

Why Adopt the Environmental Acquis?

Adoption of the Acquis introduces an approach to environmental governance that creates stronger ownership and an opportunity for citizens to influence government decisions; more transparency and local responsibility for natural resources; improved project programming and planning capacity; and a more predictable legal framework for foreign and private sector investors.

The EU Acquis is driving West Balkans environment institutions to adjust to a changing legal framework that has significant implications for the future scope and organization of their work. Institutional changes are part of a government-wide adjustment that expands the role of environmental protection, increases accountability, and demands improved communication on outputs and objectives of environment programs and investments.

During the short pre-accession period, the West Balkans will have a small window to capture the benefits available before accession when political will for reform is the highest. This small window presents a one-time opportunity to adapt institutions systematically and access additional resources, guidance, and technical assistance before completing the stabilization and association process. New member states in Central and Eastern Europe (CEE) received considerable assistance in the decade prior to the 2004 European Union enlargement. Unless countries complete institutional reforms and arrangements that align with the EU Environment Acquis, future investments could be wasted, misdirected, or unsustainable. Thus, the future of the environment depends on improving cooperation and sharing information to capture potential efficiencies and create synergy during the process.

This report offers guidance, focuses on institutional change and government reforms, and links lessons from CEE experience to institutional reform and implementation challenges faced by the West Balkans.⁶ The report presents background data on the West Balkans to assess where they are in this transition and outlines how available assistance during the pre-accession period can be used more effectively to establish long-term capacity for implementation.

In the CEE countries, EU accession and adopting the Acquis elevated the importance of the environment on the national agenda. Because the state of the environment affects every sector, many benefits can accrue from increased attention, including improved market participation and access to programs; improved health, particularly reduced respiratory and waterborne diseases; reduced damage and aging of buildings; improved occupational safety; economic growth, particularly that linked to industrial

⁶ CEE countries surveyed: Czech Republic, Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, Hungary, Bulgaria, Romania.

Box 1.1

EU Environment Acquis Overview (Full list in Appendix A.1)

The EU Environment Acquis includes more than 200 legislative acts under the following **eight** broad categories.

- **Horizontal** (environmental impact assessments, access to information, strategic environmental assessment, public participation, and environmental liability);
- **Air Quality** (ambient air, VOCs from petrol stations, SO₂, NO_x, particulate and lead emissions; Sulphur content in Fuel, Vehicle emissions, Emission Trading, Emission Ceilings, Ambient Ozone);
- **Waste Management** (hazardous waste, packaging waste, sewerage sludge, waste oils disposal, PCBs/PCTs, battery disposal and labeling, landfill of waste, incineration of waste, disposal of vehicles, waste electronics disposal, hazardous substances);
- **Water Quality** (Urban Wastewater, Drinking Water, Nitrates, Bathing Water, Groundwater,

Dangerous Substances to water, Mercury, Cadmium, HCH Discharges, Surface Water Abstraction, Shellfish water, Fish water);

- **Nature Protection** (Habitats, Wild Birds, Zoos);
- **Industrial Pollution Control** (Pollution Prevention and Control, Solvents, Large Combustion Plants);
- **Chemicals** (Dangerous Substances, Release of GMOs, Animal Experiments, Asbestos, Biocides); and
- **Noise**

The number of directives is large—but in practice, many functions can be integrated and use common management systems. The EU introduced several Framework Directives as a first step to integrate laws across environmental media. Now countries will need to design national administrative structures that support integration, which rarely correspond directly to the thematic clusters of the legislation.

upgrades and tourism; increased crop yields and fish stocks; lower ecological and hazardous risks; and improved quality of life. Adoption of the Acquis introduces an approach to environmental governance that creates stronger ownership and an opportunity for citizens to influence government decisions; more transparent and local responsibility for natural resources; improved project programming and planning capacity; and a more predictable legal framework for foreign and private sector investors.

“Environment Acquis” is the body of European law focused on the environment; it is the second largest thematic body of legislation after agriculture.⁷ The EU regulations directly apply to all EU member states; the *directives*, on the other hand, will be transposed into national laws, allowing each country to implement and administer based on individual constitutional structures and a principle of subsidiarity among states. The Environment Acquis can be summarized under eight broad categories⁸ (Box 1.1).

Environment law in Europe has moved from the single issue legislation of the past to today’s more

integrated approach, which involves horizontal or cross-cutting legislation (e.g., Environmental Impact Assessment), and the introduction of “Framework Directives”⁹ (e.g., air, waste, water) to better integrate laws for the same environmental media. Approximation of the Acquis into national legislation is a process involving adoption of specific binding legal measures (quality and technical standards, testing and notification requirements, etc.) and country-specific decisions on discretionary and suggested legal measures. National legal details vary to reflect underlying administrative and implementing structures, and choices—such as how it will be enforced.

- Air quality legislation is broad-based in scope and addresses traffic emissions, fuel quality control, large combustion plants, volatile organic emissions from industry, and so forth; air quality legislation governs both local and transboundary effects and contains targets for greenhouse gas and carbon emissions.
- Waste legislation focuses on reducing and minimizing wastes, on waste disposal that protects the

⁷ The body of EU Law comprises regulations, directives, decisions, guidance, and EU Court of Justice Decisions

⁸ DG Environment uses these 8 broad categories in their progress monitoring

⁹ Framework Directives are sometimes called “mother” directives with the associated or subsidiary legislation referred to as “daughter” directives.

environment, and on proper handling and disposal of hazardous and toxic wastes. A further breakdown of environmental legislation can be made based on (a) its importance and linkages to trade, including participation in a common EU market (Appendix A2); (b) the “heavy” or costly investment requirements (Appendix A3); (c) and transboundary cooperation (Appendix A4).

- Water legislation aims to maintain water quality, protect water sources from contamination by controlling and regulating emissions, and promote an integrated approach to river basin management. Industrial pollution control legislation takes an integrated approach to environmental permits, and applies the “polluter pays” principle to promotion of waste minimization and control of emissions through self-monitoring and upgrading technologies.

In 1998, the European Council decided to integrate EU Environment Law more explicitly into national government sector strategies, initiating the “Cardiff Process.”¹⁰ The Cardiff Process focuses on nine key sectors¹¹ and has resulted in development of new environment-related directives. Under these directives, implementation falls more directly on sectoral authorities rather than the environment administration.¹² As a result, the Environment Acquis is crosscutting, presenting not only opportunities for sustainable development and growth in Europe, but also complexities and challenges for implementation. Implementation requires an integrated approach to government administration that includes coordination mechanisms across government, local responsibility and action, public participation, and accountability of state institutions.

During accession and negotiations, the European Commission refrains from prescribing a standard in-

stitutional set-up for the environment,¹³ as a result, in the early stages of this process, countries lack clear guidance or knowledge of the administrative requirements of the Environment Acquis. For CEE states, this information vacuum resulted in trial and error creation and dismantling of institutions and an ad-hoc approach to capacity development. Also due to lack of guidance, many CEE states transposed large sections of environmental laws that they later had to revise to adapt to new institutional structures.

From the perspective of post-accession, the rationale for certain institutional frameworks, administrative reforms, and functional demands is now more apparent. The urgency for effective Acquis implementation is underscored by legal force of the Environment Acquis, cross-compliance with agriculture subsidies and EU grant-financed investments, and linkages to growth and trade in the common EU market. Today most CEE states report significant gains in capacity stemming from the accession process, but acknowledge that institutional strengthening is a long-term and ongoing process, requiring stable institutions and human resources supported with regular training and professional development.

This report presents the current status of environmental institutions in the West Balkans alongside the institutional reform process undertaken in CEE states and the lessons learned. From this a roadmap is presented that will guide West Balkans through the functional changes they will need to complete their adoption of the Environment Acquis.

First, the report will provide an overview of key environment issues and challenges faced within the region, including environment institutional and administrative structures. Second, the report addresses the key lessons learned from new EU member states, which emerged from a detailed stocktaking effort to identify reform priorities and early actions. Finally, the report offers recommendations for the region and individual states to move forward. Comparative data and statistics have been brought in where possible to help emphasize key points and provide a broader regional perspective. Many CEE countries contributing to the report also welcomed the opportunity for

¹⁰ For the city in which the European Council meeting was held in 1998.

¹¹ Transport, Agriculture, Energy, Industry, Internal market, Development, Fisheries, General Affairs, and Economic and Financial Affairs.

¹² Directive on the promotion of bio fuels/renewable fuels for transport is an example. The 2007–2013 Structural Instrument for Agriculture also reflects the spirit of this environment “mainstreaming” effort with the flow of funds for all agri-environment and Natura 2000 payments now coming through the agriculture funds.

¹³ This is due to principles of subsidiarity of states and the range of governance structures that exist with the EU. Endorsement of one institutional set-up over another would not be appropriate in this context.

self-reflection over the last decade of reforms, progress, and challenges and expressed a keen interest in helping the West Balkan states learn from their trial and error, and best practice solutions.

What Are the Key Challenges?

The West Balkan states reviewed in this report include Albania, Bosnia and Herzegovina, Former Yugoslav Republic (FYR) of Macedonia, Montenegro, Serbia, and the Territory of Kosovo.¹⁴ Croatia is included for comparison given its close regional links. All countries in the region have established relations with the European Union through the Stabilization and Association Process (SAP), which was developed in 2000 to promote European integration. The specific stage of progression in this process varies for each State as presented below (Table 1.1).

The annual progress reports issued by the EU to each state include a section for the Environment Acquis. In late 2005, all West Balkan reports emphasized the need for strengthened administrative capacity. In Croatia and Macedonia, the environment chapter was highlighted

as the most difficult for alignment—particularly institutional and administrative capacity challenges for implementation.

Income

In a region with such a wide range of income levels and growth (Figure 1.1), environmental challenges vary.¹⁶ For example, rapid economic growth can mean more investment in cleaner production methods but it can also mean higher consumption patterns that increase waste management challenges and pressures on environmental balance. On the other hand a slow or stagnant economy has less to invest in the environment, with predictable results: poor minority groups engage in solid waste picking; subsistence living accelerates deforestation and land degradation; solid waste leads to open dumping; poor access to clean water and sanitation exposes people to disease, and low-income people are more exposed to industrial contamination.

Although the cost of improving environmental conditions can be high, governments can develop mechanisms to recover costs that take into account what consumers—including vulnerable groups—can afford. Integrating environment and social concerns require stronger institutions and deeper local involvement. West Balkan government environment strategy documents highlight a need to clarify ownership rights and access; reclassify and expand protected areas; support community involvement; rehabilitate polluted areas; promote sustainable land use planning and use of natural resources; strengthen environmental institutions; and support integrated rural development. The EU Environment Acquis promotes similar objectives thereby reinforcing the benefits of environmental improvements. It is the responsibility of each government to implement the laws in ways that ensure the poor are not disadvantaged.

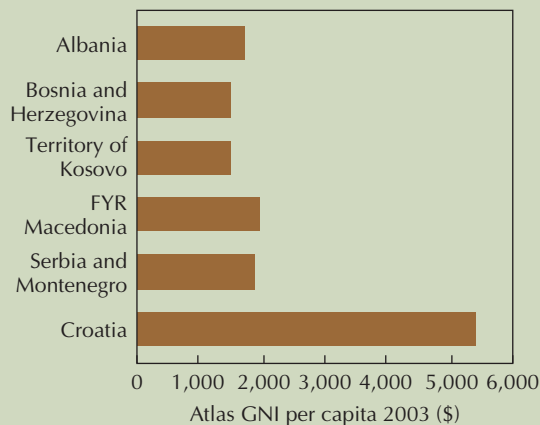
Table 1.1 Relations with the EU

Albania	SAA ¹⁵ signed in June, 2006
Bosnia and Herzegovina	Expecting to start negotiations on SAA
Croatia	SAA in force from February 1, 2005; EU accession negotiations started October 2005, Environment chapter screening, May 2006
FYR Macedonia	SAA in force from April, 2004; EU candidate country as of December, 2005
Serbia	Pending starting of negotiations on SAA
Montenegro	SAA negotiations agreed to proceed on basis of independent state—July, 2006
Territory of Kosovo	Special SAP tracking mechanism to lead into SAA

¹⁴ As defined by the United Nations Security Council Resolution 1244.

