I. INTRODUCTION

Corruption has become a major issue, particularly in the countries of transition. It has become an accompanying phenomenon of the transition from state-socialism to market capitalism and democracy in Southeast Europe (SEE). The common problems that post-communist societies face contribute to this fact significantly, but there are also a number of characteristics specific to the countries in SEE:

■ Public sector operations are non-transparent, performance is poor and distrust of the citizens towards public officials is high.

■ The collapse of the Communist regimes left behind an over-extended public sector and high expectations in the population that it will receive assistance in all walks of life (a "premature welfare state", as it was called)

■ The combination of weakness, lack of transparency and overburdening in the SEE public

sectors constituted fertile ground for both petty and large-scale corrupt practices.

These features, which originate in the recent past, however, cannot alone explain the extraordinary scale of corrupt transactions in the new Balkan democracies. The process of transition of state-owned economy into private ownership through privatization, in addition to the restitution of property, created huge opportunities for the misuse of public power at the expense of the public. Another often ignored sphere of systemic corruption is the **de-facto privatization of cross-border transactions** through bribing state officials at the customs, border police and other regulatory and law-enforcement bodies. Given the open nature of the Balkan economies, cross-border transactions constitute up to 2/3 of the GDP for any single country, hence they generate even more dirty money, then privatization itself.

Table 1: Main problems in the countries of SEE

	Albania		Bosnia and Herzegovina		Bulgaria		Macedonia		Romania		Croatia		Serbia		Montenegro	
	2001	2002	2001	2002	2001	2002	2001	2002	2001	2002	2001	2002	2001	2002	2001	2002
Unemployment	44.4	44.8	60.9	60.9	67.8	68.9	75.3	58.2	39.5	33.9	66.0	78.5	30.3	38.0	53.1	51.1
Low incomes	39.3	40.8	39.6	39.3	49.0	47.0	62.0	26.7	41.3	49.4	39.1	44.2	39.2	33.6	35.6	37.2
Poverty	24.4	28.2	29.8	31.9	41.5	42.7	1.1	43.9	50.6	57.4	31.6	28.7	39.7	44.4	34.8	43.4
Corruption	*60.8*	*68.4*	*47.6*	*48.3*	*37.5*	*35.1*	*35.1*	*31.2*	*59.9*	*59.9*	*41.7*	*41.1*	*37.2*	*37.3*	*30.8*	*35.9*
Crime	36.0	24.6	32.9	32.8	25.7	32.9	27.6	23.9	10.2	12.5	33.5	30.4	44.1	41.4	31.5	30.1
High prices	24.0	23.3	10.9	13.9	22.4	20.9	25.4	7.8	35.6	35.6	27.3	18.4	24.7	24.0	21.2	17.7
Health Care	3.7	2.3	9.9	9.5	14.0	17.2	7.2	1.7	17.4	15.4	7.1	8.9	8.7	9.8	4.0	2.0
Political instability	49.6	46.0	37.0	33.9	17.0	13.1	33.2	55.9	29.9	11.6	20.1	28.7	47.8	35.3	59.3	57.7
Education	3.9	3.2	4.6	4.8	2.1	1.8	3.7	0.8	7.9	8.8	4.4	4.1	6.3	7.8	4.5	3.9
Environment pollution	5.2	3.6	3.8	3.1	2.7	1.5	6.0	1.0	1.6	3.2	2.8	3.5	2.5	5.6	4.8	2.7
Ethnic problems	3.0	2.4	15.6	17.1	1.7	1.4	14.9	40.7	2.4	1.6	7.0	3.6	10.2	8.2	8.6	5.2
Other	0.9	4.4	1.8	1.3	1.9	4.5	0.5	0.9	1.1	1.5	2.1	3.1	0.6	1.8	1.5	3.0
DK/NA	0.2	0.8	0.3	0.7	1.6	0.5	3.0	1.2	0.2	2.7	1.6	1.7	1.1	1.9	1.8	0.3

Source: SELDI Corruption Monitoring System. Scores close to 1 correspond to low spread of corruption, those close to 10 to highest degree of proliferation.(For further details see http://www.seldi.net/indexes.htm)

In most of the SEE countries, state institutions were subordinated to private interests in the first stage of the transition in the early 1990s. The symbiosis between the state and "high-risk" businesses under unclear rules of the game and a paralysis of the judiciary bred systemic corruption within society.

