enough information is kept secret in organisations	26.94%
4	Can’t say	20.56%



⁷³ Freedom of the Press 2015, p. 23, 25.

⁷⁴ 2016 World Press Freedom Index.

⁷⁵ RWB, “Large-Scale Illegal Wiretapping of Journalists in The Former Yugoslav Republic of Macedonia,” Reporters without Borders, 27 February 2015.

⁷⁶ Nikodinoska, Vesna and Grozdanovska-Dimiskovska, Ljubica, “State-Media Financial Relations In Macedonia: Media Freedom Curbed With Public Money” South East European Media Observatory, 29 November 2015, p.1

⁷⁷ Freedom in the World 2016, p.22.

⁷⁸ Voter Turnout Database: The Former Yugoslav Republic of Macedonia.

Montenegro

Summary

The survey results indicate that people in Montenegro express weak and somewhat inconsistent views regarding support for whistleblowing. Comparably, very low percentages of people said that it is generally acceptable for people to blow the whistle, and that people who do so should be supported.

A previous study shows that Montenegro ranks very low in the region in citizens believing the government fights corruption effectively and that public services are transparent. This finding coincides with the survey, which found that only one in four respondents think the best way to stop misconduct is by reporting it to public authorities.

At the same time, many people said they would feel personally obliged to report misconduct, and that managers would respond and are serious about protecting whistleblowers.

Circumstances indicate a need for stronger whistleblower protections, and particularly a correspond-

ing significant need for building public awareness in this area. There is a general belief that whistleblowers are exposed to reprisals, as many have lost their jobs or faced other forms of retribution. Some whistleblowers within police agencies have not been well protected. According to US State Department report on human rights, in 2012, citizens have been reluctant to report police misconduct for fear of reprisal, and courts typically find the use of force by the police to be reasonable.⁷⁹

Respondents’ attitudes towards whistleblowing

Support for and perceptions of whistleblowing in Montenegro did not score well in our survey.

Only about a fourth of people believe it is generally acceptable for people to report misconduct by revealing inside information (42 percent could not say). Only four in ten said whistleblowers should be supported instead of punished. Both figures rank far lower than the regional average.

Which of the following comes closest to your view? (Select one answer)		
1	In your society it is generally unacceptable for people to speak up about serious wrongdoing, if inside information would have to be revealed	30.41%
2	In your society it is generally acceptable for people to speak up about serious wrongdoing, even if means revealing inside information	27.46%
3	Neither / can’t say	42.13%

Which of the following best describes what you think should happen in your society? (Select one answer)		
1	People should be supported for revealing serious wrongdoing, even if it means revealing inside information	39.53%
2	People who reveal inside information should be punished , even if they are revealing serious wrongdoing	21.12%
3	Neither / can’t say	39.36%

Meanwhile, more than 20 percent of respondents believe whistleblowers should be punished, and nearly 40 percent could not say. These are both higher than the regional average. The very high number of respondents in the “couldn’t say” category points strongly to an opportunity for public outreach and education.

Only 27 percent said too much information is kept secret in institutions and organisations, far lower than the regional average. Four in ten could not say.

⁷⁹ US State Department, Country Reports on Human Rights Practices for 2012: Montenegro, Bureau of Democracy, Human Rights and Labor, 2012, <http://www.state.gov/j/drl/rls/hrrpt/2012humanrightsreport/index.htm?year=2012&dld=204320-wrappwr>.

Which one of the following comes closest to your view? (Select one answer)		
1	In your society, too much information is kept secret in organisations	27.69%
2	In your society, about the right amount of information is kept secret in organisations	17.87%
3	In your society, not enough information is kept secret in organisations	13.98%
4	Can't say	40.47%

Fewer than three in ten of those surveyed said it is acceptable to expose wrongdoing committed within organisations by managers, other staff, and friends and family members. This is the lowest result among the seven economies surveyed. Meanwhile one in five said it is unacceptable, and more than half could not say - among the highest in the region. Again, this high rate (50%+) points to a public that is fundamentally unsure about the citizenry's role in reporting wrongdoing.

How acceptable do you personally think it is for someone to reveal inside information about serious wrongdoing by each of these different types of people? (Select one answer per row)							
	To reveal inside information about...	Acceptable		Neither / can't say	Unacceptable		
		Highly	Fairly		Fairly	Highly	
A	serious wrongdoing by people in charge of an organisation	8.16%	20.85%	52.82%	10.70%	7.46%	100 %
		29.01%			18.16%		
B	serious wrongdoing by other staff or workers in an organisation	6.59%	20.98%	52.31%	10.85%	9.27%	100 %
		27.57%			20.12%		
C	serious wrongdoing by a family member or personal friend working in the organisation	5.10%	16.37%	54.10%	10.89%	13.53%	100 %
		21.47%			24.42%		

Despite these figures, which suggest poor perceptions of whistleblowing, six in ten people said they would feel obliged to report misconduct taking place within their organisation and that managers would respond. And nearly half said managers are serious about protecting whistleblowers. These results are significantly higher than the regional average.

Though people in Montenegro do not view whistleblowing highly in general, they seem to have more confidence in the practice within an organisational environment.

Corruption perceptions and concerns

In the 2015 public opinion survey of seven SEE economies,⁸⁰ Montenegro ranks lowest or second-lowest in regards to:

- ▶ the government fighting corruption effectively,
- ▶ confidence in courts and the judiciary,
- ▶ the law being applied effectively and equally to everyone,

- ▶ the government's acts being in accordance with the law,
- ▶ the transparency of public services.

The low perception of government anti-corruption efforts coincides with the survey, which found that only 27 percent of respondents said the best way to stop misconduct is by reporting it to public authorities. This is below the regional average.

The 2015 public opinion survey also found people in Montenegro rank among the highest in believing bribery and abuse of power are widespread among national and local politicians, the public health sector, police and customs service.⁸¹

In a 2013 survey of seven SEE economies, Montenegro ranks the lowest in the prevalence of bribes paid by businesses to public officials, and below the regional average in the prevalence of bribes paid by citizens. Despite these low figures, Montenegro ranked the highest in the percentage of bribe-payers not reporting their experience to authorities because bribery is a common practice.⁸²

Though people in Montenegro have significant concerns about government corruption, transparency and effectiveness, they do not strongly support whistleblowing as a means to remedy these problems. It is thus unclear whether Montenegro would be an ideal candidate for a whistleblower protection, or specifically how such a law should be geared towards the national context if one is developed particularly if this is done without building public awareness and support in the first instance.

The European Commission observed in 2015 that Montenegro's anti-corruption efforts are moving forward, due to stronger legislative and institutional frameworks. Still, work is needed as corruption "remains prevalent in many areas and continues to be a serious problem." For example, the track record on investigating, prosecuting and convicting wrongdoers "remains limited."

Encouragingly, a new anti-corruption agency was established in January 2016 to monitor conflicts of interest and asset declarations, and provide protection for whistleblowers.

The Criminal Code was changed in July 2013 to criminalise dismissing a whistleblower. Charges have been brought against 17 people; as of late 2015,

two cases were being investigated and the other charges were dropped.⁸³

A number of deficiencies in Montenegro's public integrity efforts were indicated in the Comparative Study on Corruption Risk Assessment in Public Institutions in SEE,⁸⁴ including:

- ▶ inadequate and incomplete ethics training for officials and managers;
- ▶ a lack of monitoring of income, assets and lifestyle of officials working in high-risk areas;
- ▶ a lack of monitoring of potential conflicts of interest among employees; and
- ▶ the need to closely monitor and improve integrity plans in public institutions.

Media perceptions and freedom

Trust in media did not score well in the survey. Four in ten people would not say that whistleblowers should be permitted to contact the media or use the Internet, even as a last resort. Only one in five said people should be able to use these outlets when there is a specific reason, and only 11 percent said they should be used as a first option, regardless of the situation. These results are much lower than the regional average.

If someone in an organisation has inside information about serious wrongdoing, when do you think they should be able to use a journalist, the media, or the internet to draw attention to it? (Select one answer)				
		Ever / Never?	When reason to / last resort?	Full details
1	As a first option , in any situation	60.51%	32.59%	11.22%
2	Whenever there become specific reasons to do so		21.37%	
3	Only as a last resort , if all else fails		27.92%	27.92%
4	Never	13.27%	13.27%	13.27%
5	Can't say	26.23%	26.23%	26.23%



Similarly, only 15 percent said releasing information to the media and the Internet is the most effective way to stop misconduct, below the regional average. Notably, nearly half of respondents said there is no effective way or could not name one.

⁸⁰ RCC, *Balkan Barometer 2015: Public Opinion Survey*, pp. 82-85.

⁸¹ Ibid.

⁸² UNODC, *Business, Corruption and Crime in the Western Balkans...*, p.36.

⁸³ EC, *Montenegro: 2015 Report*, European Commission, Commission Staff Working Document, Brussels, November 2015, p. 15.

⁸⁴ Selinsek, *Corruption Risk Assessment...* p.48-51.

In different societies there are different views on the most effective way to take action to stop serious wrongdoing. Which one of these do you think is the most effective way in your society? (Select one answer)

1	By reporting the serious wrongdoing to people in authority, via official channels	27.12%
2	By reporting the serious wrongdoing to journalists or news organisations	10.12%
3	By reporting the serious wrongdoing directly to the general public, via the internet, Twitter, Facebook or on online blogs	4.48%
4	Some other way	10.80%
5	None of the above - in my society, there is no effective way to get action to stop serious wrongdoing	21.34%
6	Can't say	26.14%

Freedom House categorises Montenegro's media as "partly free," positioned 78th of 199 economies worldwide, and 33rd out of 42 European economies assessed. According to Freedom House findings, conditions in Montenegro have deteriorated since 2012, with several independent outlets suffering lawsuits, unprosecuted physical attacks and hostile government rhetoric.⁸⁵

Similarly, Reporters without Borders (RSF) ranks Montenegro 106th out of 180 economies. RSF reports "journalists have to censor themselves because they are often the targets of violent verbal and physical attacks and those responsible enjoy virtually systematic impunity. The media are subject to political and economic pressure and reporters investigating government corruption are often accused of trying to harm the nation. Defamation has been decriminalised since 2011 but lawsuits are very common."⁸⁶

The European Commission noted in 2015⁸⁷ that Montenegro has shown some progress in the area of freedom of expression, including the decriminalisation of defamation in 2012, which has led to fewer lawsuits against the media.