¹⁵ Stabilisation and Association Agreements (SAA) provide the legal framework for relations and progressive actions toward harmonization with the European Union.

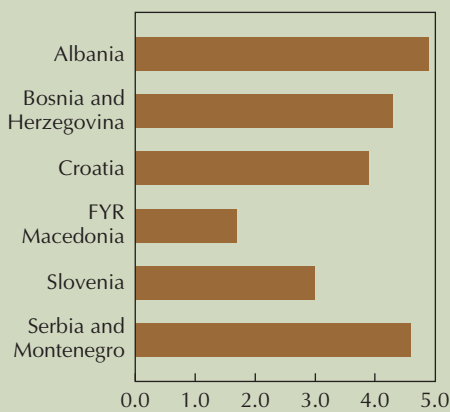
¹⁶ Croatia is near or in some cases exceeds CEE country levels, and the remaining countries fall well below CEE median incomes. Growth rates also vary significantly with Albania leading sub-regional growth at above 6 percent and Macedonia reporting lowest growth rates just over 1 percent (Figure 1.2). GDP levels (2003) similarly diverge across the region with Kosovo reporting the lowest at 2.6 Billion USD, followed by Albania 6.1, Macedonia 4.7, Bosnia and Herzegovina 7.0, Serbia and Montenegro 20.7, and Croatia 28.8.

Figure 1.1 Diverse Income Levels

Source: World Bank, 2006.

Figure 1.2 Macroeconomics at a Glance

Economic performance since 2000
(average 2000–05, percent real growth)



Source: World Bank, 2006.

Population, land resources, and management

The surface area and population of the West Balkans (Table 1.2) is predominantly small; urban centers are home to 44 to 66 percent of the population. Albania and Bosnia and Herzegovina are less urbanized than Macedonia, Croatia, and Montenegro, and Serbia is in the middle. The most urbanized countries have a low rural population density, and face environment challenges from land fragmentation after war and migration, such as increased problems with control of invasive species and forest fires. Generally, in Albania and Bosnia and Herzegovina, rural population densities are higher and incomes are lower; these countries face the most human pressure on natural resources because more people are living from the land. These countries face depopulation in areas such as mountainous regional pockets. As economies grow, rural populations will likely continue to migrate to urban centers. For example, between 1999 and 2005, Kosovo experienced the most dramatic rural-to-urban population shifts.

The primary natural resources in the West Balkans are agricultural land, forests, water resources, and biodiversity. Agriculture and forests comprise most of the land area and contribute significantly to local economies, most notably in Albania and Kosovo (Table 1.3). Regionally, agricultural land is threatened by new construction, soil erosion, unclear ownership, fragmented land plots, and a lack of irrigation coverage. Pesticides and fertilizer use is generally lower than EU standards across the region, thus pesticide contamination of soil is not serious enough to warrant priority action. However, forests are threatened by deforestation and excessive or illegal cutting—particularly in Bosnia and Herzegovina and Kosovo—contributing

Table 1.2 Populations and Land Areas

	Albania	Bosnia and Herzegovina	Territory of Kosovo	FYR Macedonia	Serbia	Montenegro	Croatia
Population (million)	3.1	3.9	2.4	2.0	7.5	0.6	4.4
Percent urban population	44.4	44.9	66	59.6	52	60	59.4
Land area (thousand km ²)	27.4	51.1	10.9	25.7	88.4	13.8	56.4

Source: 2006 Little Green Data Book.

Table 1.3 Agriculture and Forests

	Albania	Bosnia and Herzegovina	Territory of Kosovo	FYR Macedonia	Serbia	Montenegro	Croatia
Percent agricultural land	41	42	53	49	65	14	56
Percent agriculture in GDP (2005)	25.2 (2004)	11.5	30	12.0	12 (2002)	15 (2004)	7.7
Percent agriculture employment	58.5 (2004)	4.0 (2004)	65	4.1 (2003)	30	15	16.2 (2004)
Percent forest area	36.2	42.7	41	35.6	26.7	53.9	38.2
Deforestation (percent change, 1990–2005)	0.0	(+) 0.1	No figure, known + rates	0.0	(–) 0.4	(–) 0.1	(–) 0.1

Sources: 2006 Little Green Data Book; EC Progress Reports, 2005; UNECE, 2005; REC, 2006; Kosovo NEAP, 2006.

to soil erosion, loss of flood control, and threatened ecosystems.

Planning land use and protecting the environment depends on effective coordination between the two functions. The history and context of land management planning varies by country, with a closer historic link to environment protection in former Yugoslavia. Enforcement and control of spatial plans is generally weak and sometimes exacerbated by the housing needs of refugee and migrant populations. In Albania, for example one of the most pressing environmental issues is land degradation caused by illegal developments stemming from a lack of effective territorial planning and control, with damage to coastal and agricultural land.

Natural Assets

In addition to being a global hotspot for biodiversity,¹⁷ the West Balkans area is noted for levels of endemic species that are over four times higher than the rest of Europe. The percentage of land covered by protected areas¹⁸ is below the EU average of 15 percent, and ranges from the low of 0.5 percent in Bosnia and Herzegovina to 9.0 percent in Croatia (Figure 1.3). Croatia and Macedonia have the most developed systems and have progressed the most in management planning; however, significant work remains to integrate and harmonize

with the EU Natura 2000 network. Although protected area networks are increasing, most parks in Bosnia and Herzegovina, Albania, and Kosovo are still “parks-on-paper”; they lack management, infrastructure, and tools to ensure effective biodiversity conservation and sustainable resources use.

The Balkans region is rich in wetlands, most of which are situated along state borders or coastlines thereby requiring transboundary cooperation among countries. Croatia has four Ramsar¹⁹ designated sites, Albania and Serbia each have three, and Bosnia and Herzegovina, Macedonia and Montenegro each have one. For most of the region, nature protection and tourism are closely linked and comprise an important economic sector. The potential to enhance linkages between nature protection and tourism is high and is an integral part of most of the West Balkan Country Development Strategies. Landscape diversity linked with rural cultural traditions provides a strong asset for tourism growth.²⁰

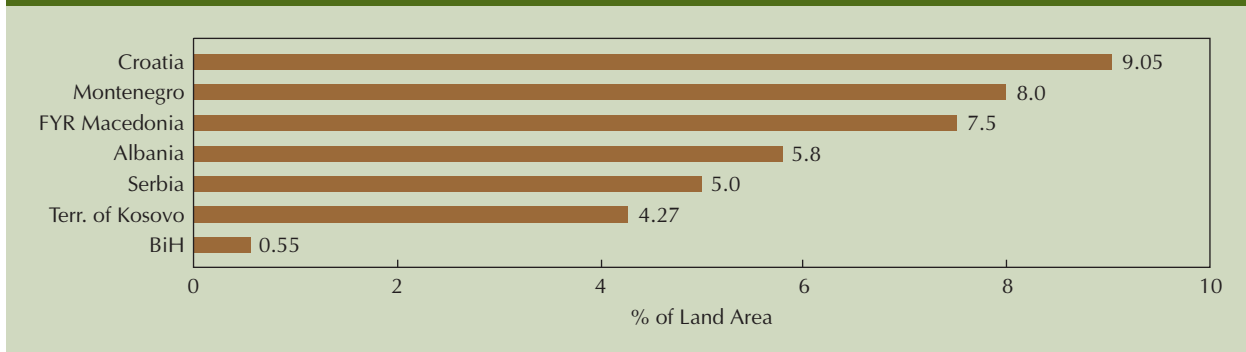
Most West Balkan countries have abundant ground and surface waters, except for some arid island and high mountain areas. Groundwater is the main source of drinking water, while river and lake waters are more often used for recreation and energy production from hydropower. Albania and Bosnia and Herzegovina have the highest dependence on hydropower, generating over 90 percent and 60 percent of electricity supplies respectively. The region has unique inland water

¹⁷ One of Conservation International’s 25 global hotspots for biodiversity (part of Mediterranean basin).

¹⁸ Main categories of protection are national parks, nature parks, natural monuments, and protected landscapes.

¹⁹ Internationally declared wetlands of global importance governed under the Ramsar Convention

²⁰ This is discussed further in the context of industry and legacy pollution.

Figure 1.3 Protected Areas Coverage

bodies with high biodiversity values including ancient glacial and tectonic lakes. Because many rivers and lakes are transnational, there is a need to establish common water management regimes. The region falls geographically within the wider Black Sea-Danube and Mediterranean Basins.

Major risks to water quality are: (a) lack of sewage treatment, especially in coastal areas; (b) incomplete sewage networks with high levels of leakage and losses; and (c) industrial wastewater discharges. A concern for most countries is ambient pollution in waterways due to high bacteria counts, heavy metals, and other industrial pollutants. Low oxygen levels have led to progressive eutrophication in many waterways. Over-extraction of sand and gravel from riverbeds has increased flooding and suspended sediments. Shallow drinking water wells experience nitrate contamination from animal and human wastes. Across the region, water quality monitoring systems are generally poor and underdeveloped so local authorities are unable to assess the risks to public health. In Serbia for example, environmental documents report the groundwater quality to be poor and deteriorating, but monitoring systems and data collection techniques are outdated, and coverage is poor.

Water infrastructure

No country in the region has advanced wastewater treatment at levels promoted by the EU Environment Acquis, and all will face significant challenges in financing this level of investment. Rural sewage network coverage is low and wastewater generated is generally discharged directly to river bodies and karst sinkholes, or into poorly maintained septic systems. While urban

wastewater coverage rates are much higher, the service is generally poor and the level of treatment is low.

Water supply coverage varies across the region; most rural areas rely on individual groundwater wells. Coverage data can be misleading because in some places water supply is intermittent and in others infrastructure is deteriorated—for example, war damage in Bosnia and Herzegovina. Hence, the numbers presented in Table 1.4 below are indicative only. Water utilities in the region typically lack autonomy and the infrastructure is poorly maintained. In most countries, restructuring management and resetting tariffs to cost-recovery levels lag the efforts of EU counterparts.

Investment needed

Substantial investment will be needed to support environmental infrastructure improvements, but municipal finance reforms are still insufficiently developed. Two factors should dictate technology options and phasing of investments: (a) municipality and their utilities' ability to meet operations and maintenance costs; and (b) consumers' ability and willingness to pay. In the mid-80s, some countries in the region invested heavily in new wastewater treatment facilities but then struggled to operate and maintain them; in the early 90s, war damage and costly technologies made rehabilitation unaffordable.

Industry and legacy pollution

Across the region, industrialization levels vary. Bosnia and Herzegovina, Macedonia, Montenegro, and Croatia have the largest industrial sectors as a percentage of GDP (2005). Macedonia and Serbia have the largest

Table 1.4 Water Supply and Wastewater Infrastructure

		Romania	Albania	Bosnia and Herzegovina	Territory of Kosovo	FYR Macedonia	Serbia and Montenegro	Croatia
Water supply coverage (percent)	Urban	92	85	N/A	90	100	97	95
	Rural	34	65	N/A	20	28	68	52
	Total	66	67	56 (FBiH) 48 (RS)	44–50	71	83	76
Sewage coverage (percent)	Urban	86	90	56	N/A	68	88	70–75
	Rural	10	37	10	N/A	13	22	5 (↓ 2,000) 35 (2,000–10,000)
	Total	52	59	50 (FBiH) 35 (RS)	28–30	46	56	40

Sources: World Bank, 2003 (data for 2000); REC, 2005 & 2006; Croatian Government, 2005.

work force in the industrial sector (Table 1.5). Historically, most industries disposed of their wastes on site at their facilities, and regulatory oversight was weak for water and air industrial pollution discharges. War and a general economic downturn during the late 90s decreased industrial outputs and pollution emissions but as economies in the region recover, pollution levels will rise. Large industry, once primarily state-owned is undergoing restructuring and privatization but most privatization has occurred at small-scale facilities. Privatization of large-scale heavily polluting industries is lagging—chemicals, energy, metallurgy, and mineral industries, and waste facilities (Table 1.6). Except for Albania, the private sector share in GDP is relatively low for countries in the region, highlighting the potential to use privatization to increase the share of private capital for environmental compliance and investment.

