

Corruption and Anti-Corruption in Bosnia and Herzegovina National Corruption Assessment Report 2014

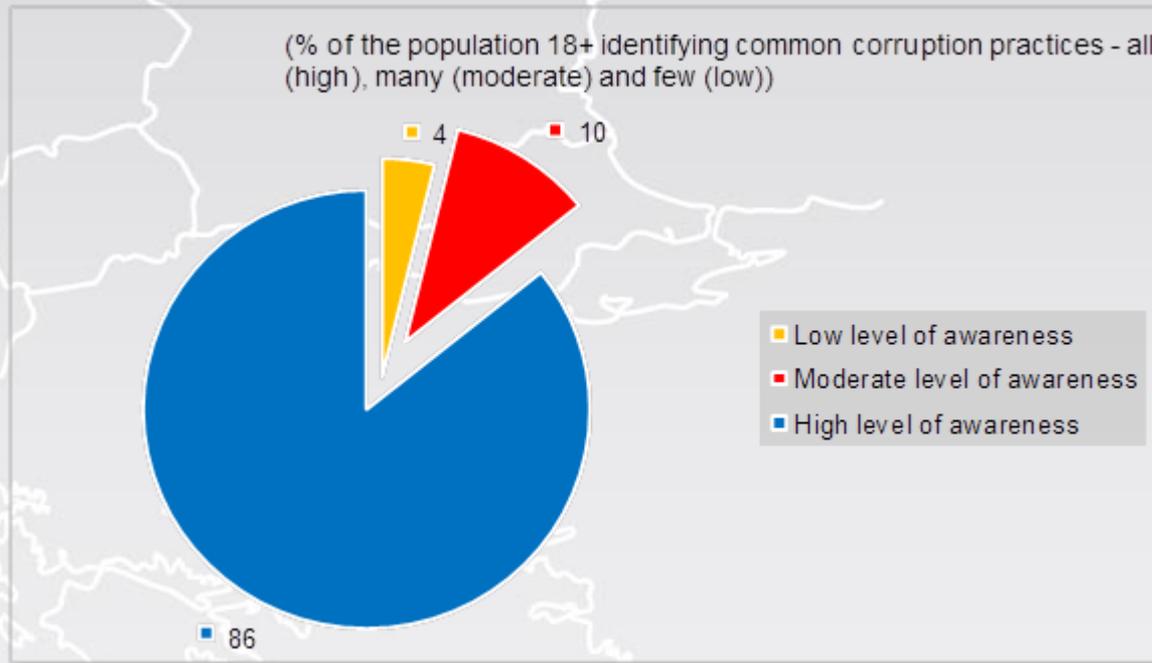
Ms. Leila Bicakcic
Center for Investigative Reporting (CIN)
Tirana, Albania
November 13, 2014