In addition, other types of misuse occured: *clientelism*, nepotism, and a secondary symbiosis of the state and businesses. In this case, state interference in business affairs is much greater than the opposite trend – "buying of politicians" by strong private-economic power-groups. In this case, some throwbacks to the past occur, which make possible state/party interference in the economy despite the privatization of state-owned property. In situations like these, the opposition blames the ruling party for imposing neo-authoritarian forms of government that favor private interests close to those in power.

Understandably, it is grand - political and systemic - rather than administrative or petty corruption, which is the main target of anti-corruption efforts by civil society; and public reforms, rather then purely preventive measures are needed most urgently to remedy the existing situation. Independent monitoring and assessing of the gray zones of socially high corruption risk, designing and recommending anti-corruption instruments and reforms, and the lobbying for their adoption by national assemblies and executive branches, are the main areas of civil society mission in countering corruption.

This report is yet another illustration of what NGOs from SEE can do best, namely painting an objective and as detached picture as possible of the impact of corruption upon social, economic and political developments in every single Balkan country, and in the region as a whole.

* * *

Despite the fact that SEE countries have achieved different levels of economic development, political stability and democracy, and have different affiliations with international institutions, the prevailing international opinion still attributes a high corruption risk to the *region as a whole*. Nevertheless, most attempts so far to look into corruption in SEE have been based on an evaluation of the political, legislative and economic conditions of individual countries.

The Southeast European Legal Development Initiative undertook to develop this report in order to look into the truly regional factors contributing to corruption in SEE. Several factors warrant this approach.

The first one relates to the *scale* of the problem of corruption in these countries. Societies in SEE are faced with a corruption culture that permeates all structures of the body politic and which became a systemic feature of their political structures. The spread of corruption throughout the whole spectrum of possible forms – from the usual *bakshish* to the traffic police to the entry of organized crime into the mainstream economies through corrupt privatization practices - presents a challenge that goes beyond the effectiveness of traditional anti-corruption tools. The systemic nature of corruption in SEE has become the major factor impeding their development efforts. It has distorted the restructuring of their economies, the modernization of their education systems and public health care, and has affected many social programs (e.g. public housing). All this has had a negative impact on the public's trust in the emerging democratic and market economy institutions and has bred disillusionment with reforms in general.

The second relevant aspect relates to the factors facilitating the corruption on such a scale. *The institutionalization of corruption in the SEE countries cannot be explained by the national circumstances alone.* Although corruption is mostly manifested and experienced at the national level, a number of *region-wide* factors need to be taken into account if we are to comprehend the nature of the problem. In general, regional instability in the past ten years has undermined effective law enforcement throughout the region, has raised considerably the cost of regional trade, and thus the stakes of smuggling, which consequently has become a breeding ground for organized crime on a regional scale. The driving of the SEE economies into the gray, and even criminal zone, has been the main dynamic behind the high levels of corruption.

The specific set of circumstances and the tragic and unfortunate sequence of events, which unfolded in the region in the last decade, contributed substantially to the spreading of corruption in the Balkan countries. The war in the former Yugoslavia and the sanctions and embargo regimes, imposed on the warring republics, led to proliferation of organized crime, and especially of smuggling, trafficking and illegal trade in the peninsula. This gave an enormous boost to spreading of corruption. Smugglers and other involved in the trans-border organized crime networks did not operate past the state institutions, but (especially in the case of illegal trade with arms and oil) through them. It is thus hardly sur-

prising that customs officers in all Southeast European countries top the charts, measuring corruption among the state officials (see Table 2).