Since the state will become the national environmental regulator, privatization offers an opportunity to establish clear expectations for environmental compliance with private sector entrepreneurs. However thus far, no state in the region has established a comprehensive program to integrate environment into the privatization process, despite growing awareness of the problem. Across the sub-region, privatization has often proceeded with little consideration for future environmental laws, including costs and requirements to upgrade industrial pollution control equipment, deferring immediate action, and minimizing private sector responsibilities. The few privatization agreements that have included specific plans to address on-site legacy pollution have been initiated by foreign investors rather than central governments. Box 1.2 below describes how this has been addressed in Bulgaria.

Table 1.5 Levels of Industrialization

	Albania	Bosnia and Herzegovina	Territory of Kosovo	FYR Macedonia	Serbia	Montenegro	Croatia
Industry share of GDP (2005)	19.5 (2004)	27.8	N/A	29.2	20	28	27.9
Industry share of employment	13.6 (2004)	N/A	N/A	47.4 (2003)	46 (2002)	30 (2004)	29 (2004)

Sources: EC Progress Reports, 2005; UNECE, 2005; REC, 2006; Kosovo NEAP, 2006.

Table 1.6 Progress with Enterprise Privatization and Restructuring

	Private Sector Share in GDP (1995 and 2003)		Small-Scale Privatization ¹	Large-Scale Privatization ¹	Enterprise Restructuring ¹
Albania	60	75	4.0	2.3	2.0
Bosnia and Herzegovina	n.a.	50	3.0	2.3	2.0
Croatia	45	60	4.3	3.0	2.7
FYR Macedonia	40	60	4.0	3.0	2.3
Serbia and Montenegro	n.a.	45	3.0	2.3	2.0
Slovenia	45	65	4.3	3.0	3.0
Czech Republic	70	80	4.3	4.0	3.3
Hungary	60	80	4.3	4.0	3.3
Poland	60	75	4.3	3.3	3.3

Source: EBRD (2003; 2004 Slovenia, Czech Republic, Poland and Hungary).

¹The EBRD indicator ranges from 1 to 4+, with 1 representing little progress towards privatization and 4+ indicating more than 75 percent of enterprise assets in private ownership with effective corporate governance.

Box 1.2

Bulgaria Integration of Environment In Privatization Process

Bulgaria established a comprehensive legislative framework and institutional capacity for handling environmental issues in privatizations with support from the World Bank—an investment loan and two adjustment operations.

The Environment Protection Act of 1991 provided a new legal foundation for environmental policy that addressed environmental liabilities in the context of privatization. It stated that foreign or domestic investors were not liable for environmental damage resulting from past action or non-action. Growing awareness of the importance of addressing environmental issues led the Bulgarian government to amend the Environment Protection Law and the Privatization Law to address details of state liability including new regulations to clarify basic principles, procedures to determine damages, and financial mechanisms. In 1998, a resolution required State Owned Enterprises (SOEs) to carry out an EIA as an integral part of the privatization process, including an assessment of pre-privatization environmental damage.

To avoid ambiguity in addressing past environmental liabilities, the Ministry of Environment and Water adopted a methodology that includes environmental audits and EIA. The methodology includes a detailed design for remediation measures if environmental assessments identify significant risk. This remediation plan forms part of the government's Sales Purchase Agreement for privatization and the investor is legally bound to implement it.

Accession accelerated adoption of EU environmental directives, including harmonization of national legislation with the Industrial Pollution Prevention and Control (IPPC) Directive. The Government understood challenges facing Bulgarian companies and recognized privatization as a good opportunity to address them. The EIAs not only assessed past liability issues but also proposed plans for enterprises to comply with EU directives. These Compliance Plans included programs of environmental investments, integrated in the Sales Agreement, for cleaner technologies and waste reduction measures for compliance with IPPC norms and standards.

Funding remediation costs

Among the countries of the region, Serbia has done the most to mainstream environment issues into the privatization process. Serbia has drafted—but not yet passed—an environment and privatization law and established a mechanism to allocate 10 percent of privatization proceeds to fund future remediation costs. So far, Bosnia and Herzegovina, Montenegro, and Macedonia’s experiences with environmental auditing and impact assessments in privatizations are unsystematic. Macedonia has established coordination between the environment ministry and the privatization agency but this is also unsystematic. In 2005, a detailed review in Bosnia and Herzegovina identified 55 enterprises in Entity RS and 18 in Entity FBiH on the privatization list that pose a moderate to major environmental risk.²¹ These industries include coal and bauxite mining, steel and casting plants, coke and chemical plants, leatherworks, metals processing, wood and paper processing, and agriculture and food processing industries. In other countries, industries known to pose environmental problems include cement in Albania, and mining in Serbia and Kosovo.

Lengthy permit-granting process

The most important EU Directive addressing industrial pollution is the Integrated Pollution Prevention and Control (IPPC) Directive, which regulates largest polluters including heavy industry, large farming complexes, and many waste management facilities. Environmental permits stemming from this directive are complex, integrate all media, and are often linked to pollution control technology upgrades benchmarked with similar EU facilities. Preparation time for one permit application can take several years and involve investment decisions that are the responsibility of the operator (usually private sector). Therefore, facilities designated to receive this type of permit must be identified early to allow sufficient preparation time for industry.

²¹ WB Report Strategic Environment Assessment on Planned Development Policy Lending to Bosnia and Herzegovina, 2005.

“Both permitting authority and expert support authority were established in 2002 and implementation started on 1st of January 2003. In the previous media-based system, there was no habit of developing guidance since the legislation was sufficiently descriptive and there was little space for case-by-case approach. Within the IPPC system, the lack of guidance was discovered just before the implementation started because for example, there was no permit template and nobody knew how the cooperation with other authorities would work in practice . . . It was expected that sufficient training will be delivered through participation in pilot permitting projects, but almost all projects finished at the stage of assessing the application and not by writing the permit.”

FORMER DIRECTOR OF THE INTEGRATED
POLLUTION PREVENTION AND CONTROL AGENCY,
CZECH REPUBLIC, NOV. 2005

Internationally competitive industries

Several countries have broadly estimated the potential number of IPPC facilities as part of early preparation for the IPPC directive, but no country has a fully publicized list. The following estimates of potential permit numbers are an indicator of environmental enforcement and the capacity to administer this technologically heavy directive: Albania (15–20 facilities/installations); Bosnia and Herzegovina (est. 56); Macedonia (est. 130); Serbia (est. 242); and Croatia (150–160).²² Government environment officials need to be well trained and educated in industrial sectors to regulate the facilities because the directive sets out a wide range of technical solutions and a negotiable approach. The IPPC directive can be instrumental to advance and retrofit national technologies for a more internationally competitive industrial sector.

Air Quality

Traffic and industrial emissions are the main sources of air pollution in the region; air quality has deteriorated in

²² Only Serbia, Montenegro, and Macedonia have legislation requiring a list of IPPC Annex 1 installations.

Table 1.7 Air Pollution

	Albania	Bosnia and Herzegovina	Territory of Kosovo	FYR Macedonia	Serbia and Montenegro	Croatia	Europe and Central Asia Averages
CO ₂ per capita (metric tons) (2002)	0.8	4.7	5.5	5.1	3.7	4.7	6.7
Particulates (urban-pop.-weighted avg., µg/m ³) (2002)	58	22	N/A	29	17	35	35

Sources: 2006 Little Green Data Book; Kosovo poverty assessment 2005.

the largest cities due to the large and growing number of vehicles and heavy traffic. Similarly obsolete control technologies and lack of treatment in metallurgy, chemical, and energy have degraded air quality in industrial areas—most notably in Macedonia, Kosovo, and Montenegro. Acid rain, linked to industrial pollution, retards vegetation growth and accelerates deterioration of the built environment. Carbon emissions per capita are highest in Macedonia and Kosovo, while population-weighted particulate matter emissions are highest in Albania (Table 1.7).²³ The smallest particulate emissions—linked to respiratory diseases in large urban areas—are often by-products of gasification or burning, and require more advanced technology to control.

Most countries have ratified or are in the process of ratifying the Kyoto Protocol; however, little progress has been made to establish implementation mechanisms.²⁴ The EU has established an Emissions Trading Directive in 2003 that introduced a new cap-and-trade policy for carbon emissions, which requires each Member State to agree with the EU on a national allocation plan and establish administrative systems to enable internal trade of carbon permit allocations.²⁵ Two of the “heavy investment” directives under the

Environment Acquis—the Industrial Pollution and Prevention Control (IPPC) Directive and the Large Combustion Plant (LCP) Directive promote upgrades in air pollution control technologies and equipment in large industrial polluters. Often the same facility investments will help comply with both directives; the private sector would normally bear improvement costs, except for state-owned industries.

Solid Waste Management

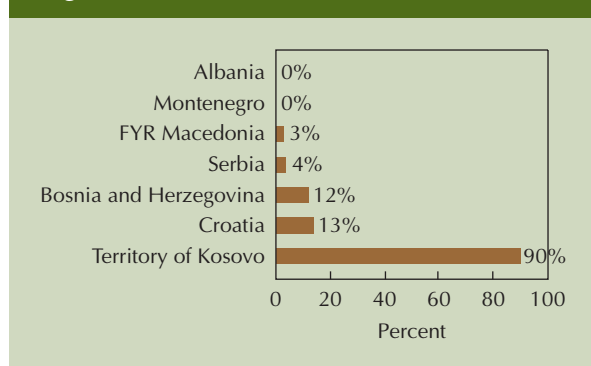
Municipal solid waste management remains a challenge for most countries across the region, largely due to inadequate disposal facilities. Solid waste collection ranges from a coverage rate of 50–80 percent but rural collection services are extremely limited. The largest cities have organized systems with close to 100 percent collection rates. Most countries have compiled inventories of illegal waste dump sites—generally in the thousands per country—that must be closed to comply with EU rules.

Construction or upgrades to fully compliant landfills have fallen behind progress on closing wild dump sites; unless governments improve sequencing and environmental enforcement, new illegal dump sites could emerge. Most operating landfills in West Balkan countries do not meet environmental conditions and would be unable to adapt to EU standards (Figure 1.4), except for Kosovo, where donors’ help has financed investments in landfills that meet EU standards. If environmental infrastructure investments are combined with strengthened environmental enforcement, illegal circumventions of “polluter pays” principle are less likely.

²³ Suspended particulates less than 10 microns in diameter. The data averages emissions for cities with a population over 100,000.

²⁴ The Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) targets a total cut in greenhouse gas emissions of at least five percent from 1990 levels in the commitment period 2008–12. The European Union ratified the Protocol on May 31, 2002.

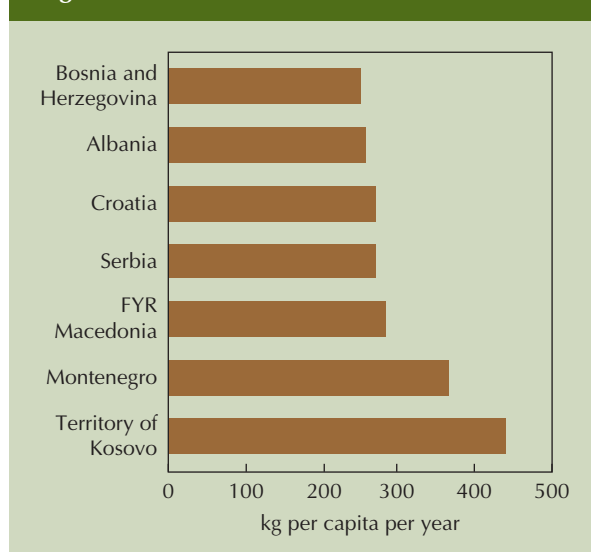
²⁵ In this case “internal” refers to trade within the country and after acceptance by the EU, trade of carbon allocations with the European Union.