Introduction: Corruption Environment in Bosnia and Herzegovina

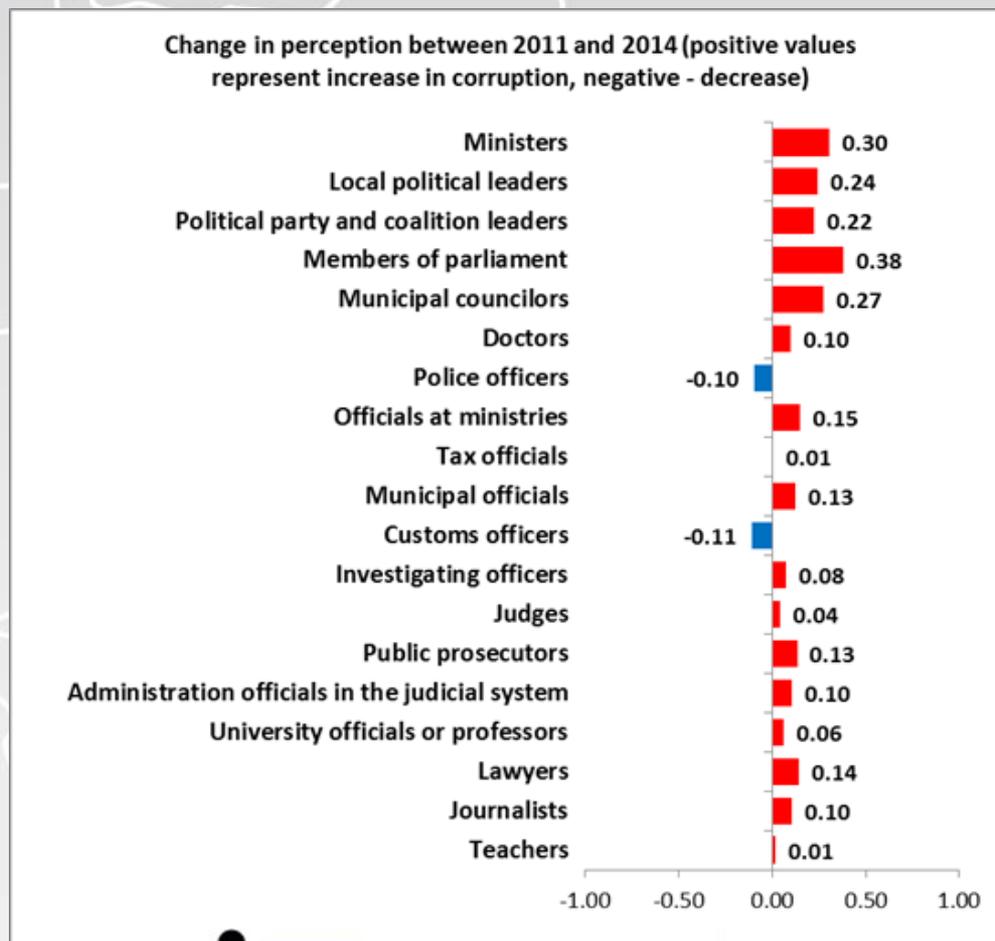
„Overall, Bosnia and Herzegovina has made little progress in advancing reforms to reduce corruption, which continues to affect the entire public sector and remains most acute in the areas of service delivery and access to employment. There is little political will to move beyond rhetoric and to tackle corruption, including effective investigations and convictions in high profile cases. While the legal framework is largely in place, the implementation of laws is weak and inconsistent. Some key pieces of legislation fail to comply with international standards.“