As the first part of this paper intends to show, **the specificity of corruption in Southeast Europe, as contrasted with other transition or post-communist countries, lies in the cross-border illegal trade, centered on the war-ridden Western Balkans, but affecting all the countries on the peninsula.**

As the largest redistributing mechanism of national wealth, the national borders in the region represent the single largest source of corruption, and the impact of the illegal trans-border trade on overall corruption in Southeast Europe cannot and should not be underestimated.

Table 2: Public opinion of the level of corruption in the various professions

	Albania		Bosnia and Herzegovina		Bulgaria		Macedonia		Romania		Croatia		Serbia		Montenegro	
	2001	2002	2001	2002	2001	2002	2001	2002	2001	2002	2001	2002	2001	2002	2001	2002
Customs officers	86.6	89.8	58.8	62.2	75.2	74.15	72.2	83.1	63.4	54.9	51.3	51.5	80.9	77.8	61.9	63.42
Lawyers	70.6	58.9	41.0	46.5	52.9	55.53	42.2	44.7	55.2	49.5	45.3	44.6	55.7	60.6	36.9	33.43
Public prosecutors	70.9	64.3	37.8	41.2	51.3	55.35	39.4	50.2	49.3	41.3	29.6	36.6	56.8	48.9	32.5	37.76
Judges	80.1	74.4	42.6	43.7	50.1	55.00	49.2	52.9	55.7	50.1	38.4	47.3	63.7	55.4	37.7	42.02
Tax officials	79.0	80.1	54.4	59.7	53.7	51.26	52.3	75.0	49.0	32.5	40.6	48.0	63.5	54.6	44.7	47.19
Investigating officers	52.7	51.4	44.5	48.2	43.8	48.04	29.8	44.9	45.3	35.1	28.0	41.9	57.0	48.7	33.0	38.27
Members of parliament	61.8	60.4	47.5	46.6	51.7	47.78	60.8	77.0	65.9	54.5	33.1	41.4	45.9	43.9	31.0	39.33
Officials at ministries	66.2	66.2	52.5	54.3	49.7	47.08	47.5	52.5	54.5	44.2	47.0	46.7	56.1	42.8	42.5	48.52
Police officers	56.4	65.6	46.5	59.2	54.3	47.00	46.3	53.9	64.4	55.3	47.3	47.5	73.2	66.7	50.7	50.97
Ministers	67.8	76.5	54.2	54.4	55.0	45.34	61.0	77.5	58.0	45.1	37.3	40.5	55.3	46.1	41.9	52.26
Adm. officials in the judicial system	63.0	60.6	41.6	42.4	40.2	41.17	31.0	36.1	51.6	40.6	32.8	40.4	50.3	42.7	33.3	35.80
Municipal officials	69.1	64.4	51.4	56.4	41.6	39.34	36.8	39.1	47.9	45.6	48.1	48.0	60.1	50.3	47.0	45.18
Municipal councilors	55.2	55.5	46.2	46.2	32.1	31.77	33.4	36.3	43.1	40.2	27.7	40.7	45.0	41.8	31.1	33.19
University officials or professors	46.0	32.1	35.7	37.6	28.1	27.68	42.9	42.7	24.7	21.8	40.4	31.3	39.1	41.5	25.7	32.31
Journalists	18.8	14.8	24.3	24.8	13.9	12.27	17.1	17.0	22.1	15.4	22.8	20.3	34.0	30.7	36.3	46.80
Teachers	11.6	10.4	20.9	22.1	10.9	9.75	18.7	22.7	20.4	17.5	19.3	16.2	28.5	33.4	18.0	20.59

Source: SELDI Corruption Monitoring System for SEE

This report does not attempt to present a comprehensive program for action in SEE but rather to sensitize politicians and civil society to the specific set of sources of corruption in the region. So far these sources have been treated as the domain of law-enforcement agencies. However, both the scale of the problem and the fact that it has significant impact on development efforts, and on economic development and social reforms in particular, warrant that response is sought under a broader partnership between politicians, law enforcement, civil society, business (both local and international) and the international community.