However, attacks against journalists and property continue, though at a lower rate. Notably the 2004 murder of Dusko Jovanovic, editor-in-chief of the opposition newspaper *Dan*, remains unsolved. Additionally, a smear campaign by certain local media against civil society activists and politicians indicates that self-regulation in the media, re-established in 2012, is underperforming.

Citizens' rights and participation

Montenegro was one of three economies to fall in Freedom House's ratings from "free" to "partly free" from 2015 to 2016. On a scale of 1 to 7, with 1 being most free, Montenegro scores a 3 in terms of political rights, 3 in civil liberties, and 3 in overall freedom. Its freedom score is 70 out of 100.⁸⁸

Voter turnout in presidential elections rose from 48 percent in 2003 to 64 percent in 2013. Participation in parliamentary elections has remained steady from 2006 to 2012, at around 70 percent.⁸⁹ Such relatively strong turnout may suggest that awareness-building focussed on empowering the individual to stop corruption may have an impact in terms of engagement.



⁸⁵ Freedom of the Press 2015, p. 23, 25.

⁸⁶ 2016 World Press Freedom Index.

⁸⁷ EC, Montenegro: 2015 Report, p. 8.

⁸⁸ Freedom in the World 2016, p.22.

⁸⁹ Voter Turnout Database: Montenegro.

Serbia

Summary

Despite Serbia's recent success in passing one of Europe's strongest whistleblower protection laws, our survey results indicate a large portion of citizens remain very unsure about many issues related to the reporting of crime and corruption - including the core question of whether whistleblowers should be protected from retaliation.

These strong doubts also persist despite anti-corruption campaigns that reportedly have reached 80 percent of the population,⁹⁰ and the high-profile work of Serbia's Public Information Commissioner.

Passed in 2014, Serbia's Law on the Protection of Whistleblowers culminated a two-year campaign initiated by Public Information Commissioner that engaged a wide range of Serbian and international advocates and experts. Since the law took effect in June 2015, several victimised whistleblowers have already been reinstated to their jobs. In the authors view, rarely has a new whistleblower pro-

tection law worked so effectively and so soon after taking effect.

Still, the survey exposed significant uncertainties among the citizenry about the very concept of whistleblowing, their role in reporting misconduct and the aftereffects of making a report.

Respondents' attitudes towards whistleblowing

More than one-third of people surveyed could not say:

- ▶ whether is it generally acceptable or unacceptable to report serious wrongdoing by revealing inside information (36 percent);
- ▶ whether people who make a report should be punished (35 percent); and
- ▶ whether too much, not enough, or the right amount of information is kept secret in organisations (36 percent).

All of these results are considerably higher than the regional averages.

Which one of the following comes closest to your view? (Select one answer)		
1	In your society, too much information is kept secret in organisations	31.97%
2	In your society, about the right amount of information is kept secret in organisations	18.09%
3	In your society, not enough information is kept secret in organisations	14.15%
4	Can't say	35.80%

Which of the following comes closest to your view? (Select one answer)		
1	In your society it is generally unacceptable for people to speak up about serious wrongdoing, if inside information would have to be revealed	28.24%
2	In your society it is generally acceptable for people to speak up about serious wrongdoing, even if means revealing inside information	35.30%
3	Neither / can't say	36.47%

Which of the following best describes what you think should happen in your society? (Select one answer)		
1	People should be supported for revealing serious wrongdoing, even if it means revealing inside information	53.25%
2	People who reveal inside information should be punished , even if they are revealing serious wrongdoing	11.82%
3	Neither / can't say	34.92%

⁹⁰ Worth, Whistleblower Protection..., p.57.

Additionally, more than half of respondents (56 percent) could not say which is the most effective method to stop wrongdoing (e.g. by contacting of officials, journalists or social media), or they said there is no effective way in Serbia. This is also higher than the regional average of 43 percent.

In different societies there are different views on the most effective way to take action to stop serious wrongdoing. Which one of these do you think is the most effective way in your society? (Select one answer)

1	By reporting the serious wrongdoing to people in authority , via official channels	22.00%
2	By reporting the serious wrongdoing to journalists or news organisations	10.38%
3	By reporting the serious wrongdoing directly to the general public, via the internet, Twitter, Facebook or on online blogs	4.69%
4	Some other way	6.47%
5	None of the above - in my society, there is no effective way to get action to stop serious wrongdoing	33.22%
6	Can't say	23.25%

These results indicate deep uncertainties about the role of citizens in exposing and fighting wrongdoing, as well as about their trust in official anti-corruption solutions.

- ▶ whether they are confident a report would make an impact (45 percent); and
- ▶ whether they feel personally obliged to report wrongdoing internally (44 percent).

Similar findings are seen among respondents who are members of an organisation. High percentages of people could not say:

The portion of people who agreed with these statements - and thus who have optimistic views of whistleblowing - was below the regional average. Only 25 percent of people, for instance, said management is serious about protecting whistleblowers - far below the regional average of 37 percent.

- ▶ whether management is serious about protecting whistleblowers (53 percent);

(IF MEMBER OF ORGANISATION) Thinking about your role in the organisation you mentioned - how much do you agree or disagree with the following statements? (Select one answer per row)

		Disagree		Neither / can't say	Agree		
		Strongly	Disagree		Agree	Strongly	
A	If I observed wrongdoing, I would feel personally obliged to report it to someone in my organisation	2.60%	9.86%	43.35%	32.70%	11.50%	100 %
		12.46%			44.20%		
B	If I reported wrongdoing to someone in my organisation, I am confident something appropriate would be done about it	6.37%	14.00%	44.95%	28.35%	6.32%	100 %
		20.37%			34.67%		
C	Management in my organisation is serious about protecting people who report wrongdoing	9.25%	12.69%	53.00%	20.60%	4.47%	100 %
		21.94%			25.07%		

Our results echo those from a 2013 survey. When asked about factors that impede the battle against corruption, 20 percent of respondents said citizens lack full knowledge of their rights, 18 percent said citizens are passive, and 10 percent said outlets to report corruption are lacking.⁹¹

Serbia's new whistleblower protection law could be leveraged to improve public education and awareness, particularly in light of positive media coverage of the law's early successes.

⁹¹ UNDP, *Public Opinion Research: Attitudes of Serbian Citizens Towards Corruption*, UNDP Serbia, Belgrade, December 2013, p.31.

Corruption perceptions and concerns

In our survey, only 22 percent of respondents in Serbia said the most effective way to stop serious wrongdoing is by reporting it via official channels to people in authority. This is notably less than regional average of 30 percent.

This is reflective of citizens' general dissatisfaction with public authorities and regulators. According to a 2013 survey, citizens reported that the main factors that impede the fight against corruption are:

- ▶ inadequate control of public services;
- ▶ corruption in institutions that implement laws;
- ▶ using connections and bypassing laws; and
- ▶ a lack of political will to control corruption.⁹²

These findings are supported by specific shortcomings identified by citizens. In an RCC survey of seven economies released in 2015, Serbia ranked lowest in the transparency of public services and the time required to get information in the public sector; second-lowest in the efficiency of public institutions; and third-lowest in confidence in courts and the judiciary.

Somewhat encouragingly, Serbia ranks near the middle regionally in terms of whether the government acts in accordance with the law, whether the government fights corruption effectively, and whether the law is applied to everyone equally.⁹³

According to a 2013 survey, 64 percent of respondents believe the government is making some progress in fighting corruption, yet there was an increase in the number of people who said these efforts are inefficient.⁹⁴

Despite - or perhaps because of - these generally pessimistic perceptions, 83 percent of respondents in a 2013 survey said police, the judiciary, agencies and specialised institutions should lead the battle against corruption.⁹⁵

In order for this expectation to be met, public institutions must do their part. According to the 2015 report by RCC,⁹⁶ however, only about half of public entities (2,121 out of 4,483) had developed integri-

ty plans. The main obstacle to this is a lack of sanctions for failing to develop these plans.

Media perceptions and freedom

According to the survey, 10 percent of respondents said reporting to the media is the most effective way to stop wrongdoing, somewhat lower than the regional average of 14 percent.

The citizenry's apparent lack of confidence or trust in the media is mirrored by several objective indicators. Freedom House ranks the media in Serbia as "partly free."⁹⁷ In Reporters without Borders' list of media freedoms, Serbia fell from 54th place in 2014 to 67th place in 2015. The organisation attributed this mainly to attacks on journalists, threats to media, and insufficient implementation of new regulations.⁹⁸

It is widely known in Serbia that politicians at various levels of government seek to secure - and often succeed in securing - favourable coverage in certain media outlets by purchasing advertising and providing other financial support. Despite pressure to change this model, most revenues for the two Serbian public service broadcasters, RTS and RTV, continue to come from direct payments from the government budget. This could harm the broadcasters' independence and impartiality.⁹⁹

Citizens' rights and participation

The survey's results, combined with previous findings, are discouraging given Serbia's rankings by Freedom House. On a scale of 1 to 7, with 1 being most free, Serbia scores a 2 in terms of political rights, civil liberties and overall freedom. Its overall freedom score is 78 out of 100, according to Freedom House's 2016 rankings.¹⁰⁰

At the same time, these views reflect a recent drop in participation in national elections. Voter turnout in parliamentary elections fell from 61 percent to 53 percent from 2007 to 2014, according to the International Institute for Democracy and Electoral Assistance. Participation in presidential elections dropped by a third from 2008 to 2012 - from 68 to 46 percent.¹⁰¹

⁹² Worth, *Whistleblower Protection...*, p.59.