Figure 1.4 Percent Permitted Landfills²⁷

Sources: Government Strategies; UNECE (BiH); World Bank (BiH).

However, throughout the region it will be a challenge to come up with a fee structure that balances consumers' ability to pay with the need for service providers' business viability in the short term, and system sustainability in the long term. As a result, most countries' waste management strategies envision regional services to take advantage of cost economies of scale; this will eventually reduce the number of disposal facilities and close many of the un-permitted landfill sites.

Waste generation rates for the region fall in line with other transition states—from 250 to just over 400 kg/capita/year (Figure 1.5). In the future when the EU Waste Framework Directive is implemented, it is expected that waste volume would contract and recycling volumes would expand. However, economic growth could in-

Figure 1.5 Waste Generation Rates

Sources: Government Strategies; UNECE (Albania and BiH); World Bank (Serbia and Montenegro).

crease levels of consumption and waste; for example, the EU-25 average waste generation rate is 537 kg/capita/year. Currently, most waste is mixed, has high organic content, and often includes medical and chemical wastes. Typically, in large cities recycling programs are not comprehensive and most are limited to plastic, glass, and paper collection points, or beverage company-sponsored return systems (i.e., Novi Sad in Serbia).²⁶

Form and Functions of Government

This section examines the current state of environmental institutions in the West Balkans and changes needed to harmonize with the EU. Although the Environment Acquis and the EU do not specify environment institutional structures, many functions and tasks are embedded in EU Directives. Key challenges include defining organizational structures, building staff and capacity, integrating environment across other government functions, and ensuring links with the governance framework and decentralization. Comparisons with EU member states and CEE new member states are provided to better understand the relative position of the West Balkan states.

The institutional capacity of governments to protect the environment can be difficult to measure directly. Diagnostic tools, peer exchange programs, self-reporting mechanisms, and indicators have been developed and integrated into the EU accession process, and others are used more broadly internationally. This study reviewed capacity measurement tools in European states (see Appendix B). Specific environment tools include indicators such as the European Environment Agency's core indicators, European Common Indicators for Urban Environment Quality, and EU Minimum Criteria for Environmental Inspections (Appendix C). Some accession tools integrate the environment with other topics.²⁸ In addition, EU grant programs can help strengthen capacity and institutions.²⁹ Several peer ex-

²⁶ Croatia has recently begun implementation of the waste packaging directive and in 2006 established a national beverage and bottle return system with revenues administered by the environment fund.

²⁷ Permitted landfills are those that comply with all legislation for site design, operations, and maintenance. In practice, landfills without permits still operate but are considered "out of compliance" until all regulatory requirements are met.

²⁸ Early self-diagnostics in National Programs for the Adoption of the Acquis; Pre-Accession Screening, in which candidate states and the Commission exchange face-to-face views; and "progress monitoring" or self-reporting by candidate countries that covers over 30 environment directives (Appendix 1a).

change and assessment programs have “twinning” arrangements for practitioner capacity-building guidance; peer reviews of capacity to implement environment directives; and an environment peer review program for municipalities. Voluntary reporting schemes and certification programs (e.g., municipal-level Eco-Management and Audit System) apply some of the earlier mentioned indicators.

Macedonia, Albania, and Bosnia and Herzegovina have carried out functional reviews on public administration reforms. These reviews assess environment administrative capacity needs and face the significant challenge of capturing the full breadth of environment functions that cut across administrative boundaries and government levels. Other non EU-specific tools include the OECD Environmental Performance Reviews, globally exchanged lists of Environmental Indicators, Performance Reviews of Environment Funds, and assessments of environment spending against Public Expenditure Management Guidelines. The United Nations Economic Commission for Europe (UNECE) has a voluntary program of Environmental Performance Reviews that evolved from the OECD Environmental Performance Reviews. The UNECE Environmental Performance reviews have been completed in all West Balkan countries. Networks of professional environmental practitioners exist at the sub-regional, EU, and international levels—excellent fora for dialogue and exchange. Several networks have initiated peer benchmarking to improve environmental performance, although direct application to country-specific programs is still in early stages. For example during 2005–06, the sub-regional network for the West Balkans, funded by EU CARDS, has supported voluntary peer reviews on IPPC and introduced cross-country benchmarking practices (with World Bank support).

Key government functions and obligations under the Environment Acquis can be broadly separated into policy making; regulation; and service provisions performed across all levels of government (Table 1.8). The table below provides examples of environment functions for water and nature. Similar examples could be generated for other thematic environmental areas covered by the Acquis, such as industrial pollution, air quality, waste management, noise, nuclear safety, and chemicals.

²⁹ CARDS funds (merging into the new IPA instrument in 2007) for West Balkan states, PHARE funds (similarly being replaced by IPA), and the Transition Facility for new member states.

Within this basic framework, key new functions required to meet environmental Acquis obligations include the following:

- Consolidate or centralize environmental data for reporting to the EU.
- Integrate environmental permitting, monitoring, and inspection functions across the environmental media (i.e., air, water, soil/waste, nature protection, and noise).³⁰
- Increase public consultation in the permitting, EIA, and decision-making processes.

Since the environmental Acquis requires clear separation of policy, regulatory, and service provision functions, all EU member states have developed organizational structures with the intent to separate these. Effective environmental governance requires mechanisms to share information and co-ordinate across these three functions. Following the subsidiarity principle, service provision,³¹ and regulatory functions tend to be decentralized and should be consistent with other decentralization reforms. In the West Balkans, institutional reforms will therefore face the same challenges as they seek to separate these functions and determine the appropriate level for each to be carried out.

Environment-related institutional arrangements vary widely in the West Balkans. A review of the environmental administrative structures in the West Balkans reveals a relatively high degree of fragmentation of environmental competencies, reflecting a past that did not recognize the environment as an independent function (Table 1.9).³²

The level of fragmentation in the West Balkan environment institutions was compared with that of

³⁰ Typically several authorities issued permits to the same company for environmental issues: for example, health or occupational safety might issue a permit regarding noise; the water authority or construction ministry would deal with water connection and/or discharge permits; the hydromet or economy ministry would deal with emissions. The EU-supported regime for permits aims for full integration—an environmental permit that covers all environmental issues. Permitting and inspection functions are usually separate, so integration refers to media only.

³¹ For example, with solid waste collection, it is usually more cost-effective for several municipalities to share a common regional facility. Each municipality remains responsible for ensuring that the service is provided, however that may include outsourced contracting to a regional service provider.

³² When environment-related responsibilities are fragmented among institutions, inefficiencies develop due to duplication of functions, policy contradictions, and weakened overall capacity.

Table 1.8 Key Government Functions under Environment Acquis

	Water Examples	Nature Examples
POLICY (Predominantly centralized)		
Develop laws and regulations, and policy instruments	Harmonize national laws, regulations, and policies with Water Framework Directive	Harmonize national Laws, Regulation, Policies with Habitats and Wild Bird Directives
Develop environment-related plans and strategies	Prepare National Water Strategy; Municipal Finance Strategies	Prepare Biodiversity and Accession Strategy for Natura 2000
Consolidate environmental information and data for government decisions	Report on water utility coverage, treatment quality; costs; performance; competing uses in water basin; aggregated water basin monitoring data.	Inventory species and threats; develop central databases (biodiversity inventory); statistics on forests, wetlands, and other protected habitats
Lead environmental coordination across other government functions	Establish water basin committee membership; convene stakeholders to consider new laws and policies	Establish park boards; convene stakeholders to consider new laws and policies.
Lead coordination of government actions under international environment treaties	Represent Government on International River Basin commissions; ensure fulfillment of cooperative agreements	Report on obligations for United Nations Framework Convention on Biodiversity, RAMSAR
Develop programs to promote environmental awareness	Publish water quality data and water permit violations; initiate beach blue flag programs.	Launch targeted programs: e.g., Forest fire safety campaigns; Croatia “Adopt-a-bat program;” “Kosovo-my-home” campaign.
REGULATORY (Decentralized as practicable)		
Assess environmental impacts (Administrative level determined through scoping and legal provisions)	Assess impacts on waters within EIA process	Assess impacts on nature within EIA process
Issue environment-related permits	e.g., water aspects of IPPC permit; water use/abstraction permits; water discharge permits	e.g., Natura 2000 permits; nature aspects within IPPC permit; park entry and use permits; hunting and recreation permits
Monitor (ambient environment and facilities)	Monitor (regular and spot check) surface and groundwater quality, biological stress indicators, and water levels	Inventory wildlife and plants; monitor GIS and satellite data for habitat changes; monitor park entry and use permits against capacity restrictions
Inspection (Administrative level typically corresponds to the same level of issued permit)	Conduct site visits to verify construction permit compliance in waterways, facility discharges; water extraction. Respond to complaints/spot check permits.	Monitor and enforce management plan uses; park rules of conduct. (Park rangers often perform nature inspection functions.)
Environmental Enforcement (Administrative level determined based on classification of the facility involved and severity of the issue)	Prosecute or pursue corrective action for toxic waste discharge to waters; excessive sediments from work in waterways; un-permitted extraction or discharge.	Prosecute or pursue corrective action on illegal construction, logging, fishing, hunting in protected areas. Un-permitted capture, destruction, or movement across borders of rare and endangered species.
Consolidate Environmental Information/Reporting	Aggregate and report water data to meet EU reporting and inform policies	Aggregate and report nature and parks data to meet EU reporting and inform policies

(continued)

Table 1.8 Key Government Functions under Environment Acquis (Continued)

	Water Examples	Nature Examples
SERVICE PROVISION (Decentralized as practicable)		
Environment Public Services (Water Supply, Wastewater Control, Solid Waste Management)	Provide water and wastewater utility services organized at municipal or regional level.	Manage and control parks admissions and services.
Provide Environmental Data to Public	Publish water users register and water quality data; alert public to sporadic quality problems.	Publish park visitor guides; host public consultations; website data sharing.
Recreational Services	Manage human use of public waters (including swimming, bathing, fishing, boating, etc.).	Manage ecosystems for public use including municipal and county or district parks, nature reserves, and National Parks and Reserves.