Corruption Awareness Index

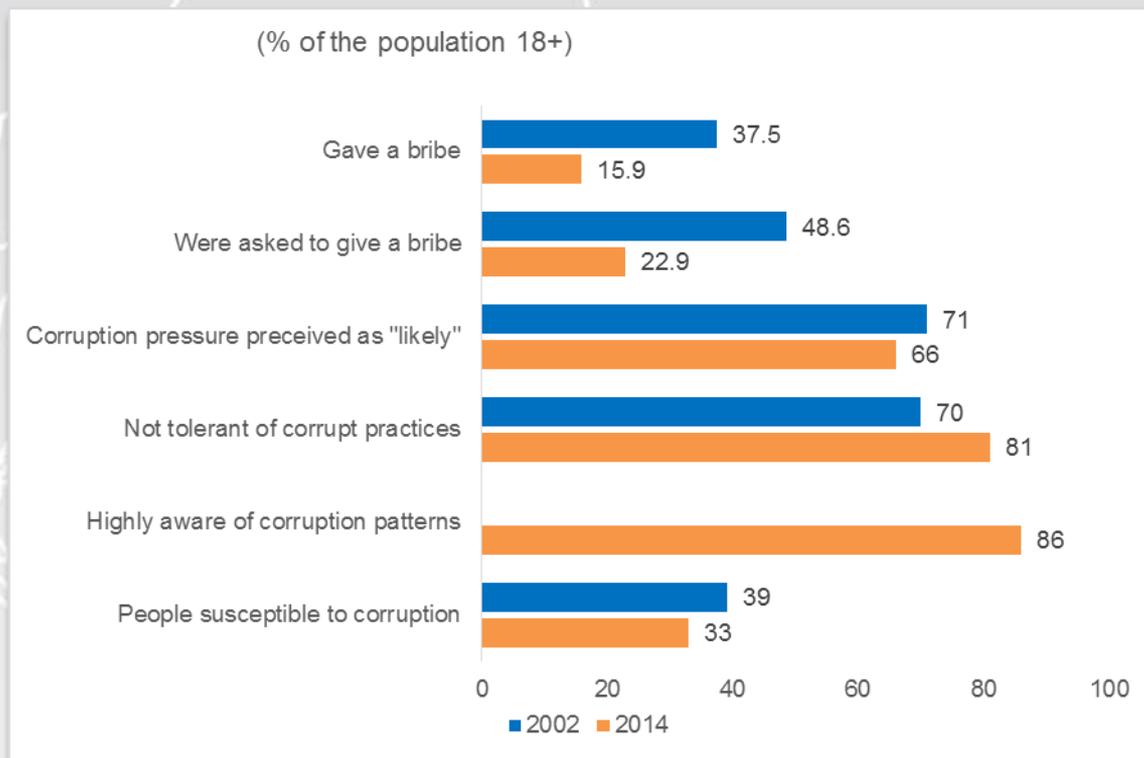


Perception of corruptness of public officials

Change in perception between 2011 - 2014



Susceptibility to Corruption



Anticorruption Policies and Regulatory Environment

- Strategy for Fight against Corruption in BiH adopted in 2009, for period 2009- 2014. Currently, new Strategy is being drafted and will be submitted for approval.
- Out of 81 planned measures, only 8 (9.8%) are completed in full, 57 (70.4%) are partially completed and 16 (19.8%) are not even started
- New Strategy in RS adopted in November 2013, in FBiH General Framework was adopted in 2012 for period until the end of 2014.

Anti-Corruption Laws

- Amendments to the Law on Conflicts of Interest at State level have been adopted, which do not guarantee impartiality and effective prevention of conflict of interest. Central Election Commission no longer has jurisdiction over the implementation and monitoring over the Law. Oversight given to parliamentary commission.
- The legislation on declaration of assets is fragmented. With four different laws overlapping, existing framework does not provide efficient review mechanisms that would enable proper verification of assets.
- The law on political party financing does not comply with the recommendations issued by GRECO. In line with article 20 of the United Nations' Convention Against Corruption, country Bosnia and Herzegovina should consider criminalizing inexplicable wealth.
- Changes to the law on access to information are pending the appointment of a new Working Group by the Council of Ministers. Proposed amendments are in direct breach of Free access to information principles.
- Amendments to the Criminal Procedure Code to improve the legal framework for the use of special investigative measures were withdrawn from parliamentary procedure.
- As regards protection of whistle-blowers, a State-level law was adopted, entrusting the anti-corruption agency with the protection of persons who report on corruption. A draft law on protection of whistle-blowers passed the public debate phase in the Federation.

Institutional Practice and Enforcement of the Law

- Agency for Prevention of Corruption and Coordination of the Fight against Corruption in BiH is operational, with adequate premises and an initial level of staffing. 5 additional advisors were recruited and started working. The Agency received opinions of all relevant bodies to amend its rulebook on internal organization, to create 20 new positions, which would bring the total number of staff to 49. The revised rulebook remains to be adopted.;
- Judiciary in BiH on all levels
- EU Progress reports “There was little progress in advancing reforms to reduce corruption, which continues to affect the entire public sector and remains most acute in the areas of service delivery and access to employment. Political patronage networks are widespread and influence all levels of government. Investigation and prosecution in high-profile cases remain insufficient and the overall level of effective investigations, prosecution and convictions is low. There is little political will to move beyond rhetoric and tackle corruption, including investigations and convictions in high-profile cases. There has been overall limited progress tackling organized crime, which remains a serious concern despite some successful joint operations, including through close coordination with neighboring countries. Fighting organized crime and corruption is fundamental to countering criminal infiltration of the political, legal and economic systems.”