⁹³ RCC, *Balkan Barometer 2015: Public Opinion Survey*, p. 84-85.

⁹⁴ UNDP, *Attitudes of Serbian Citizens Towards Corruption*, p. 6.

⁹⁵ Ibid, p.21.

⁹⁶ Selinsek, *Corruption Risk Assessment...* p.55.

⁹⁷ *Freedom of the Press 2015*, p.22.

⁹⁸ SEEMO, "Media Landscape in Serbia," *South East European Media Observatory*, 26 January 2016.

⁹⁹ Ibid.

¹⁰⁰ *Freedom in the World 2016*, p.23.

¹⁰¹ Voter Turnout Database: Serbia.

CONCLUSIONS AND RECOMMENDATIONS

As this report details, many research findings and public opinion surveys conducted during the past decade have shown that corruption and inefficiency is of great concern to citizens throughout SEE. Yet, these concerns have not translated into strong public support for whistleblowing.

This survey of citizens' attitudes to whistleblowing in seven SEE economies shows an underlying pattern of relatively weak support for whistleblowers. Only slightly more than half of 7,000 people surveyed region-wide said whistleblowers should be supported, and only about a third said whistleblowing is acceptable in their society. On top of this, one in six people said whistleblowers should be punished for their actions, a view that is contrary to positions held by the UN, Council of Europe, OECD, European Court of Human Rights, and other international organisations and institutions.

These figures reveal an underappreciation and perhaps also a lack of understanding of whistleblowing as an effective tool to fight corruption and other crimes.

The results are especially noteworthy in Bosnia and Herzegovina and Serbia. Support for whistleblow-

ers is lower than the regional average even though these economies have passed strong laws that have protected victimised whistleblowers and that have led to high-profile media coverage of whistleblower cases.

The results also give witness to relatively low confidence among citizens that they can or should cooperate with government officials and institutions in the fight against corruption.

Less than a third of respondents region-wide said the best way to stop wrongdoing is by informing authorities through official channels. And only about a third said they would feel obliged to report wrongdoing if they witnessed it within their organisations. At the same time, three-fourths of respondents said whistleblowers should be permitted to disclose inside information to the media or via the Internet.

Taken together, these findings indicate a lack of citizens' trust in public authorities to investigate evidence of misconduct and hold guilty parties to account. This is further evident by the fact that one-fourth of respondents said there is no effective way to stop misconduct in their society.

Perhaps most interestingly, particularly in terms of overcoming difficulties in crafting whistleblower policies and the need to improve public awareness, many respondents did not or were unable to provide answers to certain survey questions. Notably:

- ▶ One-fourth of respondents could not say whether whistleblowers should be supported, whether whistleblowing is acceptable in their society, and whether too much information is kept secret within organisations.
- ▶ More than a third of respondents could not say whether it is acceptable for people to report serious wrongdoing committed by managers, colleagues, friends or family members.
- ▶ More than a third of respondents could not say whether they would feel personally obliged to report wrongdoing within their organisation, whether something appropriate would be done if they did make a report, or whether their managers are serious about protecting whistleblowers.

The survey produced many important findings in individual economies, from which meaningful conclusions can be drawn.

In **Albania**, two-thirds of respondents - far higher than the regional average - said whistleblowers should be supported. On top of this, comparably high portions of people believe too much information is kept secret and that the best way to stop wrongdoing is by using the media or the Internet. Still, due to past surveillance of citizens by secret police, whistleblowers have been labelled "snitches" and "spies." These findings and factors raise challenges for the effective implementation of Albania's new whistleblower protection law, passed in June 2016. Public awareness campaigns and training of key government officials would aid in this effort.

Despite the passage of a strong whistleblower law covering state-level employees, citizens in **Bosnia and Herzegovina** express low support for whistleblowers and little faith that making a report would make an impact. These findings come within a society where citizens have little confidence in the government's anti-corruption efforts, low levels of faith in the judiciary, and poor impressions of the media as a strong partner in fighting corruption. Compared regionally, few people in Bosnia and Herzegovina believe whistleblowing is acceptable within organisations. Many people fear that making a report will cause problems for themselves. In this environment, important steps include raising public awareness on the value of whistleblowing and

strengthening political will within the government to stop corruption. However, 44 percent - also higher than the regional average - said it is generally unacceptable for people to speak up about serious wrongdoing in society.

Very strong support for whistleblowing, combined with negative impressions of government accountability and the integrity of public officials, make **Croatia** a potentially strong candidate for a whistleblower protection law. In particular, many people believe too much information is kept secret and that some public officials accept bribes and abuse their power. Passing a whistleblower law could help address a finding by the European Commission that more than half of people believe whistleblowers are likely to regret making a report and that nothing will come of it. Key to the passage of a whistleblower law in Croatia is the active role of civil society, and greater understanding of the issue and willingness to earnestly fight corruption among members of parliament and policy-makers.

People surveyed in **Kosovo*** responded with the region's strongest belief that workplace wrongdoing at the hands of managers, colleagues, friends and family members should be reported. Respondents' overall support for whistleblowers is among the highest of the seven economies surveyed. Combined with low public confidence in the government's anti-corruption efforts and strong concerns about bribery and abuse of power, the ingredients seem to be in place to drive improvements to a whistleblower protection law passed in 2011. In order for this to occur, public and private sector employees should be better informed about their potential role in exposing crime and corruption, and anti-corruption officials should improve their capacity to uphold legal rights and protections for whistleblowers.

Despite the fact that in November 2015 **The Former Yugoslav Republic of Macedonia** passed one of the strongest whistleblower laws in SEE, nearly one-third of respondents - double the regional average - believe whistleblowers should be punished for their actions. And only about a third of people said it is acceptable to blow the whistle on wrongdoing by managers, colleagues, friends or family. Yet, a previous study found that three out of five people believe ordinary people can make a difference in fighting corruption. In light of these and other seemingly conflicting findings, additional research should be conducted into citizens' attitudes on their role in fighting corruption. Additionally, special care should be taken to ensure that the new whistleblower protection law is effectively and





transparently implemented. Building public awareness that links whistleblowing and the effective fighting of corruption would be particularly beneficial here given the contrasting results of the data.

Compared to the regional average, people in **Montenegro** expressed weak support for whistleblowing and weak perceptions that whistleblowing is generally acceptable within society. At the same time, only one in four respondents said the best way to stop misconduct is by reporting it to public authorities. If fighting corruption neither through whistleblowing nor going through official channels is strongly supported, this raises the question of what people in Montenegro believe is the most effective way to expose and punish wrongdoing. Further complicating matters, a low portion of citizens believe that the government fights corruption effectively, that public services are transparent, and that the judiciary can be trusted. The recent passage of the Law on Prevention of Corruption, which includes whistleblower provisions, offers hope that some of these trends can be reversed. It is recommended that anti-corruption officials become well-informed about the whistleblower provisions in order for whistleblowers to benefit from their new rights, and for civil society to closely monitor disclosures and retaliation complaints.

In **Serbia** more than one-third of people surveyed - much higher than the regional average - could not say whether whistleblowing is generally acceptable, whether whistleblowers should be punished, and whether too much information is kept secret. Further, more than half of respondents - also higher than the regional average - could not identify the most effective way to stop misconduct, whether

by contacting officials, journalists or social media. Serbia's new Law on the Protection of Whistleblowers, which took effect in June 2015, may provide an avenue for the public to become better informed about the means to report crime and corruption, and about the value of whistleblowers to society. Under the Law, the courts have reinstated several victimised whistleblowers to their jobs. Media coverage of these cases has begun to raise awareness of whistleblowing in the society. Additional public discussions and debates are needed.

Overall the survey provides important insights in how to move forward, particularly regarding:

- ▶ how public perceptions of whistleblowers and the practice of whistleblowing can be understood;
- ▶ where and how public awareness could be enhanced, both regionally and in certain economies;
- ▶ how policy-makers should shape new or improve whistleblower protection laws based on the views and wishes of citizens; and
- ▶ the need for additional research to better understand the reasons behind citizens' perceptions of whistleblowing.

With regard to the economies studied, the authors of this report specifically recommend that:

1. Additional and significant public education is needed to inform citizens of their role in combating government and corporate corruption, particularly with regard to the role of whistleblowing in this.

2. Support should be given to organisations to develop and improve their whistleblower protection and anti-retaliation policies.
3. Government institutions - particularly anti-corruption authorities - should improve their performance and outreach to the citizenry in this area, with special attention to high visibility whistleblowing cases.
4. Where whistleblower protection laws have not been passed, or do not achieve international standards, the passing and improvement of such laws must be a priority for governments in the region.
5. Legislation should protect whistleblowers who go to the media (part of '3-tiered protection'), as illustrated by the degree of public support for this across the region (between 60-88% public support).
6. There should be monitoring of, and public reporting about, how the new whistleblower protections are actually working in practice. This is a necessary part of building public trust in whistleblowing, and anti-corruption actions more generally in the region.

The survey's results clearly show that engaging the trust of the citizenry is a significant issue in all seven economies. Motivating citizens to consider themselves personally responsible in the fight against corruption, and to believe that they have the ability to personally effect positive change, is also an ongoing challenge. However, the example of laws in Bosnia and Herzegovina and Serbia shows that even in the absence of this confidence a strong whistleblower law can have significant positive impacts.

It is hoped that this will be an encouragement to other legislators drafting similar laws. In particular, economies such as Albania, Croatia and Kosovo* where there is a high level of public support for whistleblowing, seem ideally placed to enact and enforce wide-ranging whistleblower protections.

The unique challenges and disparate strategies of each economy can inform each other's responses in the fight against corruption. The degree to which the region shares similarities in outlook and civil institutions gives hope that solutions successfully trialled in one economy can be applied successfully across the region.



METHODOLOGY

The survey comprised eight questions on whistleblowing presented to 1,000 residents in each of seven SEE economies.