Table 1.9 State Level Institutions with Environment Competence

Country/Territory	Primary Environment Ministry and Its Subordinated Agencies		Other Ministries and Agencies Outside Prime Environment Ministry		Fragmentation Index
	Primary Environment Ministry	Agencies	Ministries	Agencies	
Albania	Ministry of Environment, Forestry, and Water Administration	3	4	4	2.0
Bosnia and Herzegovina	Overall State —Ministry of Foreign Trade and Economic Relations	0	2	0	3.0
	Entity FBiH —Ministry for Environment and Tourism	1	2	2	
	Entity RS —Ministry of Physical Planning, Civil Engineering, and Ecology	1	2	5	
	Separate Brcko District —District Government (Department of Utilities)	0	5	0	
Croatia	Ministry of Environmental Protection, Physical Planning, and Construction	1	5	8	6.5
FYR Macedonia	Ministry of Environment and Physical Planning	2	6	2	2.7
Montenegro	Ministry of Tourism and Environmental Protection	4	5	2	1.4
Serbia	Ministry of Science and Environmental Protection	1	1	8	3.7
Territory of Kosovo	Ministry of Environment and Spatial Planning	2	3	0	3.0
Bulgaria	Ministry of Environment and Water	4	5	4	1.8
Czech Republic	Ministry of Environment	8	3	2	0.6
Estonia	Ministry of Environment	10	3	2	0.5
Hungary	Ministry of Environment and Water	9	4	3	0.7

(continued)

Table 1.9 State Level Institutions with Environment Competence (Continued)

Country/Territory	Primary Environment Ministry and Its Subordinated Agencies		Other Ministries and Agencies Outside Prime Environment Ministry		Fragmentation Index
	Primary Environment Ministry	Agencies	Ministries	Agencies	
Latvia	Ministry of Environment	12	4	2	0.5
Lithuania	Ministry of Environment	14	5	5	0.7
Poland	Ministry of Environment	15	5	1	0.4
Romania	Ministry of Environment and Water Management	8	4	2	0.7
Slovakia	Ministry of Environment	7	4	2	0.8
Slovenia	Ministry of the Environment and Spatial Planning	7	4	6	1.3

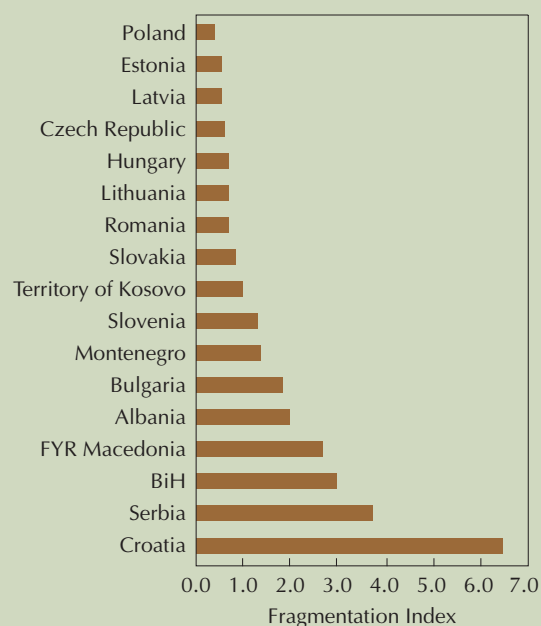
See Appendix D for complete list of institutions.

CEE states with a fragmentation index Figure 1.6.³³ Higher numbers indicate more fragmentation, which could mean further potential for consolidation, intra-government coordination, and budgetary savings if duplicated staffing functions were identified.

In the former Yugoslavia, managing the environment was typically linked and developed from spatial planning, and thus environment ministries often retain a close link today. Beyond this, the similarities and organizational structures begin to diverge. Bosnia and Herzegovina face a huge challenge given their underlying government structures;³⁴ Croatia and Albania also exhibit significant fragmentation given the number of national institutions engaged in environment functions. Recently many countries have made major progress toward integrating environment into core governance functions, but in the region as a whole, there is weaker capacity and a higher level of institutional fragmentation than in CEE countries at similar stages of harmonization to the Acquis.

Among European countries, functions vary under the core environment ministry umbrella, although some common features emerge (Table 1.10). For example, water competencies,³⁵ are most often led by the

core environment ministry and in the CEE (Hungary, Romania, Slovakia) one of the most common intra-government organizational reforms during Acquis harmonization was to consolidate water and environment, which helped to aggregate and report water issues under many environment directives. Ultimately all CEE countries combined environment and water,

Figure 1.6 Institutions with Environment Competence

³³ The number of environment institutions outside of the core environment Ministry divided by the number of environment institutions reporting to core environment Ministry.

³⁴ It has been documented that federated governments require more capacity aimed at internal coordination.

³⁵ Except for water utility services, which are a local-level competency.

Table 1.10 European Environmental Ministries—Policy Areas

Country	Environment	Water	Spatial Planning	Agriculture	Forestry	Nature Protection
Austria	✓	✓	–	✓	✓	✓
Belgium	✓	✓	–	–	✓	✓
Denmark	✓	✓	✓	–	✓	✓
France	✓	✓	✓	–	–	✓
Finland	✓	shared	✓	–	–	✓
Germany	✓	✓	–	–	–	✓
Greece	✓	✓	✓	–	–	✓
Ireland	✓	✓	✓	–	–	✓
Italy	✓	✓	–	–	–	✓
Luxembourg	✓	shared	–	–	✓	✓
Netherlands	✓	shared	✓	–	–	–
Portugal	✓	✓	✓	–	–	✓
Spain	✓	✓	shared ³⁶	–	✓	✓
Sweden	✓	✓	✓	–	–	✓
UK	✓	✓	–	✓	–	✓
Cyprus	✓	✓	–	✓	✓	✓
Malta	✓	✓	✓	✓	✓	✓
Czech Republic	✓	shared	–	–	–	✓
Estonia	✓	✓	–	–	✓	✓
Hungary	✓	✓	–	–	✓	✓
Latvia	✓	✓	–	–	–	✓
Lithuania	✓	✓	✓	–	✓	✓
Poland	✓	✓	–	–	✓	✓
Slovakia	✓	✓	–	–	–	✓
Slovenia	✓	✓	✓	–	–	✓
Bulgaria	✓	✓	–	–	–	✓
Croatia	✓	shared	✓	–	–	–
Romania	✓	✓	–	–	–	✓
Albania	✓	✓	–	Shared	✓	✓
BiH	State: ✓	–	–	–	–	–
FBiH	FBiH: ✓	shared	–	–	–	✓
RS	RS: ✓	shared	✓	–	–	✓
Brcko District	BD: ✓	shared	–	–	–	✓
FYR Macedonia	✓	shared	✓	–	–	✓
Serbia	✓	shared	–	–	–	✓
Montenegro	✓	shared	✓	–	–	shared
Territory of Kosovo	✓	shared	✓	–	–	✓

Source: Government websites.

Legend:

- ✓ responsibility for the sector aggregated within the main environment ministry
- responsibility for the sector in another ministry

³⁶ Main responsibility for spatial planning within the Autonomous Communities, but the Ministry of Environment is responsible for

international initiatives and environmental policy, such as water, coast, and biodiversity.

and within the EU overall, some 85 percent of countries maintain this combination under the same ministry. In contrast, the West Balkans split the water competency across line ministries around 65 percent of the time and only Albania and Kosovo consolidated water and environment.

Spatial planning and environment are integrated in just over half of the West Balkans and just under half of current EU member states. Estonia and Latvia separated spatial planning from environment during the pre-accession phase; with hindsight, Estonia reported some loss of integration of these functions and a preference for the combined approach. Similarly one entity (FBiH) in Bosnia and Herzegovina separated these functions, and now reports less favorable outcomes.

Many thematic responsibilities, particularly related to natural resources (forestry, fisheries, minerals, and oil and gas) divide responsibilities across two or more ministries, with environment leading on policy, and other ministries leading on resource regulation and management. This arrangement helps manage potential conflicts of interest. Four of the 25 EU states integrate environment and agriculture functions under the same ministry.³⁷ Albania stands out as the West Balkan state with a mix of agricultural functions such as forestry, pastures, and fisheries under the environment ministry and others separated under agriculture. Romania reports that combining environment and agriculture weakened the environment function (Case Study No. 7 in Appendix E). Forestry is combined more often with environment than agriculture, but less often than water and nature protection (40 percent in CEE). When forestry is not with environment functions, it is most often with agriculture.

All EU member states except Netherlands (96 percent) consolidate nature protection functions under the environment ministry.³⁸ Croatia is unique in the region with nature protection functions under the Ministry of Culture. Montenegro has a mixed structure with its technical body, the Nature Protection

Institute, under culture and the ministry competence for nature protection combined with environment.

Each country should examine institutional arrangements to see if there are potential conflicts with environmental policy, regulatory functions, or funding. Since environment is typically a more recent responsibility it may receive fewer resources—staffing and funding—therefore governments looking to strengthen environment in line with the demand of the EU must recalibrate resource distribution. For example, in Serbia, environment, science, and technology are combined under the same ministry, which can have the effect of marginalizing environment. In an EU context, these conflicts will become even more apparent. For example in the EU, construction functions are typically separated from environment, to avoid potential conflicts of interest with the EIA Directive, particularly involving government-funded construction projects. One CEE state, Latvia, separated construction from environment during pre-accession stages; and in the Balkans, currently Croatia combines construction and environment under the same ministry.³⁹

Environment Protection Agencies—A Useful Model?

The regulatory function

A common solution to coordinate regulatory functions and respond to European Environment Agency requirements for reporting data across environment media has been to establish an Environment Protection Agency (EPA). About 75 percent of EU countries have an EPA listed in their organizational structure as an institution separate from the environment ministry. The EPAs typically integrate environmental media that were fragmented, they lead on the regulatory function, thereby separating it from policy; they create stronger links to reporting structures and promote communication across multiple levels of government, given that many regulatory functions have been decentralized.

Often EPAs have been created from existing administrative departments that were combined and re-mapped from existing decentralized governance

³⁷ Two of these are small (Cyprus and Malta) with less than 1 million population each, and Austria is federal. UK is the fourth country with such integration.

³⁸ Romania had responsibility for National Parks under agriculture/forestry until a new law was passed at end 2005 and the shift to environment only came into effect in 2006.

³⁹ Latvia had combined construction, tourism, and regional development with environment since 1993. In 2004 they were separated from environment as part of the pre-accession reforms.

structures (i.e., counties, administrative regions) or other ministries or agencies. Six out of ten CEE states created EPAs in the pre-accession process, and the remaining four countries separated key regulatory functions by, for example, creating independent IPPC permitting, and EIA bodies (Appendix F). Estonia's regulatory bodies have the basic three traits of an EPA—integration of media, linked reporting, and separated policy and regulatory functions—although it goes by a different name. Hungary has a structure that links reporting, and separates policy and regulatory functions, but does not fully aggregate media (notably water and nature protection). Czech Republic and Poland rely on embedded regulatory functions within decentralized governance structures (Voivodeships, Poviats, and Gminas in Poland) that do not link reporting to the Ministry of Environment unless specified for certain action; this burden of extra coordination strains an already heavy administrative load fueling the ongoing debate in these countries about the merits of creating an EPA.

Not all EPAs have full regulatory functions—some have only data reporting, collection, and information sharing responsibilities, even in old member states, depending on where regulatory functions are established. Data coordination is a basic EPA function that EU membership obliges in the form of reporting data to the European Environment Agency (the EU clearinghouse and central body for environmental information exchange). Around half of the West Balkan countries have recently established EPAs (Croatia, Serbia, Kosovo) and the others are in the process of establishing a central EPA (Montenegro and Albania) or assessing the need (Bosnia and Herzegovina). None of the Balkan EPAs yet has full regulatory responsibilities or support decentralized regulatory functions.

Environment policy and regulatory functions are still largely mixed within institutions, which increases the potential for conflict of interest, and duplicates functions. It is not efficient to regulate from the top if you can regulate closer to problem, and re-assessing and organizing these competencies remain key reform tasks ahead for most West Balkan countries, which should be completed before accession. The longer-term option to adapt central EPAs into an EPA-based regulatory system (integrating decentralized functions) has not yet been systematically addressed given its links to much broader government-wide administrative reforms.

In the West Balkans, pre-existing decentralized environment regulatory functions are weaker than they were in many CEE states at the same stage (i.e., Baltics and Poland). Hence, there are fewer existing local departments or agencies in West Balkan states to aggregate. In 2000, Slovenia overcame this challenge by merging their Hydro-meteorological Institute and the Administration for the Protection of Nature to create a new EPA; initial mixed successes and internal support have evolved into sustained work on building capacity (Slovenia maintains largely centralized environment functions). In Slovenia, this institutional merging had proponents from the Former Administration and detractors from the former Hydro-Meteorological Institute. The rough transition gave way to today's Environmental Agency, which has five main offices and staff who are positive about their functionality, despite concerns about capacity to fulfill all obligations (administrative procedures, permitting, monitoring, and reporting).