In this context, this report is a result of the efforts of the Southeast European Legal Development Initiative to establish a platform of cooperation between public and private institutions in SEE with the support of the international community. In the course of its development, SELDI managed to establish a regional network of organizations trained to evaluate the institutional aspects of corruption and serve as a watchdog of the reform process.

Several lessons learned in this context need to be highlighted. The gravity of the problem calls for bold and radical measures if corruption is to be stemmed. These measures should upset the already entrenched interests, which fuel the institutionalization of corruption. For this to happen, broad public coalitions need to be formed both within countries, and region-wide. Traditional bureaucracies - be they national or international - cannot muster the type of public support needed if these reforms are to be successful.

However, support coming from a cross-section of society, involving major public and private actors, could only be enlisted in this process if society has a clear view of the severity of the problem. This warrants the introduction of a new type of corruption assessment, which goes beyond traditional law-enforcement methods. This new type of assessment could only be successful if it is based on **cooperation between the public institutions, involved in designing and implementing anti-corruption policies, and civil society institutions which are expected to generate civic support for these policies.** For this to happen, the assessment on which these policies are based, needs to be carried out in a public-private partnership.

The interaction between the role of governments and civil society in assessing corruption could be illustrated in the following way by superimposing the public sector (left circle) and NGO sector (right circle):
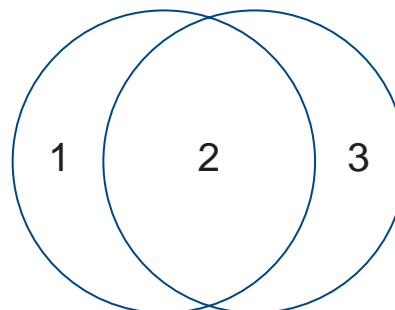
– Area 1: assessment related to measures for streamlining corruption prevention in law enforcement (customs, police, etc), prosecution; this area is strictly (inter)governmental, assessment is confidential;

– Area 2: (the area of public-private cooperation): assessment of the institutional and legislative adequacy and efficiency (including performance of public administration and judiciary), international assistance evaluation, general evaluation of political and institutional reforms, etc.

– Area 3: monitoring by and of the media, monitoring of corruption inside civil society, monitoring of public attitudes (trust in institutions).

* * *

The above considerations determined a two-tier structure of this report. The first part analyzes the origins of cross-border corruption in the region, which is seen as a result of the rise of transnational crime, influenced by the violent break-up of former Yugoslavia. It intends to show that regional factors significantly contribute to national-level corruption and could undermine national anti-corruption efforts.

In the second part, the report evaluates the national circumstances in which the regional factors develop. It compares the national legislation and institutional practice in a number of areas critical to anti-corruption efforts: regulatory and legal framework, institutional prerequisites, corruption in the economy, the role of civil society and media, as well as the international cooperation. The coverage of the national institutional and legal aspects making regional corruption possible is not intended as a comprehensive inventory of regulations and practices in all coun-

tries, but rather emphasizes some of the issues relevant to potential efforts for stemming regional sources of corruption in SEE.

The second part is ultimately a collection of contributions from watchdog organizations in the countries in Southeast Europe. In fact, the nature of regional concerns about corruption is evident in the limitations of this report – namely that the level of institutional development, policy implementation practice and international affiliations of the countries in SEE are varying to such a degree that only a "bird's eye view" could reveal the source of common problem. Thus, aware of these limitations the editors have adopted the two step approach to compiling the report – analyzing the most significant roots of corruption in the region and supplementing that with an overview of the national contexts against the background of which these processes take place. This is very much in line with the USAID approach that there is a strong conceptual distinction between law- enforcement approaches to corruption, which try to strengthen crime-fighting efforts, and a more holistic approach that addresses poor governance systems more broadly.

The countries covered by this report include Albania, Bosnia and Herzegovina (BiH), Bulgaria, Croatia, Macedonia, Romania and Serbia. The SELDI Corruption Monitoring System, the results of which are presented here, also covers Montenegro.