These questions were drawn from the larger World Online Whistleblowing Survey instrument, developed by researchers at the University of Melbourne, Griffith University,¹⁰² Georgetown University and Newspoll in light of existing surveys, qualitative data and consultation with key members of the International Whistleblowing Research Network worldwide.

The questions in this survey were undertaken as part of wider surveying by the Regional Cooperation Council (RCC) Secretariat in Sarajevo - Balkan Barometer. The RCC survey contains questions regarding attitudes, experiences and perceptions across the SEE economies, on a variety of issues addressed by SEE 2020 Strategy for Jobs and Prosperity in a European Perspective. Eight of these questions focus on whistleblowing and form the basis of this report.

The methodology used in survey is CAPI (Computer-Assisted Personal Interviewing). The survey was conducted via personal household interviews carried out by trained interviewers from GfK. The respondents were persons:

- aged 18 or older who reside in private households;
- whose usual place of residence is in the territory of the economies included in the survey; and
- who speak the national language(s) well enough to respond to the questionnaire.

A stratified two-stage clustered design sample with random route for the selection of addresses and respondents (last birthday method) was used in the survey. The described sample was used as most similar to probability sample which would be too costly. The sampling selection process is random in the following stages: the selection of the sampling points, the selection of addresses, the selection of households and the selection of individuals aged 18 and older. Only Primary Sampling units (PSU - counties/regions) and Secondary Sampling Units (SSU size of settlements) were defined in advance, as quotas. In

order to create the sample design, the most recent available statistical data for each economy was used.

A more detailed description of the methodology used by the survey is available online in the Balkan Barometer report.¹⁰³

Analysis of Different Economies in the SEE Region

The survey results illustrate a wide range of viewpoints and perceptions on whistleblowers and the practice of whistleblowing that varied, often greatly, from economy to economy. Complete data for responses to the whistleblowing questions are available in the "Survey Questions and Results" section of this report.

For the chapters in this report on each of the seven economies, instances where the results for certain questions deviated moderately or significantly from regional averages were identified. In some cases, responses from a certain economy were much higher or lower than the regional average. To maintain brevity and relevance, results in the individual chapters that did not vary from regional averages have not been presented. The focus was on findings that diverged notably from the regional norm.

Economy-specific deviations were compared and contrasted with earlier surveys and research in order to provide context. Where possible, attempts were made to offer potential explanations as to why residents of a given economy may hold certain views. These could be based, for example, on their views on government anti-corruption efforts, their personal role or responsibility to report misconduct, the trustworthiness of public authorities, and media independence.

Often, correlations could be made between survey findings and the political realities or recent developments within an economy. In a very few cases, some findings conflicted with earlier finding.

The methodology of the analyses was designed both to provide deeper insights and to give practice advice and observations.

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¹⁰² Notably Professor AJ Brown of Griffith University. In addition, the Principal Researcher on the World Online Whistleblowing Survey, Dr. Suelette Dreyfus of the University of Melbourne, is also a co-author of this report.

¹⁰³ For details, see: http://www.rcc.int/seeds/files/RCC_BalkanBarometer2015_PublicOpinion_FIN_forWeb.pdf (page 103)

^{**} For more information about Blueprint for Free Speech see www.blueprintforfreespeech.net

APPENDIX I

LEGISLATIVE AND PROCEDURAL FRAMEWORKS FOR WHISTLEBLOWING

Albania

Summary

Albania's Parliament passed a standalone whistleblower law on 2 June 2016: the Law on Whistleblowing and the Protection of Whistleblowers.

The Law includes many European and international standards, including coverage of employees in the public and private sectors, legal protections for a wide range of retaliatory acts, a designated government agency to investigate complaints, protection of whistleblowers' identity, provisions for anonymous reporting, and fines for people who retaliate against whistleblowers or violate their confidentiality.

The Law is a product of an effort initiated in 2014 and supported by the Dutch government through Utrecht University).¹⁰⁴

Legislative framework

On 2 June 2016, Albania's Parliament unanimously passed the Law on Whistleblowing and the Protection of Whistleblowers. The Law's main purposes are to:

- ▶ prevent and counter corruption in the public and private sectors,
- ▶ protect whistleblowers who report suspected corruption in their workplace, and
- ▶ promote whistleblowing on suspected corruption.

The Law includes many international best practices, including:

- ▶ retaliation protection for government and company employees;
- ▶ a wide range of offenses that can be reported, including crimes, active or passive corruption, abuse of duty, bribery, illegal exercise of influence, misuse of public funds, and illegal benefit of interests;
- ▶ protection from a wide range of retaliatory acts, including dismissal, suspension, demotion, salary reduction, withholding of promotion and training, and negative performance reviews;
- ▶ a specific government agency, the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interests, that has the authority to investigate complaints and order agencies to comply with the law; and
- ▶ fines for people who retaliate against whistleblowers, violate their confidentiality, fail to investigate a whistleblower case, or fail to appoint an internal whistleblower contact.

Albania's legal framework on whistleblower protection includes other laws and amendments. The inclusion of these provisions is the result of Albania's adoption of international instruments in the fight against corruption.¹⁰⁵ A number of sectoral laws (governing administrative sectors) provide limited protections to those looking to blow the whistle.

The key legislation is presented below.

Law No. 60/2016, 2.6.2016 "Law on Whistleblowing and the Protection of Whistleblowers"

Law No. 9508, 3.4.2006 "On Public Cooperation in the Fight Against Corruption".

Law No. 7961, 12.07.1995 "The Labour Code of the Republic of Albania"

Law No. 8549, 11.11.1999 "On the Status of the Civil Servant"

Law No. 9367, 7.4.2005 "On the Prevention of Conflict of Interest in the Exercise of Public Functions"

Law No. 8485, 12.5.1999 "The Code of Administrative Procedures of the Republic of Albania"

Law No. 10 173, 22.10.2009 "On the Protection of Collaborators of Justice and Witnesses"

Amendments to the Labour Code made in 2008 instituted protective measures for employees against unjustified actions taken by employers.¹⁰⁶

The Law on Civil Servants states that civil servants are empowered to refuse any order or decision where they are unconvinced by its lawfulness (and must inform the decision making institution). Despite the unique obligation for civil servants to disobey perceived unlawful orders, the Law on Civil Servants does not provide adequate protection against retaliatory actions.

Article 8 of "The Law on the Prevention of Conflict of Interest in the Exercise of Public Function" provides that "any official, institution, interested party, or individual has the duty to disclose information about the private interest of any official subject of this law".¹⁰⁷ The Law also recognises disclosures through the media as legitimate sources of possible conflicts of interest.¹⁰⁸ Special administrative protection is provided to those who provide information under the Article 20 of the legislation, which provides protection against the exercise of punitive measures against the informant.

In May 2014, amendments to the law increased the number of checks by the High Inspectorate for the Declaration and Audit of Assets and Prevention of Conflict of Interest (HIDAACI).

The Code of Administrative Procedure does not directly refer to the practice of whistleblowing but does allow for public complaint against any administrative act or inaction. Nevertheless, the Code provides that public administration bodies are required to protect public interest, and should not infringe on the rights of private persons.¹⁰⁹

Institutions and procedures

Under the Law on Whistleblowing and the Protection of Whistleblowers employees have the right to report misconduct and wrongdoing occurring within their workplace to the High Inspectorate for the Declaration and Audit of Assets and Conflict of Interests (HIDAACI). Anonymous reports are accepted.

An employee may bypass internal reporting channels and report to HIDAACI if the designated whistleblower contact in the workplace is involved in the misconduct, if there is a reason to doubt the integrity and impartiality of the designated whistleblower contact, or if evidence may be destroyed.

Corruption within the judicial system remains a serious concern within Albania.¹¹⁰ To help address this, the Serious Crimes Prosecution Office/Serious Crimes Court investigates specific cases of corrupt activities by judges, prosecutors, high-level senior officials and elected representatives.¹¹¹



¹⁰⁶ Law No. 10053, 29.12.2008 "On an addition to the Law No. 7961 dated 12.07.1995 "The Labour Code of the Republic of Albania."

¹⁰⁷ Article 8, Law No 9367, dated 7.4.2005 "On the Prevention of Conflict of Interest in the Exercise of Public Functions".

¹⁰⁸ Article 9, Law No 9367, dated 7.4.2005 "On the Prevention of Conflict of Interest in the Exercise of Public Functions". The media is seen as the first port of call for revealing corruption within public administration.

¹⁰⁹ Article 10, Law No 9367, dated 7.4.2005 "On the Prevention of Conflict of Interest in the Exercise of Public Functions".

¹¹⁰ EC, Albania: 2014 Progress Report, European Commission, Commission Staff Working Document, Brussels, 8 October 2014, p. 12.

¹¹¹ Narazani, Jonida, "Corruption and Anti-Corruption in Albania, SELDI Regional Conference on Good Governance and Anti-corruption Policy Challenges, Tirana, 13-14 November 2014.

¹⁰⁴ OGP, Albania Mid-Term Self-Assessment, Open Government Partnership, Washington, 13 October 2015, p. 19.

¹⁰⁵ For example, Council of Europe's Civil Law Convention on Corruption.

Bosnia and Herzegovina

Summary

Despite being a relative latecomer to anti-corruption strategies,¹¹² in December 2013 Bosnia and Herzegovina passed, unanimously, its first dedicated whistleblower protection law. The law's unanimous passage was the effect of a two-year effort by both the government and non-government organisations. This is despite whistleblowing being a relatively novel practice in Bosnia and Herzegovina.

The Law on Whistleblower Protection in the Institutions of Bosnia and Herzegovina (the Law) is unique: it is the first European whistleblower law to provide anticipatory/proactive protection for whistleblowers.¹¹³ Despite the fact that Bosnia and Herzegovina's whistleblower law is relatively new, implementation and practice has been reasonably rapid. During its inaugural year of operation, two civil servants were granted whistleblower status. The finer points of the law's operation are discussed below.