Merging the Administration for Protection of Nature and Hydro-meteorological Institute into the new Environment Agency

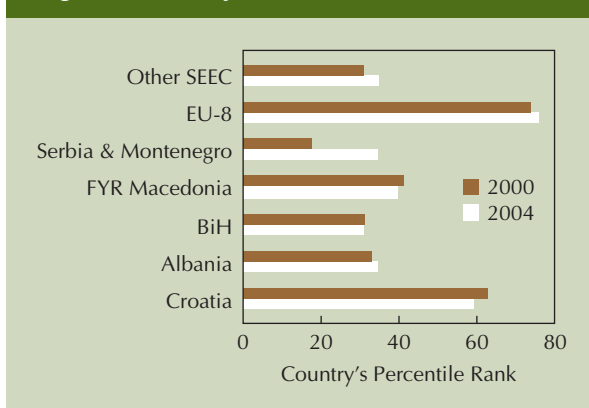
"In 2000 we had many different bodies with unclear responsibilities, overlapping issues etc. With introduction of the Environmental Agency we managed to clarify the situation a little bit, however as always in administrative reform you have to be careful about people and how changes will be perceived and adopted by them."

SLOVENIAN FORMER MINISTER OF ENVIRONMENT AND SPATIAL PLANNING

Highly decentralized countries with weaker administrative capacity may benefit the most from an integrated EPA system as a clearer institutional structure can partially offset some greater communications and coordination capacity challenges.

Governance and Environmental Enforcement

Since the West Balkans region ranks below the EU and CEE states on several governance measures including overall government effectiveness and rule of law, improvements to environmental enforcement will likely

Figure 1.7 Composite Governance Indicators

Source: WB Governance Matters 2004.

Note: Includes Voice and Accountability, Political Stability, Government Effectiveness, Regulatory Quality, Rule of Law, Control of Corruption.

require more systemic efforts. (Fig. 1.7 and 1.8)⁴⁰ Indeed, environmental enforcement should be integrated into government-wide public administration improvements, including regulatory and judicial reforms. Environment officials will need to develop strong cooperative links with police and border guards to effectively combat environmental crimes such as illegal transport and trade of wastes, hazardous chemicals, and endangered species, all of which are governed by environmental law. Public awareness and information campaigns to improve transparency also strengthen environmental enforcement. (See section on Public Participation)

Because environmental enforcement is key to implementing environmental laws, environmental inspection and its interface with regulatory bodies is a crucial function that needs strengthening and adapting to the EU Acquis framework.⁴¹ The inspectorate is the technical or field-based arm of regulatory enforcement whose responsibilities include early response to environmental incidents and accidents (Box 1.3); field oversight of environment permits; issuance of fees and fines for

⁴⁰ World Bank: "Government effectiveness" indicators combine quality of public service provision, quality of bureaucracy, competence of civil servants, independence of civil service from political pressures, and credibility of government commitment to policies. "Rule of Law" indicators measure the extent to which agents have confidence in and abide by rules of society, which includes perceptions of incidence of crime, effectiveness and predictability of the judiciary, and enforceability of contracts.

⁴¹ At the decentralized level, regulatory bodies can be separate or embedded in local government structures.

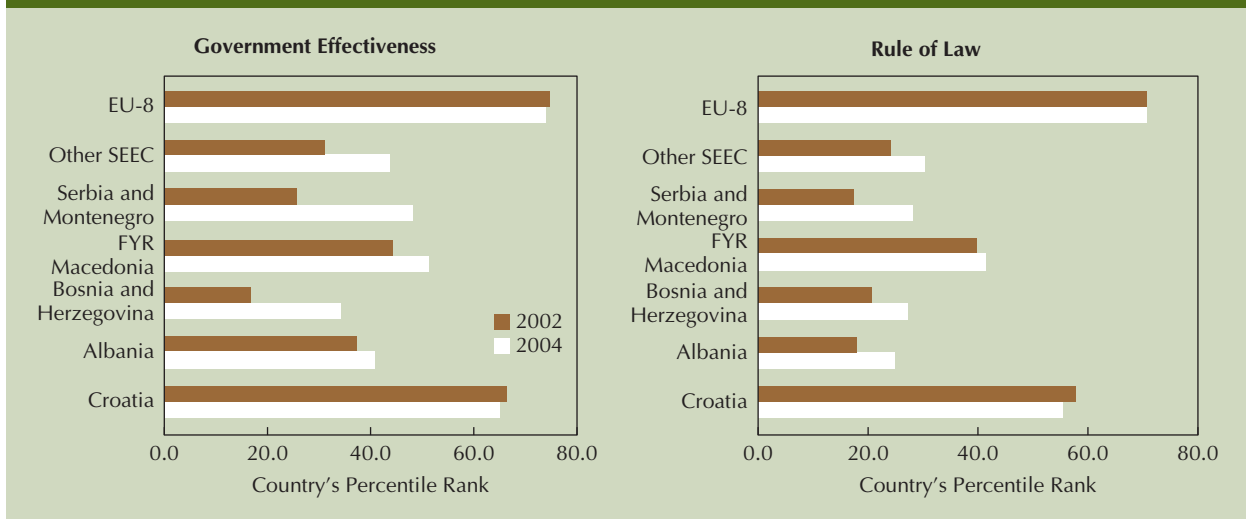
non-compliance (in coordination with police and border guards), and spot inspections to ensure that field conditions match reports.

Reports on field conditions by the environmental inspectorate to regulatory bodies should be used to inform management decisions. In addition, when disputes arise, the environmental inspectorate prepares cases for prosecution on behalf of the state; therefore, it is desirable to have some independence between enforcement and regulatory functions. However they must also work together to coordinate actions for industries and permitted entities. Organizational structure varies across the region for environment inspectorates but the most common is directly under the primary environment ministry (Croatia, Macedonia, Serbia, Montenegro, Albania, and Kosovo). Bosnia and Herzegovina's inspectorate is aggregated with the full range of government inspection functions rather than clearly designated as environment. All CEE States have inspectorates integrated with or reporting to environment institutions.

The link must be well developed between the inspectorate and the regulatory body because their separate roles must be complementary and coordinated; they must share data and information on the same environmental permits and regulated bodies. Few West Balkan inspectorates can cover all environment media and most still need to coordinate among separate inspectorate units for water, nature protection, forests, noise, etc., which are often under the authority of separate ministries. None functions on an integrated permitting basis to the extent that is required by EU law. All inspectorates handle fees and fines for violations of environmental laws and permits, and perform planned and spot inspections. Overall, the link between the judiciary and inspectorate function needs strengthening, and most inspectorates' record of prosecutions is poor.

In December 2001, a program began to support regional capacity building for environmental enforcement in the Balkans with establishment of the Balkan Environmental Regulatory and Enforcement Network (BERCEN). The capacity building program was modeled on a structure used for Central and Eastern European pre-accession states and corresponds to the EU Member states network called European Network for Implementation and Enforcement of Environmental Law (IMPEL). In January 2006, the network convened its first meeting under a new name—the Environmental Compliance and Enforcement Net-

Figure 1.8 Government Effectiveness and Rule of Law Indicators



Source: World Bank Governance Matters 2004.

Box 1.3

Incidents and Illegal Operations with Environmental Inspectorate Involvement

Environmental inspectorates carry out regular inspections and respond to incidents and illegal operations. In 2001, Croatian incidents from transport and industry were equal (25 percent), and occurred most often in large industrial centers, road junctions, or most heavily trafficked roads. The other 50 percent of incidents covered a wide range. Following are examples of publicized cases from Bosnia and Herzegovina and Croatia:

- **Accidents at industrial facilities:** Uncontrolled leaking of transformer oil at the Hydro-power plant in Jablanica, Federation BiH (2006); Uncontrolled leaking of light distillate oil from Dalmacijacement factory tank into Jadro River, Croatia (2002); Industrial Wastewater pollution from Celex Paper Mill into Vrbas River, Republika Srpska (2005); Fire at Modrica bitumen mixing plant, Republika Srpska (2004–05).
- **Traffic accidents:** Accidents with tanker-trucks transporting oil or other hazardous substances are one of the most common incidents; Boat traffic accidents on the Adriatic Sea with discharge of used oils and fuels are a common problem with responsible parties often unidentified.
- **Water pollution incidents:** Drinking water pollution in Bijeljina due to poor sewage network, Republika Srpska (2005); Increased levels of organic and

inorganic matter in Spreca River, Federation BiH (2005); Shipping accident by the ship “Brigitta Montanari” transporting vinyl chloride near Murter, Croatia (1984)

- **Waste management:** Illegal waste dumping (frequent) and fires at dumpsites (numerous cases); Fire at the hazardous waste incinerator (PUTO), Zagreb, Croatia (2002); Fire at oil disposal site at Modrica Refinery, Republika Srpska (2004–05).
- **Illegal excavations:** Gravel excavations in Sutjeska National Park catchment area, Republika Srpska (2004); Gravel excavations in Micevac near Velika Gorica for the rehabilitation of Jakusevac Landfill, Croatia (2002)
- **Degradation of forests and biodiversity:** Harvesting protected forests in urban area of Knezevo Municipality, Republika Srpska (2004–05); Appearance of invasive algae *Caulerpa taxifolia* in the Adriatic Sea (first findings in 1994) and *Caulerpa racemosa* (Croatia).

Environmental incidents occur routinely across the EU and in most developed OECD countries; in fact higher numbers of reported or publicized incidents can be an indicator of well-functioning environmental enforcement.

Box 1.4

Environmental Compliance and Enforcement Network for Accession

Environmental Compliance and Enforcement Network for Accession (ECENA) is an informal group of environmental authorities from the pre-candidate, candidate, and recent member states. Members of ECENA are Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Montenegro, Romania, Serbia including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999, Turkey, and the European Commission. The ECENA mission is to protect the environment in its member countries through effective transposition, implementation, and enforcement of EU environmental legislation by increasing the effectiveness of inspec-

torate bodies and promoting compliance with environmental requirements. The general objective of ECENA is to improve the ability of the pre-candidate, candidate, and acceding countries to implement and enforce the environmental Acquis. The network will closely cooperate with Implementation and Enforcement of Environmental Law (IMPEL) and seek its involvement in the network's activities. ECENA is the successor of Balkan Environmental Regulatory Compliance and Enforcement Network (BERCEN).

Project website: <http://www.rec.org/REC/Programs/rerep/ecena/>

work for Accession (ECENA), while broadening the participants to include Turkey (Box 1.4).

Early on, BERCEN conducted a stocktaking review of resources available for enforcement to Environment Protection Agencies and Environmental Inspection.⁴² The review identified steps necessary to improve enforcement as the following:

- Remedy staff shortages, especially local staff with legal training sufficient to develop enforceable permits and enforcement procedures. Inspectorates reported losing 50 percent of court cases.
- Strengthen ability to advise permit holder on how to comply.
- Remedy conflicts of interest that contribute to weak permitting systems—e.g., inspectors cannot write permit conditions that they must enforce.
- Install simple monitoring equipment to detect environmental accidents and reduce emergency response time.
- Develop integrated data storage and retrieval systems to enhance mechanisms for sharing information among agencies and ministries.
- Increase staff training—including legal and practical aspects of site inspections.
- Develop formal mechanisms for cooperation across government agencies and ministries.

- Create opportunities for public participation in the permitting process.
- Evaluate compliance and enforcement to ensure that indicators used to assess performance are monitorable and used consistently.
- Strengthen environmental monitoring and reporting.
- Link budget frameworks to performance and functional needs.

On average, inspectors within the region were reported to have over 15 years experience; Macedonia reported an average of five to six years. Inspectorates have only recently begun compliance promotion; compliance checking is underdeveloped; and programmatic compliance inspection is weak. In general, there are no strategies in non-compliance response and no inspectors' code of conduct, or else these are just being introduced. Overall coordination and effectiveness with the judicial system is weak. Inspectors' level of cooperation with border control and police is mixed within and among countries.