The Judiciary in Anticorruption

- The Court of BiH has jurisdiction to trial criminal, administrative and civil cases, but also the authority to review in first and second instance and under the conditions and in the procedure as stipulated by the Law, that is, it has appellate jurisdiction
- Entity courts don't have special departments for corruption, but five district and ten cantonal courts, as well as the Basic Court of Brčko District, have jurisdiction to trial cases of corruption
- Special Department for Organized Crime, Economic Crime and Corruption has jurisdiction over the prosecution of crimes such as tax evasion, smuggling, customs fraud and money laundering, and criminal offenses pertaining to the corruption of senior officials of BiH and responsible persons with the highest functions in economic companies and other legal persons

The Judiciary in Anticorruption

- The track record of investigation and prosecution in high profile cases remains unsatisfactory and the overall level of effective investigations, prosecution and convictions is low. The capacity to investigate economic, financial and public procurement-related crimes is weak.
- There is a strong case for introducing specialization within the police and judiciary to fight corruption. The proposed law to establish specialized departments within the Prosecutor's Office and Supreme Court of FBiH to prosecute corruption and organized crime cases was adopted by the FBiH's parliament.
- There is still no effective criminal justice policy, and sanctions for corruption are no deterrent.

Corruption and the Economy

- World Bank' Doing Business Report ranked Bosnia and Herzegovina 104 out of 189 countries

Economy Overview

Region	Europe & Central Asia	
Income Category	Upper middle income	
Population	3,829,307	
GNI Per Capita (US\$)	4,740	
City covered	Sarajevo	
Doing Business 2015 Rank	Doing Business 2014 Rank***	Change in Rank
107	104	□ -3

- Labor market operates under relatively inflexible legislation that has a negative impact on employment. Rigid and outdated system of determining wages and collective agreements prevents the creation of new jobs and worker mobility

Corruption and the Economy

- initiate specific campaigns and actions to prevent bribery in process of starting the business
- intensify controls and punishing the perpetrators in this area
- create a favourable business environment by facilitating procedures of establishing business, obtaining permits etc.
- speed up all procedures in order to avoid potential space for corruption
- ensure transparency and precise criteria in budget spending and re-distribution
- amend the Law on Public Procurements in which the spaces for possible manipulation and abuse would significantly narrowed
- build the capacity of all public control bodies
- establish anti-corruption criteria and plans in all public control bodies

Civil Society in Anticorruption

- Increasing number of civil society organization working on anti-corruption projects
- ACCOUNT network of 150+ CSOs
- Coordination of activities of CSOs with Strategy for Fight Against Corruption (IPA 2010)
- Governmental funding to CSOs

International Cooperation

- Stabilization and Association Agreement, signed in 2008, still not fully ratified
- Progress Reports continuously report on lack of progress in anti-corruption
- National Integrity System is very weak since all pillars have more or less equally poor scores. This indicates the continued strong presence of state capture, that is, a situation in which the ruling oligarchy has complete control over the institutions of the system and manipulates the legal framework and policies to suit their own narrow individual interests

Policy Recommendations

- Supporting the government in fulfilling its obligations under the EU pre-accession agenda;
- Promoting an independent judiciary with the resources and capacity to fulfil its anticorruption and anti-organized crime mission;
- Enforcing strict control over the financing of political parties;
- Raising politicians and civil servant's integrity and ethical standards;
- Rationalizing government structures and promoting public participation, transparency and accountability;
- Supporting civil society's role in the fight against corruption;
- Mobilizing citizens to demand more transparency and accountability and to hold government accountable for its decisions and actions

Regional perspectives

- Ratification of international conventions and recommendations, particularly in anti-corruption
- Increased cooperation between judicial institutions in the region
- Implementation of European Court of Human Rights' ruling (Sejdic – Finci)

British – German proposed strategic approach

- Creating jobs, especially for young people. Strengthening the rule of law. Reducing bureaucracy and cutting the costs of government
- • First, to institutional reforms at all levels of the State, designed to make it more functional and able to work effectively with the EU
- Secondly to agree with the EU a roadmap for a broader reform agenda to advance Bosnia and Herzegovina on its EU accession path, including implementation of the Copenhagen political and economic criteria

Thank you !

Leila Bicakcic

Center for Investigative Reporting (CIN)

www.cin.ba

E-mail: leila@cin.ba