Legislative framework

The Law took effect in December 2013. It is considered comprehensive in its application to the Bosnia and Herzegovina public sector.¹¹⁴ It punishes institutional non-compliance, permits both internal and external methods of reporting and, as stated above, provides proactive protection to whistleblowers as well as protection against an assortment of retaliation methods. It does not apply, however, to employees in the private sector or to the employees at entity level.¹¹⁵

Article 3 provides that all civil servants employed in an institution of Bosnia and Herzegovina may report circumstances indicating or suspected acts of corruption. The methods of disclosure are provided for in both Article 5 and 6. Article 5 provides for internal forms of disclosure.

Persons authorised to conduct internal disclosures (persons employed by Bosnia and Herzegovina institutions or legal entities established by Bosnia and Herzegovina as per Article 1) are required to submit reports of corruption to either; a superior,¹¹⁶ a manager of the institution who is responsible for compliance, or a person or body that performs supervision or audit within the institutions of Bosnia and Herzegovina.

Article 6 covers external methods of disclosure. These include reporting to authorities responsible for conducting criminal investigations¹¹⁷, the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption (APIK),¹¹⁸ and directly to the public in accordance to Article 2(d) (which provides for special protection for public disclosures indicating corruption).¹¹⁹

Article 6(2) provides three situations where special external disclosure to the public can be made: where the internal disclosure takes longer than 15 days, where the discloser believes the internal disclosure has been irregular, and where the discloser has reason to believe that the authorised person designated to receive internal reports may be directly or indirectly implicated with the act of corruption.

Article 7 stipulates the protective elements of the legislation. Protection is provided through the granting of whistleblower status. This status is to be granted or rejected within 30 days of the initial report of misconduct. The affording of whistleblower status is controlled by the Agency for Prevention of Corruption and Coordination of the Fight against Corruption (herein after APIK), with description of mechanisms and authority discussed below in Institutions and Procedures.¹²⁰

Though APIK is authorised to provide whistleblower status to those who report internally (Article 5) and externally (Article 6 and Article 2 paragraph D), Article 7(2) provides protection to all reports from the

day of submission. Consequently, the act provides protection on a declarative basis, rather than a constitutive one.¹²¹

Civil servants are obliged under the pre-existing legislation to report criminal offences of which they have knowledge, through information provided to them or learned by them in some other manner.¹²²

Institutions and procedures

The primary institution charged with the protection of whistleblowers is APIK. APIK is empowered by Article 10 of The Law on Whistleblower Protection to provide oversight of the law. The Law on the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption created the APIK on 30 December 2009.

APIK's primary function is the prevention of corrupt practices that may undermine both the economic development and the fundamental human rights and freedoms of Bosnia and Herzegovina. APIK is an independent and autonomous administrative unit, which reports directly to the Bosnia and Herzegovina Parliamentary Assembly.

APIK's gambit of powers is extended to both the public and private sector, including members of the judiciary, public servants, and commercial board members of both public and private enterprises. Disclosures made directly to APIK are referred to the proper investigating authorities for further investigation.

The Administrative Inspectorate of the Ministry of Justice of Bosnia and Herzegovina is authorised to conduct investigations and inspections in situations where whistleblowers have suffered detrimental actions or retaliation.¹²³

Article 11 of the Law provides the Inspectorate with the ability to impose misdemeanour penalties in accordance with the Law on Misdemeanours. Such penalties can be a fine of BAM 10,000 up to BAM 20,000. Article 11(3) provides misdemeanour warrants with a penalty fine up to BAM 10,000 for those who knowingly submit a false report.

All institutions of Bosnia and Herzegovina are required to issue required by-laws to affect appropri-

ate whistleblowing mechanisms. Under Article 12, failure to do so can result in a fine of 10,000 to 20,000 BAM.



Croatia

Summary

Croatia has the lowest level of administrative corruption within the region, according to an research on anti-corruption practices in SEE.¹²⁴ Croatia's 2008 Anti-corruption Strategy attempted to institute a set of wide ranging objectives for the public services, and focusing on corruption repression through prosecutions and sanctions rather than preventative measures.¹²⁵

Though, in recent years, Croatia has implemented intensive reforms and invested significant effort into establishing a comprehensive legal and institutional framework in preparation for its accession into the EU¹²⁶, this has not brought about the introduction of a substantive whistleblower protection law. At present, Croatia has no legal framework for the protection of whistleblowers. Furthermore, Croatia has no dedicated institutions or agencies that deal with whistleblower protection.

In October 2013, the proposed Act on the Protection of Whistleblowers was introduced to the Croatian

¹¹² Shentov, Ognian et al (Eds.), *Anti-Corruption Reloaded: Assessment of Southeast Europe*, Southeast Europe Leadership for Development and Integrity, Sofia, 2014, p. 40.

¹¹³ Article 7, Law on Whistleblowing Protection in the Institutions of Bosnia and Herzegovina.

¹¹⁴ Worth, *Whistleblower Protection...*, p. 13.

¹¹⁵ CRD, *Handbook for Enforcing the Law on Whistleblower Protection in the Institutions of Bosnia-Herzegovina*, Center for Responsible Democracy Luna, Sarajevo, March 2014.

¹¹⁶ Under The Law on Civil Service in the Institutions of Bosnia and Herzegovina (Official Gazette No. 19/02) superiors are defined as senior (managerial) civil servants, which may include: chief of organisational unit, assistant minister, assistant director, chief inspector, and secretaries entrusted with special tasks.

¹¹⁷ Article 6(1)(a), Law on Whistleblower Protection in the Institutions of Bosnia and Herzegovina.

¹¹⁸ Ibid, Article 6(1)(b).

¹¹⁹ Ibid, Article 6(1)(c).

¹²⁰ Law on the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption, 30 December 2009, No 103/09.

¹²¹ CRD, *Handbook for Enforcing the Law on Whistleblower Protection in the Institutions of Bosnia-Herzegovina*, Centre for Responsible Democracy Luna, Sarajevo, March 2014, p. 32.

¹²² Article 123(1) of the Criminal Procedure Code of Bosnia and Herzegovina.

¹²³ CRD, *Handbook for Enforcing the Law on Whistleblower Protection...*, p. 22.

¹²⁴ Shentov, Ognian et al (Eds.), *Anti-Corruption Reloaded*, p. 12. According to the SELDI/CSD Corruption Monitoring System, Croatian public perception of corruption is between 8-9%.

¹²⁵ "Croatian Anti-corruption Strategy", *Official Gazette No 75/2008*.

¹²⁶ Worth, *Whistleblower Protection...*, p. 23.

Parliament. The proposed draft includes protections of whistleblower rights, initiatives to rehabilitate whistleblowers back into the work-place, and creation of an Ombudsman for the protection of whistleblowers as well as criminal provisions sanctioning acts of retaliation.¹²⁷ The proposal did not pass Parliament.

Legislative framework

As a party to the Criminal Law Convention on Corruption, Croatia is obliged to consider providing protection in law to reports of corruption. Some protection can be found within some of Croatia's employment and criminal legislation.

The key legislative instruments are seen below.

The Civil Service Act, OG No 92/05, 142/06, 77/07, 107/07, 28/08

The Labour Act, OG No 93/2014

The Act on the Prevention of Conflicts of Interest in Public Office

Criminal Code, OG (NN) No 110/97, 27/98, 129/00, 51/01, 111/03, 105/04, 84/05, 71/06

The Civil Service Act provides that any civil servant who has reported suspected misconduct based on reasonable belief may not be unreasonably terminated, and guarantees anonymity and protection against retaliation or abuse.¹²⁸ Article 99 of the same provides that any limiting or withholding of rights of a reporting person (including "abuse" of the report) constitutes a serious breach of official duty under the act, which can result in dismissal under Article 110.

In 2015, Croatia introduced a new Labour Act. Previously, Croatia's Labour Act had been considered one of the strictest in Europe.¹²⁹ Article 117(3) of the Croatian Labour Act provides that reporting of suspected corrupt activities to "competent persons or public authorities" is not grounds for dismissal. Furthermore, any involvements in legal proceedings

after providing a report on suspicions of corruption, or violation of the law thereof, do not constitute justified grounds for termination.

The Labour Law also specifies that in instances of dismissal after an employee, in good faith, has reported suspected corruption to a competent authority, the burden of proof that such dismissal was not a violation of the employee's rights lies with the employer.¹³⁰

The Act on the Prevention of Conflicts of Interest in Exercise of Public Office provides that all officials must disclose assets and any relationships to individuals or enterprises that represent a possible conflict of interest or influence their impartiality. Despite this, there are no specific avenues for related parties to report on conflicts of interest - this is left up to the officials (defined in Article 2) themselves.

The Croatian Criminal Code provides some protection for whistleblowers, making it illegal to fire a whistleblower for reporting suspicious or illegal activity to the competent individuals or authorised government authorities. If it is found, judicially, that such a dismissal was indeed unfair, the failure to reinstate the employee can incur a prison sentence of up to three years.¹³¹ Furthermore, some protection may be provided for whistleblowers who are mistreated by public officials under Article 127.

Despite its introduction into parliament for review and discussion in October 2013, the Act on the Protection of Whistleblowers has not been implemented. The Croatian Parliament has recognised in the Anti-corruption Strategy 2015-2020¹³² the need to further strengthen whistleblower protection law in accordance with the Council of Europe's Recommendation CM/RE (2014) 7.¹³³

Institutions and procedures

Croatia has no agency that is mandated to protect whistleblowers. However, there are public avenues and hotlines for reporting that are run by the Office for the Suppression of Corruption and Organised Crime (USKOK) and the Ministry of Interior and Ministry of Public Administration.

USKOK is considered a success for the Croatian anti-corruption strategy (it has been described as "the only thing that worked and is still working").¹³⁴ USKOK has a range of extraordinary powers at their disposal in regard to investigating corruption (subject to judicial review). These include the ability to investigate personal financial data and business interests, freeze assets, conduct undercover operations, and to instigate surveillance operations.¹³⁵

Despite these hotlines, many people in Croatia prefer to remain anonymous when blowing the whistle, contacting NGOs such as Udruga Zviždač.¹³⁶ This points to both the importance of providing anonymous reporting channels, and providing protections for going to external avenues, such as the media and NGOs.