The network provides training, exchanges of best practices, assistance to prepare reports on IPPC directive implementation, and peer reviews of national enforcement and compliance systems. Recent activities through the network have included training and awareness of EU Acquis requirements for Integrated Permitting, IPPC directive, Large Combustion Plant directive, Seveso II directive, and the EU Parliament and Council Recommendations on Minimum Criteria

⁴² Compiled Report on the Current Legal Structure and Resources Available to Environment Protection Agencies and Inspectorate in the Countries of South Eastern Europe, February 2002.

for Environmental Inspections (Appendix C). Across the region, the network is also supporting work to develop environmental inspectorate benchmarking tools for self-monitoring of performance and service efficiency.⁴³

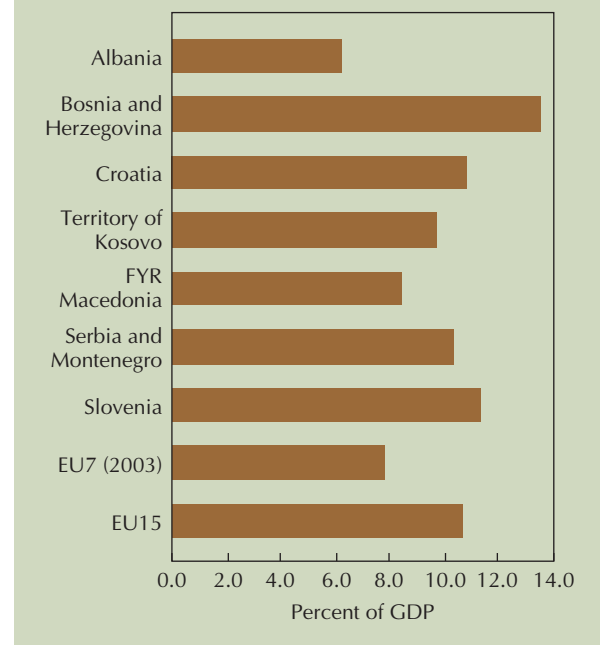
Public Administration and Staffing

Throughout the region, the public sector dominates and in all countries except Albania, the public sector share in the economy is higher than the CEE average (Fig 1.9). Thus, the macroeconomic reform agenda has focused on public administration reform, particularly government staff reductions, which challenge environment ministries and bodies that typically have weak influence within government. Reform actions such as across-the-board staff cuts to all ministries that have been applied in several West Balkan countries have visibly harmed overall environment staffing needs, for example in Serbia, where numbers were already low for a country of its size. Macedonia environment institutions report similar pressures to cut staff and restrict hiring—even for positions specified in strategic plans. Albania regional environment agencies face staffing pressures despite inadequate levels of regional and county staff (usually five or fewer) considering the increase in responsibilities due to decentralization.

The administrative tasks required to comply with the EU Environment Acquis will need a significant net staffing increase, which is at odds with current public administration reforms. However, some efficiency gains can be accomplished through eliminating functional duplication at different levels of government, streamlining organizational structures, and maximizing reliance on external stakeholders such as NGOs, private sector, and community watchdogs.

Evaluating country environment capacity is difficult for many reasons. First, it is difficult to aggregate the local environment staff within the region because they are often embedded in local government structures and have other non-environment duties, making it difficult to quantify time spent on environment duties. Furthermore, figures are difficult to compare across countries because the organizations vary in combina-

Figure 1.9 Public Sector Wage Spending



Sources: National authorities; International Monetary Fund; World Bank, 2005.

tions of environmental functions; and it is difficult to separate administrative and political staff from those who perform core environment functions. Some adjustments were made for these factors; however, staffing figures are dynamic and at best represent a simple snapshot in time (Table 1.11). Lastly, staffing numbers are not indicative of capacity of a system if they act independently of each other. For example, Serbia has the most environment staff at the local level but its local-level staff are not well integrated with other environment bodies. In Macedonia, local-level environmental inspectors are attached to the local administration, and performance of devolved regulatory functions is reported to be weak.

Environment staff at the local level of government vary but are most typically five or less, and many small administrations have only one person who covers environment along with a multitude of other tasks. Not one West Balkan country has environment capacity at the regional or county level that compares with regional and local EPAs in some EU member states. The FBiH entity, the most decentralized part of Bosnia and Herzegovina, has some 42 environment staff spread across 10 Cantons (equivalent to the regional or county level). By comparison, most Baltic States have

⁴³ World Bank is supporting these efforts with BNPP Dutch Trust Funds.

Table 1.11 Staffing in Key Environment Institutions Across the Region

Environment Staffing	Albania	Bosnia and Herzegovina	Territory of Kosovo	FYR Macedonia	Serbia	Montenegro	Croatia
Prime Environment Ministry	57	31	36	100	118	12	51
Environment Inspectorate	43	36	38	12 ⁴⁴	250	2	58
EPA	/	/	40 (2003)	29*	3	1	19
Nature or Environment Institute	71	/	Part of the EPA	/	78	20	26
Environment Fund	/	/	/	8	1	/	21
Total	171	67	114	122	470	35	175

*Macedonia currently has a service for the Environment within the Environment Ministry; and plans to establish an Administration for the Environment in 2007 to lead regulatory functions.

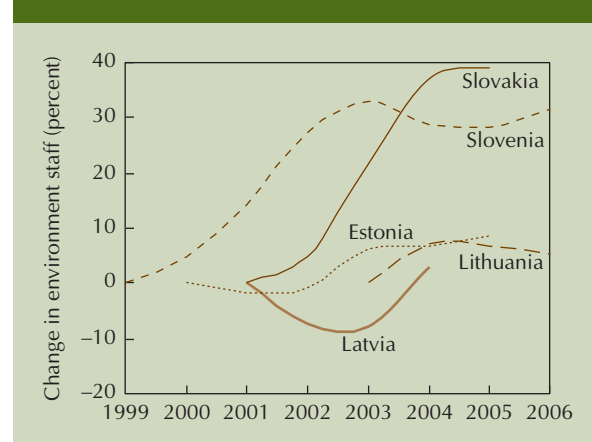
some 35 environment staff in each or approximately 10 counties.

As a result of adopting of the Acquis, all CEE countries increased net environment staff numbers. Many experienced hurdles and setbacks along this path with concurrent reorganizations redistributing environment staff across institutions; government-wide public administration reforms put pressure on budgets and staffing head count ceilings (Figure 1.10). Today, despite net increases, retaining sufficient staffing and environment skills are two of the main challenges that CEE environment institutions report. The Baltic States (with a comparable population) had a higher pre-existing number of local-level environment staff. The West Balkans in this context are more similar to Slovenia and Slovakia and should expect staffing increases at the higher end. Slovenia's pre-accession staffing changes have been compared with current levels in the West Balkan States (Figure 1.11). Macedonia—comparable in population to Slovenia, has staffing levels higher than pre-accession Slovenia.

The West Balkans have a favorable educational basis for training and educating future environmental professionals. Almost every country in the region has at least one relevant university or post-graduate degree program including environment management, environmental engineering, ecology, environmental sci-

ence, environmental protection, urban forestry, science and technology of the environment, biogeography, and environmental chemical technology (Appendix G). Many programs' inter-sectoral approach to training environment professionals is not yet well-established but they incorporate a strong foundation in most core sciences. Further curriculum enhancements might include integrating EU-specific policies and programs, and ensuring adequate practical exposure to EU regulatory practice for faculty and students.

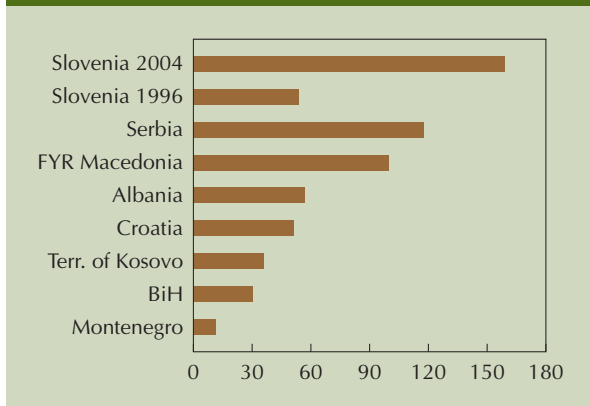
All countries face large decentralization challenges; in practice most have not substantively decentralized environment functions. Macedonia, Kosovo, and Albania

Figure 1.10 Environment Staff Changes over EU Pre-Accession in CEE

Source: World Bank, 2006.

⁴⁴ Many local municipalities are in the process of nominating own staff to perform environment inspection functions.

Figure 1.11 Staffing Comparison to Slovenia Core Environment Ministry



Source: World Bank, 2006.

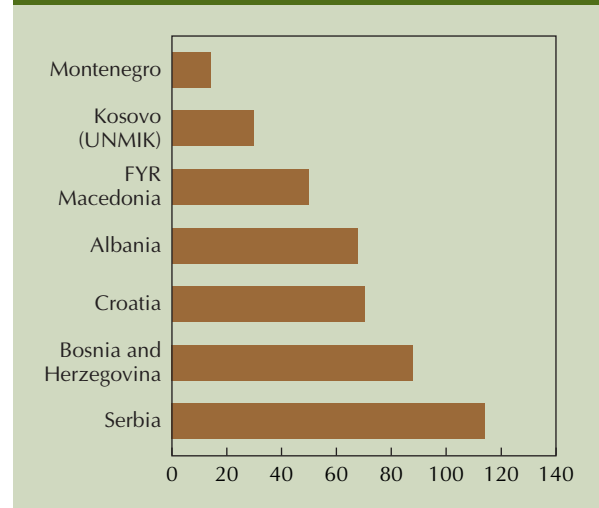
are most advanced and although they have passed legislation to devolve some environment functions to the local level, local government capacity to carry out the functions is uncertain. Croatia, Serbia, and Montenegro remain predominantly centralized in their approach to the environment. Bosnia and Herzegovina represent a blend—FBiH is decentralized and RS and Brcko District are more centralized.

Public Participation

Historically, most public participation in the region has been limited to comment periods that precede formal government or parliamentary approval; public involvement in early formulation of government decisions has been limited. More nongovernmental environmental organizations are advocating for a higher public involvement in key environment decisions (Figure 1.12). Government engagement and collaboration with environment NGOs is mixed, ranging from some involvement in strategic planning working groups to limited or none in decision-making. In the region, few examples exist of permanent collaboration among NGOs, private industry, and public institutions. Several countries have expedited procedures for approval of EU-related laws, which curtails the potential for public comment.

Environmental strategic planning documents (National Environmental Action Plans (NEAPs) have been many countries' first experience with broad-based public participation in environmental strategy development. Some countries are gaining public con-

Figure 1.12 Environmental NGOs – 2006



Source: REC, 2006.

sultation experience through developing participatory parks management plans; capacity building and training are focused on increasing public involvement in the EIA process to better align with EU Acquis requirements. Macedonia has been proactive on including the public in preparation of key environmental laws through the use of advisory working groups comprised of the business sector, NGOs, and local government representatives.

Most EU funded environment projects include explicit public disclosure requirements; typically this means establishing a website to share project documents. Most environment ministries have established websites with information published in local languages and English. Croatia and Macedonia have the most extensive public information available on the web. Despite growing potential as Internet use and access rates increase, the Internet has not yet been used to implement or coordinate environment directives among key stakeholders—in 2006 household Internet access rates in BiH were just over 20 percent, and in Croatia, just over 45 percent.⁴⁵

The EU Acquis will require environment ministries to undertake regular proactive information sharing to raise public awareness. Although public information to educate citizens on how to protect the environment should be a key function of environment ministries,

⁴⁵ BiH Regulatory Agency for Communications, data September 2006; and July 2006 Market GFK Research Agency (Croatia)

most governments have limited experience and many lack a communications function.⁴⁶ Where communications with the public exist, they are primarily reactive. Most countries are parties to the International Aarhus Convention governing access to environmental information, public participation in environmental decision-making, and access to justice, and some have established strategies to comply, however practical implementation will require much further efforts.⁴⁷ Greater public involvement can be effective for environmental enforcement, to change behavior, and to build a constituency for better environmental governance.