Kosovo*

Summary

Kosovo* enacted the Law No 04 L-043 on Protection of Informants ("the Law") in 2011.¹³⁷ The adoption of the Law was swift: having been adopted a month after its presentation to Parliament.¹³⁸ Despite this,

corruption remains a serious issue in the embryonic economy, which continues to exhibit a high susceptibility to corruption.¹³⁹

Legislative framework

The Law extends provisions relating to the protection of whistleblowers to both public and private sector employees (Article 2.1.1.1). Article 3 guarantees to both, three basic forms of protection for whistleblowers.

First, it guarantees anonymity for those who report misconduct (Article 3.5). Furthermore, the responsibility of this anonymity is placed upon the employer or the supervisor of the public institution. Second, it provides redress to "the competent court" for those who have been unfairly dismissed on the basis of their whistleblowing. Finally, where potential risk to the bodily integrity of a whistleblower, their family, or their property is suspected, protection is provided to the whistleblower in accordance with Law No 04/L 015 on Witness Protection, which may provide a wide range of protective actions, including physical protection, relocation, etc.¹⁴⁰

Institutions and procedures

The Law remains troublesome in its ambiguity: it is unclear how reports should be made, what the specific requirements are for the implementation of whistleblower procedures in both the private and public sector, or how whistleblowers can proceed in instances where direct supervisors may be involved in corruption.¹⁴¹

Additionally, the protections provided seem inadequate. This is due to the fact that though whistleblowers that have been disciplined or dismissed may be reinstated and compensated after a hearing by the courts, the burden of proof that the discipline was directly triggered by the reporting act remains with the employee.

Local institutions and private enterprises are also required to "create conditions" for those who re-

¹²⁷ Shentov, Ognian et al (Eds.), *Anti-Corruption Reloaded*, p.50.

¹²⁸ Article 14a, *The Civil Service Act, OG 92/05, 142/06, 77/07, 107/07, 28/08*. http://pak.hr/cke/propisi_zakoni/en/CivilServantsAct/EN.pdf

¹²⁹ Bejakovic, Predrag, "Croatia: The New Labour Act", *Eurofound*, 3 March 2015, <http://www.eurofound.europa.eu/observatories/eurwork/articles/working-conditions-industrial-relations-law-and-regulation/croatia-the-new-labour-act>.

¹³⁰ Article 135, *The Labour Act, OG No 93/2014*.

¹³¹ Worth, *Whistleblower Protection...*, p.23.

¹³² Strategy Combating Corruption for the Period from 2015 to 2020, *Official Gazette* 26/2015.

¹³³ CoE, Recommendation CM/REC(2014)7 of the Committee of Ministers to Member States on the Protection of whistleblowers, *Council of Europe*, 30 April 2014, <https://wcd.coe.int/ViewDoc.jsp?id=2188855&Site=CM>.

¹³⁴ Kuris, Gabriel, "How a Resurgent Antifrat Bureau Helped Croatia Turn a Corner on Corruption" in *Government Anti-Corruption Strategies: A Cross Cultural Perspective*, ed Yahong Zhang and Cecilia Lavina, CRC Press, Florida, 2015, p.181.

¹³⁵ Act on the Office for Suppression of Corruption and Organised Crime, *Official Gazette* 76/09, 116/10, 145/10, 57/11, 136/12, 148/13.

¹³⁶ Vasiljevic, Snjezana (2010), "Tasks and challenges: Making whistleblowing work in Croatia", *Whistleblower Protection in the Central and Eastern Europe Region*, <http://www.whistleblowing-cee.org/countries/croatia/research>

¹³⁷ Law No 04/L-043 On Protection of Informants, *Official Gazette, Prishtina*, No. 14, 9 September 2011. [http://www.md-ks.net/repository/docs/Ligji_per_mbrotjen_e_info_\(anglisht\).pdf](http://www.md-ks.net/repository/docs/Ligji_per_mbrotjen_e_info_(anglisht).pdf)

¹³⁸ Worth, *Whistleblower Protection...*, p. 28.

¹³⁹ Shentov, Ognian et al (Eds.), *Anti-Corruption Reloaded*, p. 12.

¹⁴⁰ Law No 04/L-015 On Witness Protection, *Official Gazette, Prishtina*, No. 13, 1 September 2011; http://www.md-ks.net/repository/docs/law_on_witness_protection.pdf

¹⁴¹ Worth, *Whistleblower Protection...*, p. 28.

port misconduct that do not hinder the work environment of the reporter.¹⁴² Though the creation of such conditions is legislated, the Law does not stipulate concretely what such conditions are, nor how they should be implemented.

Furthermore, there are issues in regard to the protection of anonymity of disclosers: the Law does not clearly define the protections afforded to the informant's identity, nor does it provide any sanctions against institutions or officials who reveal the identity of a reporter.¹⁴³

Official channels for reporting/whistleblowing are lacking. The Ministry of Justice is in charge of the administration of the Law. Despite this, the Law does not specify a specific institution or commission to which abusive or retaliatory practices by government institutions or officials can be reported.¹⁴⁴ The Anti-Corruption Agency maintains both a confidential public hotline and website for reporting suspected corruption.



The Former Yugoslav Republic of Macedonia

Summary

The “State Programme for Prevention and Repression of Corruption and Prevention and Reduction of Conflict of Interest with Action Plan 2016-2019” is the primary (current) anti-corruption policy in The Former Yugoslav Republic of Macedonia.¹⁴⁵ Accordingly, it passed¹⁴⁶ the Law on the Protection of Whistleblowers in November 2015.¹⁴⁷

Legislative framework

The Law on the Protection of Whistleblowers (the Law) regulates all protected disclosures of information in regard to suspected corrupt activities or misconduct.¹⁴⁸ The Law provides protection for whistleblowers that provide internal, external or public disclosures, made in good faith on the reasonable belief of corruption.¹⁴⁹

Furthermore, it details the rights pursuant to receiving whistleblower status, along with procedures and duties of institutions, and their responsibilities in regard to the protection of whistleblowers.

The Law protects specific categories of whistleblowers, which include regular employees, as well as job applicants, volunteers, interns, and those who have had business relations with certain institutions.¹⁵⁰

The Law also protects three different types of disclosure - internal disclosures (under Article 4), external disclosures (under Article 5) and public disclosures (under Article 6). Whistleblowers are able to make protected internal disclosures within the institution of their employ, in particular, anything they believe (suspicions or knowledge) to be evi-

dence of a punishable activity, or any unlawful act that threatens or violates public interest. Such disclosures can be verbal, or written to those authorised to receive reports.

Article 7 ensures the protection of both the whistleblower's identity and their personal data. The Law also provides court protection for whistleblowers that enables them to initiate civil and administrative proceedings against institutions where they have been unduly persecuted because of their reporting.¹⁵¹

Institutions and procedures

Currently, The Former Yugoslav Republic of Macedonia lacks any specific body to deal with whistleblower cases. The lack of a specific institution to deal with issues of whistleblower retaliation is of particular concern.¹⁵²



Montenegro

Summary

The European Commission reported in October 2014 that Montenegro's whistleblower protective laws needed to be more effective in practice.¹⁵³ Where there are laws that are not working to provide pro-

tection, there is a chilling effect on reporting, by both public and private sector employees, with many reluctant to come forward and report misconduct or possible illegal/corrupt activities.

The new Law on Prevention of Corruption, which came into force on 1 January 2016, attempts to provide a comprehensive whistleblower framework for both the public and private sectors.

Legislative framework

Montenegro, at present, possesses no specific whistleblower law.¹⁵⁴ Notwithstanding, its legal system does include some individual laws that provide a modicum of protection to whistleblowers.

The primary legislative instruments are listed below.

Law on Prevention of Corruption

Law on Civil Servants and State Employees

Labour Law

Criminal Code of Montenegro No 70/2003

In January 2016, the Law on Prevention of Corruption¹⁵⁵ entered into force. This replaced the older Law on Prevention of Conflicts of Interest, as well as some provisions of the Law on Public Officials and Labour Law.¹⁵⁶ The new law introduces significant changes to whistleblower protections in Montenegro (Chapter 3).

Furthermore, the Law provides protection to whistleblowers in both the private and public sector, as well as those requiring protection in the course of assisting a whistleblower. Whistleblowers are able to report both internal and external disclosures - internally through the public authority, company or other legal entity¹⁵⁷, or directly to the Agency for Prevention of Corruption.

Public authorities, private companies, other legal entities and the Agency are required to ensure that whistleblower data (defined under Article 46 as “the signature and personal information of the

¹⁴² Article 4, Law No 04/L-043 on Protection of Informants, Official Gazette, Prishtina, , No. 14, 9 September 2011.

¹⁴³ FOL “Policy Brief: The Impact of Government Decisions in the Fight Against Corruption 2010-2011”, *FOL Movement*, 2014, <http://levizjafol.org/folnew/wp-content/uploads/2014/12/Policy-Brief-The-Impact-of-Government-Decisions-in-the-Fight-Against-Corruption-2010-2011.pdf>

¹⁴⁴ Ibid.

¹⁴⁵ SCPC, State Programme for Prevention and Repression of Corruption and Prevention and Reduction of Conflict of Interests with Action Plan 2016 - 2019, *State Commission for Prevention of Corruption*, December 2015, <http://www.dksk.org.mk/en/images/stories/PDF/stateprograme-eng-final.pdf>

¹⁴⁶ CoE, “The Former Yugoslav Republic of Macedonia - Forthcoming Opinion - A Visit of the Delegation of the Venice Commission”, *Council of Europe, Venice Commission*, 9 February 2016, <http://www.venice.coe.int/webforms/events/?id=2164>.

¹⁴⁷ Law on the Protection of Whistleblowers, Official Gazette No 196/2015.

¹⁴⁸ Article 1, Law on the Protection of Whistleblowers, Official Gazette No 196/2015.

¹⁴⁹ Georgievski, Bojan, “Inform to Reform: Improving Whistleblower Protection in The Former Yugoslav Republic of Macedonia”, *15th Young Faces Conference: Use and Abuse of Electronic Surveillance*, A Centre for Security, Development and the Rule of Law - DCAF, Brdo pri Kranju, 20-23 October 2015, http://www.dcaf.ch/content/download/314199/4951497/version/1/file/Bojan_Georgievski_Inform_to_Reform_Improving_Whistleblower_Protection_in_Macedonia.pdf

¹⁵⁰ Article 3, Law on the Protection of Whistleblowers, Official Gazette No 196/2015.

¹⁵¹ Georgievski, Bojan. “Inform to Reform...”

¹⁵² Ibid.

¹⁵³ Worth, *Whistleblower Protection...*, p. 44.

¹⁵⁴ Ibid.

¹⁵⁵ Law on Prevention of Corruption, Official Gazette No 1/2016.

¹⁵⁶ Karanovic and Nikolic, “Montenegro Adopts New Law on Prevention of Corruption”, 26 January 2016, <https://www.karanovic-nikolic.com/knnews/Pages/2016/01/26/Montenegro-Law-on-Prevention-of-Corruption.aspx>.

¹⁵⁷ Article 45, Law on Prevention of Corruption, Official Gazette No 1/2016.

whistleblower”) is protected in accordance with the law governing data confidentiality.¹⁵⁸ Providing such data as referred to in Article 46, in relation to the whistleblower’s identity, is not compulsory, as a whistleblower can decide to report anonymously.

Several forms of protective procedures are put in place to ensure the integrity of whistleblowers. The protection of whistleblowers is conducted by the Agency.¹⁵⁹ Whistleblowers must submit a request for protection to the Agency.¹⁶⁰

The Agency is likely to provide protection if there is “damage” consequent to the submission of a report. Damage includes risk to life, health, assets, as well as termination of employment, termination of contracts, and disciplinary proceedings.¹⁶¹ Protection is also provided in instances of third party liability to risk of damage to whistleblowers.

The Law on Civil Servants and State Employees provides some protection for public employees against unfair dismissals or retaliation after the reporting of corruption, unlawful or improper actions.¹⁶²

Some protection is provided to private sector employees under the Labour Law, which ensures confidentiality and anonymity when reporting corruption. The Labour Law also levies fines against breaches of employee rights that can reach €20,000.¹⁶³ Despite these protections, they are significantly lacking in genuine protection.

Institutions and procedures

The primary agency is the Agency for Prevention of Corruption. The recent updates to Montenegro’s anti-corruption legislation centralised all authority related to anti-corruption initiatives to the Agency. The Agency controls and provides protection given to whistleblowers. The Agency has the ability not to provide protection to whistleblowers where the application thereof is “untimely” (the Agency provides a six-month time frame for application or protected status).¹⁶⁴

Under the Law, the Agency can also provide assistance to the whistleblower in proving a causal con-

nection between the submission of a report and the subsequent damage suffered during judicial proceedings initiated by the whistleblower (this is despite the burden of proof being placed on the “authority, company, or legal person or entrepreneur” under Article 64).¹⁶⁵



Serbia

Summary

The poor and uncertain public perceptions on whistleblowing revealed in our survey could be attributed to the performance of government frameworks in place before the Law on the Protection of Whistleblowers was passed in 2014. Experts have reported that some people who received official whistleblower status from the Anti-Corruption Agency (ACA) under the previous system were “marked and victimised.”

The designation did not always succeed in shielding whistleblowers from being fired, in which case they sought redress from the courts. In some cases, the ACA rescinded a person’s whistleblower status, which could not be appealed. According to experts, retaliation is commonplace, with dozens of whistleblowers being “promptly punished.”¹⁶⁶

Still, the top reason people choose not to report misconduct in Serbia is the belief that nothing will result.¹⁶⁷ This resonates with our finding that 45 percent of respondents did not know whether they are confident a report would make an impact.

Promptly after taking effect in June 2015, the Law on the Protection of Whistleblowers began supporting a number of employees who had been retaliated against after reporting misconduct:

- ▶ In October 2015 Miloš Krstić, an elementary school secretary who was fired after exposing a corrupt school principal, was reinstated by the Belgrade Higher Court.¹⁶⁸
- ▶ In December the Sremska Higher Court ordered Vladimir Bozic to be reinstated to his job at a car part factory where he reported that excessive and illegal overtime was causing worker fatigue.¹⁶⁹
- ▶ Belgrade police detective Slobodan Marinković, who had reported corruption by police officers and politicians in 2013, was ordered reinstated by a judge on 6 January 2016.¹⁷⁰

It should be reiterated that one of the keys to the success of the Law in Serbia is that it was developed patiently and publicly by a team of government officials who welcomed input from international whistleblower and anti-corruption experts - and from whistleblowers themselves.

It is worth considering adopting this patient and public approach in order to fill the knowledge and awareness gaps among the citizenry revealed by our survey. There may be an advantage in the fact that rather than holding strong views against or suspicious of whistleblowers, many people in Serbia either have not made up their minds or believe they do not have enough information to form opinions on various whistleblower issues. This suggests there is an opening to employ awareness-raising campaigns and messages to sway public opinion in the appropriate direction.

Serbia’s Whistleblower Protection Act is wide-ranging: it provides protection for both public sector and private sector employees against retaliation for the reporting of misconduct.¹⁷¹ Serbia’s current Anticorruption Strategy 2013-2018 was adopted in July 2013, with the objective of reducing corruption to its lowest possible level.¹⁷² Serbia’s new Whistleblower Protection Act constitutes the furthering of this national strategy.

Legislative framework

Serbia’s whistleblower protection law contains many European and international standards, and is one of the few laws in Europe considered to be comprehensive. It offers protection to whistleblowers in both the public and private sector. The Law regulates whistleblowing, whistleblowing procedure, whistleblower rights, and governmental obligations to whistleblowers.

Previously, the Anti-Corruption Agency (ACA) only protected those blowing the whistle in Serbia. The Whistleblower Act now provides court protection (under Article 21) to those who blow the whistle.¹⁷³

The Law’s definition of “whistleblower” is “a natural person performing whistleblowing”. Due to this wide definition, the Law is able to cover a wide variety of sectors and issues, including violations of financial laws, human rights, as well as risks to public health, security and the environment.¹⁷⁴ The Law protects against adverse actions against whistleblowers, such as any act or omission that jeopardises the rights of a whistleblower or puts them into a less favourable position.

Though the Law prohibits retaliation or retribution against whistleblowers under Article 3, it provides no criminal sanctions for those who endanger a whistleblower’s safety.¹⁷⁵ Whistleblowers may be entitled to compensation/damages according to Serbia’s Contracts and Torts Act.¹⁷⁶

¹⁵⁸ Article 56, *Ibid.*

¹⁵⁹ Article 58, *Ibid.*

¹⁶⁰ Article 60, *Ibid.*

¹⁶¹ Article 59, *Ibid.*

¹⁶² The Law on Civil Servants and State Employees, Official Gazette of the Republic of Montenegro, No 27/04, 2004.

¹⁶³ Worth, *Whistleblower Protection...*, p. 44.

¹⁶⁴ Article 61, Law on Prevention of Corruption, Official Gazette No 1/2016.

¹⁶⁵ Article 66, *Ibid.*

¹⁶⁶ Worth, *Whistleblower Protection...*, p. 59.

¹⁶⁷ *Ibid.*

¹⁶⁸ Pistaljka, “Uzbunjivač Miloš Krstić Dobio Sudsku Zaštitu” (“Whistleblower Milos Krstic receives court protection”), 31 October 2015, <https://pistaljka.rs/home/read/518>.

¹⁶⁹ Pistaljka, “Prva Sudska Zaštita u Privatnom Sektoru” (“The first court protection in the private sector”), 10 December 2015, <https://pistaljka.rs/home/read/528>.

¹⁷⁰ Radomirovic, Vladimir, “Promising Start for Serbian Whistleblowing Law,” *Whistleblowing International Network*, 28 January 2016, <http://whistleblowingnetwork.org/2016/01/28/promising-start-for-serbian-whistleblowing-law/>

¹⁷¹ Worth, *Whistleblower Protection...*, p. 55.

¹⁷² Shentov, Ognian et al (Eds.), *Anti-Corruption Reloaded*, p.43.

¹⁷³ Worth, *Whistleblower Protection...*, p.55-56.

¹⁷⁴ *Ibid.*, p.55-56.

¹⁷⁵ Jovanovic, Igor, “Whistleblowers Get Better Protection in Serbia” *Balkan Insight*, 5 June 2015.

¹⁷⁶ Serbia’s Contracts and Torts Act (Official Gazette of the Socialist Federal Republic of Yugoslavia nos. 29/78, 39/85, 45/89, 57/89; Official Gazette of the Federal Republic of Yugoslavia nos. 31/93, 22/99, 23/99, 35/99, 44/99).



The ACA specified the requirements for whistleblower policies within the public sector in their “Rulebook on Protection of Whistleblowers”. Despite this, the ACA has had considerable difficulty in adequately protecting whistleblowers.¹⁷⁸ Furthermore, domestic legislation has conflicted with international conventions, for example, in the case of the ACA being unable to act on anonymous complaints in accordance with the UN Convention against Corruption. Furthermore, the ACA has no investigative or prosecutorial powers.¹⁷⁹

Institutions and procedures

In the private sector, the Ministry of Justice’s Decree on Internal Whistleblowing Procedures provided requirements for all employees to create internal procedures for whistleblowing. Employers in Serbia must:

1. deliver all employees a written notification about their rights under the Act;
2. appoint an authorised person to receive whistleblowing claims and manage internal procedures (an Ombudsman); and
3. adopt a rulebook for internal whistleblowing procedure.¹⁸⁰

This applies to all companies with ten or more employees and such internal procedures are required to be in place no less than six months later than the enactment of the law.

According to many private law firms operating in the area, prompt compliance has been recommended in the private sector, due to the laws immediate effect, as well as the difficulties that may be faced when instituting compliant procedures (for example, the selection of an ombudsman has been noted as being particularly sensitive and challenging).

The Law imposes fines on employers who do not institute appropriate internal procedures for whistleblowing. For example, legal entities can be fined from RSD 50,000 to 500,000 (misdemeanour fines are covered by Chapter V Article 36).¹⁸¹

Other important legislation is listed below.

The Law on Civil Servants (Official Gazette No 79/05, 81/05, 83/05, 64/07, 67/07, 116/08, 104/09)

The Law on Free Access to Information of Public Importance (LFAIPI) (Official Gazette No 102/04, 54/07, 104/09, 36/10)

The Law on the Anti-Corruption Agency (Official Gazette 97/08, 53/10)

Article 23(a) of the Law on Civil Servants requires civil servants to report suspicions of corruption.¹⁷⁷ Retaliatory action against any civil servant who reports suspicions of corruption is prohibited under Article 109(5)(a). Furthermore, civil servants are able to refuse to carry out orders from superiors where they believe they have been ordered to carry out an illegal act (Article 18).

¹⁷⁷ Stephenson, Paul, “Protection of Whistleblowers in Serbia”, *United Nations Development Programme*, Belgrade, July 2012, https://pistaljka.rs/scms/public/media/files/FINAL_REPORT_Paul_Stephenson.pdf

¹⁷⁸ Shentov, Ognian et al (Eds.), *Anti-Corruption Reloaded*, p.60.

¹⁷⁹ Stephenson, Paul, “Protection of Whistleblowers in Serbia”.

¹⁸⁰ Bajic, Dragan, “Employers must set up internal whistleblowing procedures in Serbia”, *Kinstellar*, June 2015,

<http://www.kinstellar.com/insights/detail/242/employers-must-set-up-internal-whistleblowing-procedures-in-serbia>

¹⁸¹ Law on Protection of Whistleblowers, *Official Gazette*, No. 128/2014, <http://tasiclaw.com/?p=704&lang=en>

APPENDIX II SURVEY QUESTIONS AND RESPONSES

Regional results

Which one of the following comes closest to your view? (*Select one answer*)

1	In your society, too much information is kept secret in organisations	37.60%
2	In your society, about the right amount of information is kept secret in organisations	20.45%
3	In your society, not enough information is kept secret in organisations	16.18%
4	Can’t say	25.76%

Which of the following comes closest to your view? (*Select one answer*)

1	In your society it is generally unacceptable for people to speak up about serious wrongdoing, if inside information would have to be revealed	34.78%
2	In your society it is generally acceptable for people to speak up about serious wrongdoing, even if means revealing inside information	37.55%
3	Neither / can’t say	27.67%

Which of the following best describes what you think should happen in your society? (*Select one answer*)

1	People should be supported for revealing serious wrongdoing, even if it means revealing inside information	56.42%
2	People who reveal inside information should be punished , even if they are revealing serious wrongdoing	17.02%
3	Neither / can’t say	26.57%

How **acceptable** do you personally think it is for someone to reveal inside information about serious wrongdoing by each of these different types of people? (*Select one answer per row*)

	To reveal inside information about...	Acceptable		Neither / can’t say	Unacceptable		
		Highly	Fairly		Fairly	Highly	
A	serious wrongdoing by people in charge of an organisation	21.19%	26.35%	36.96%	8.02%	7.48%	100 %
		47.54%			15.50%		
B	serious wrongdoing by other staff or workers in an organisation	18.75%	27.16%	38.70%	7.84%	7.54%	100 %
		45.92%			15.38%		
C	serious wrongdoing by a family member or personal friend working in the organisation	14.69%	23.94%	42.69%	10.17%	8.50%	100 %
		38.63%			18.67%		

Are you currently a member of an organisation? Choose the answer that **best** describes your present role, if any. (Select one answer)

1	Manager or director of an organisation	1.16%
2	Employee of an organisation	14.48%
3	Self-employed or contractor	6.20%
4	Volunteer or unpaid worker	0.89%
5	Other type of organisation member (including student or other community group member)	1.88%
6	None \ not a member of any organisation	75.38%

IF MEMBER OF ORGANISATION (IE CODE 1-5 IN #5):

Thinking about your role in the organisation you mentioned - how much do you **agree** or **disagree** with the following statements? (Select one answer per row)

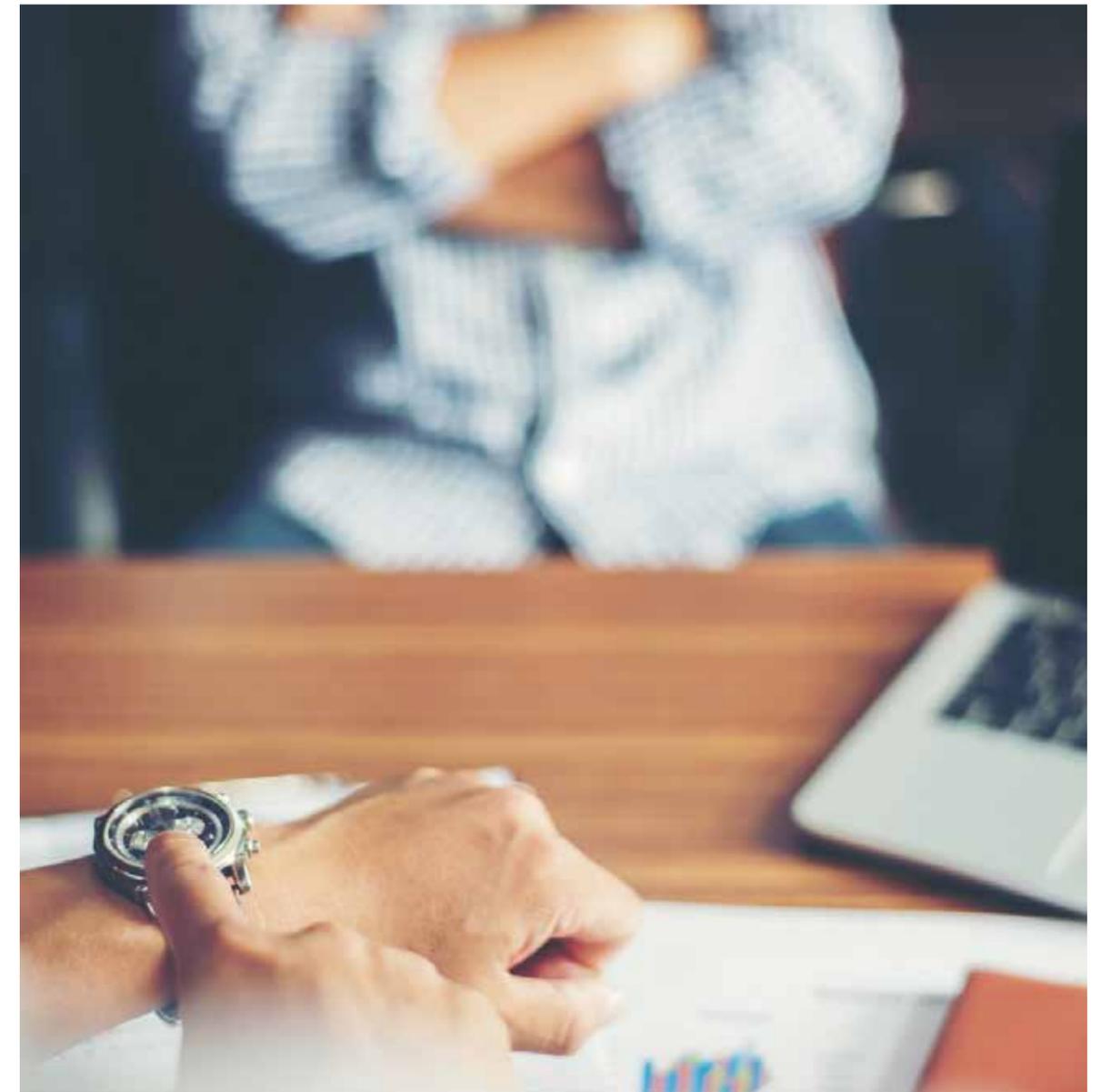
		Disagree		Neither/ can't say	Agree		
		Strongly	Disagree		Agree	Strongly	
A	If I observed wrongdoing, I would feel personally obliged to report it to someone in my organisation	3.84%	9.06%	34.60%	34.64%	17.86%	100 %
		12.90%			52.50%		
B	If I reported wrongdoing to someone in my organisation, I am confident something appropriate would be done about it	7.50%	12.42%	37.88%	29.06%	13.14%	100 %
		19.92%			42.20%		
C	Management in my organisation is serious about protecting people who report wrongdoing	7.61%	11.40%	43.83%	25.06%	12.10%	100 %
		19.01%			37.16%		

In different societies, there are different views on the **most effective way** to take action to stop serious wrongdoing. Which **one** of these do you think is the **most effective way** in your society? (Select one answer)

1	By reporting the serious wrongdoing to people in authority , via official channels	30.08%
2	By reporting the serious wrongdoing to journalists or news organisations	14.43%
3	By reporting the serious wrongdoing directly to the general public, via the internet, Twitter, Facebook or on online blogs	5.44%
4	Some other way	6.37%
5	None of the above - in my society, there is no effective way to get action to stop serious wrongdoing	26.70%
6	Can't say	16.98%

If someone in an organisation has inside information about serious wrongdoing, **when** do you think they should be able to use a **journalist, the media, or the internet** to draw attention to it? (Select one answer)

		Ever / Never?	When reason to / last resort?	Full details
1	As a first option , in any situation	73.14%	49.33%	17.47%
2	Whenever there become specific reasons to do so		31.85%	
3	Only as a last resort , if all else fails		23.81%	23.81%
4	Never	7.94%	7.94%	7.94%
5	Can't say	18.92%	18.92%	18.92%



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