Legal Harmonization and Planning

Comprehensive environmental legislation first appeared in Europe in the 70s and since then most governments' constitutions include "access to a clean environment" as a fundamental right for all citizens.⁴⁸ In fact, all EU citizens have the right to appeal to a higher EU law if their national law fails to internalize requirements, which underscores the urgency of harmonizing legislation and preparing administrative structures for implementation *before* EU membership comes into effect.

European governments have demonstrated strong leadership on incorporating environmental objectives into law, which means that environmental law is among the most dynamic of European bodies of law—it grows and adapts almost continuously. Legislation is shaped jointly by the European Commission and by the EU Court of Justice and a 2002 EC annual report on monitoring the application of Community law, reported that over one-third of all infringement cases were environment-related and that a "considerable number" of complaints led to questions and petitions in the European Parliament. This dynamic feedback

mechanism continues to shape the body of environmental case law.

Therefore harmonizing national legislation with the EU Acquis will help each country build capacity to integrate with the EU environmental management framework. This will maximize the cost-effectiveness of investments while ensuring a more sustainable development path. Failure to harmonize and integrate will create legal and budgetary vulnerabilities—including the potential for lawsuits in EU courts, culpability for lack of transparency, and public resistance to essential investments.

This section provides an overview of progress in the West Balkans with harmonization of environmental legislation with the EU Acquis, and on strategic planning for the environment.⁴⁹ Most West Balkan countries began harmonization before the SAP process with the EU was established. References to EU legislation can be found in many strategic planning documents dating to the 90s. Within the European Union, environmental policy and law making are led by the General Directorate of Environment, which can be considered the Environment Ministry for the European Commission. The European Environment Agency (EEA) is a separate institution that provides policymakers with information. The EEA coordinates the exchange of environmental data through the European Environment Information and Observation Network (EIONET). Membership in the EEA and EIONET is broader than EU membership and includes nonmembers such as Iceland, Norway, Lichtenstein, and Switzerland. All West Balkan States have applied for membership in these EU bodies.

The Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) directives represent some of the most important and most fundamental horizontal or cross-cutting legislation that affects all economic sectors and aims to "do no harm" and proactively integrate and mitigate key environmental concerns. The SEA legislation promotes proactive integration of environment into policies, strategic plans, and government decision-making.

The environment is an inter-sectoral and far-reaching part of the Acquis Communautaire; unless it receives early and government-wide attention to prepare institutions for implementation, it could be-

⁴⁶ Some examples of targeted environment public awareness campaigns launched in the region are Kosovo's "Kosovo-my home" and Macedonia's "say no to plastic bags" campaigns.

⁴⁷ Convention on Access to Justice in Environmental Matters (1998). The EC formally became party to the convention in 2005 and adopted specific directives for its implementation as early as 2003.

⁴⁸ *Silent Spring* was a book that stimulated political mobilization and response of governments internationally to introduce regulations and controls to reduce environmental damage and minimize human impacts on the environment. Social movements and lobbying groups focused on the direct and often negative linkages emerging between human economic production, health, nature, and the environment and contributed to growing international awareness.

⁴⁹ Other recent background documents provide detailed information.

come a bottleneck that blocks other programs and progress. The EU environment legislation is participatory and inclusive—and its administration requires extensive coordination across government and civil society; it responds well to decentralization, however feedback requirements for data for management and decision-making, plus the need to aggregate and integrate information seems almost contradictory to decentralization. The Environment Acquis is a holistic body of legislation that most importantly must integrate with administrative structures for implementation. Elements of the Environment Acquis apply to other sectors through “cross-compliance;” technically, some of these apply *after* EU membership, but long lead times to implement some measures would suggest a progressive adoption prior to membership. The importance of environment cross-compliance in the agriculture sector is presented in Box 1.5. Cross-compliance also applies to energy, transport, industry, health, and regional development, among others.

For the past five years or more, all countries across the region have had programs that supported transposing EU environment legislation (Table 1.12). However, progress with transposition and implementation of the EU Environmental Acquis varies across the region; Macedonia, Serbia, Croatia, and Montenegro have transposed the largest portion of the major EU directives into the national legislation and are now drafting

subsidiary legislation and needs for subsequent implementation and enforcement. Albania, Bosnia and Herzegovina and Kosovo’s legal harmonization is less advanced and they are still transposing the primary legislation.

All countries have years of work ahead to enact subsidiary legislation that will meet EU standards, suit country conditions, and be compatible with existing institutional roles and responsibilities. Drafting this legislation in each country is inevitably an iterative process of trial and error that must consider institutional arrangements and incorporate feedback from actual implementation.

Getting an early start on strengthening national administrative and institutional capacity for EIA to promote the absorption of EU grant funds would be highly beneficial. The EIA and SEA portions of the Acquis are applied before accession to all EU-funded programs and investments. If these directives are inadequately applied to EU-funded investments and programs, sanctions would apply, including non-reimbursement of funds to the country. So-called “ring-fencing” programs and investments can substitute for strong national capacity in the short term but this approach caused problems in CEE states during pre-accession when national practice was inconsistent with EU requirements. All countries have established basic framework environment laws, which

Box 1.5

Environment Acquis: How “Cross Compliance” Affects Agriculture

As the West Balkans harmonize agricultural policies and practices with the EU, the importance of the environment and cross-linkages with the Environment Acquis must be strengthened. Cross-linkages fall primarily under the water, waste, and soils-related directives and concern water resources management, agricultural runoff and non-point source pollution, development of a code of good (environmentally sensitive) agricultural practices, soil treatment and quality, including land application of manure and wastewater sludge, and rural water, sanitation, and household waste investments.

Waste disposal practices require special attention in the agro-food processing industries, slaughterhouses, and large-scale livestock farms (i.e., pig and poultry) which often fall under the requirements of

the Industrial Pollution and Prevention Control (IPPC) and Water and Waste Framework Directives. Farmer access to and eligibility for agricultural subsidies in the EU are explicitly made subject to “cross-compliance” with EU environment policies further strengthening the importance of the environment in the rural development and agriculture. EU Policy has similarly integrated support for nature protection in private landscapes under the Common Agricultural Policy (CAP) Pillar 2, starting with the 2007–13 programming period, to further integrate the environment and agriculture objectives. This will help support payments to promote more environmentally sustainable rural landscape management. Lastly, all agriculture and farm-related investments and grant programs with EU support are subject to requirements of the EIA directive.

Table 1.12 State of Transposition of EU Environmental Legislation as of mid-2007

	Territory of Kosovo	Serbia	BiH			FYR Macedonia	Albania	Croatia
			Montenegro	FBiH	RS			
Framework Environment Law	2003	2004; update in progress	1996	2003	2002	2005	2002	1994; updated 1999; new being drafted
EIA Legislation	2004	2004	2005	Part of Env. Law + new Law + new being drafted	Part of Env. Law + some secondary legislation.	2003	2003	2000; updated 2004
Strategic SEA	Energy Sector SEA 2005	2004	Draft Coastal SEA 2006	Part of Law on Environment	Part of Law on Environment	2004—Coastal SEA	2004—Coastal SEA	SEA—Coastal wastewater 2006
Law for Air Protection	2004	Draft	2003 Draft	2003	2002	2004	2002	2004
Law for Water	2004	Draft	1995; new being drafted	2006	2006	Draft	2003	1995; draft update exists
Nature Protection Law	2005	Draft	1977; updated 1982	2003	2002	2004	2002	2005
Waste Management Law	2005	Draft	2005	2003	2002	2004	2003	2004
Law on IPPC	-	2004	2005	Part of Env. Law	Part of Env. Law + some secondary legislation	-	-	-
National Environmental Action Plan	2006	Drafting final stage	⁵³	2003	2003	Update adopted in 1996	1993; updated 2002; update in progress	2002
Waste Strategy	(Waste Management Plan Exists)	2003	2005	Updated 2000–2001	- (2005 Draft Waste Management Plan)	- (Waste Management Plan 1998)	- (Waste Management Plan 1998)	2005

Note: Legal Transposition is a dynamic process, hence this table represents a snapshot in time.

⁵³ 2001 strategic document on Montenegro's sustainable development entitled *Development Directions of Montenegro as an Ecological State* (the "2001 Strategy") represents the basis for development of NEAP.

incorporate to varying degrees the horizontal legislation such as Environmental Impact Assessment (EIA).⁵⁰ Although Croatia has the longest experience with EIA, the country still lacks full implementation to meet EU legal requirements, especially in expanding public participation and introducing strategic environmental assessment. Recently Bosnia and Herzegovina, Kosovo, and Montenegro adopted updated EIA procedures and are still in the early stages of developing practices. Albania's EIA capacity is reported to be similarly weak.

Across the region, only Macedonia, Serbia, and Montenegro have transposed the IPPC Directive, work which is lagging behind other environment directives. However, even where primary laws exist, implementing this legislation has not substantially begun, because countries lack secondary legislation, and practical experience. In 2006, the ECENA network conducted peer reviews on readiness for the IPPC Directive; their main objective was to raise awareness among staff of environment ministries of the implementation demands and efforts required. So far, most capacity building focuses on piloting early permit applications and raising awareness among industries and the energy sector. Although environmental enforcement officials will require substantial capacity and sophisticated technical skills to administer and enforce this directive, no effort has yet gone into building capacity or training.

Across the West Balkans, strategic planning for the environment has advanced to a level similar to that of the CEE in the mid-90s when they began formal EU accession discussions. Most countries have adopted planning documents related to international treaties—Biodiversity Strategic Action Plans, National Climate Change Communications, and Persistent Organic Pollutant National Implementation Plans—required to make them eligible for international grants linked to adopted treaties. All countries and territories, except Serbia and Montenegro, have adopted National Environmental Action Plans (NEAPs) broadly covering the full range of environmental issues, and several countries are updating and preparing second-generation

Macedonia Leading on IPPC Progress

Macedonia has established a clear framework for gradual implementation of the IPPC Directive, which can be a model for other countries in the region. In the Law of Environment, an adjustment permit with adjustment plan was introduced, providing the basis for gradual compliance of the existing installations in Macedonia to the national IPPC system. The final objective of the adjustment permit is to facilitate meeting environmental standards and agree on progressive steps toward an integrated environmental permit. At least seven of the biggest polluters, have already submitted their requests to MEPP for an adjustment permit with an adjustment plan.

plans.⁵¹ Because some countries (e.g., Montenegro and BiH) have relied on external consultants to prepare strategy documents, overlapping and conflicting policies are emerging as a more integrated view is taken.

The SAA process set target completion dates in some countries for media-specific strategy documents such as waste and wastewater management, to progress with assessment of critical needs and enhance investment planning and prioritization. Other examples of strategic planning documents in the region include a 2005 Values of Kosovo Natural Heritage report; Montenegro's 2004 Strategic Framework for Development of Sustainable Tourism in Northern and Central Montenegro; and Macedonia's Vision 2008. Croatia and Macedonia, as formal EU candidate countries, are developing EU Environment Approximation Strategies. Strategic EA as a planning tool is at initial stages with several first examples being prepared in most countries, often driven by international financing to the particular sectors or supported by EU capacity building grants.⁵² Strategic EA in Albania, Montenegro, and Croatia are planned or underway, linked to coastal development planning; strategic EA in Kosovo is linked with the energy sector; and a pilot in Bosnia and Herzegovina is focused on protected areas.

⁵⁰ Montenegro is in the process of approving its first law and has relied on Serbia's law earlier.

⁵¹ Development of NEAPs is a requirement for World Bank IDA recipients however recommended for IBRD countries as well. CEE representatives in interviews cited early international support to NEAPs as a critical building block for the EU accession required strategic planning documents.

⁵² CARDS funds.

Environmental Financing

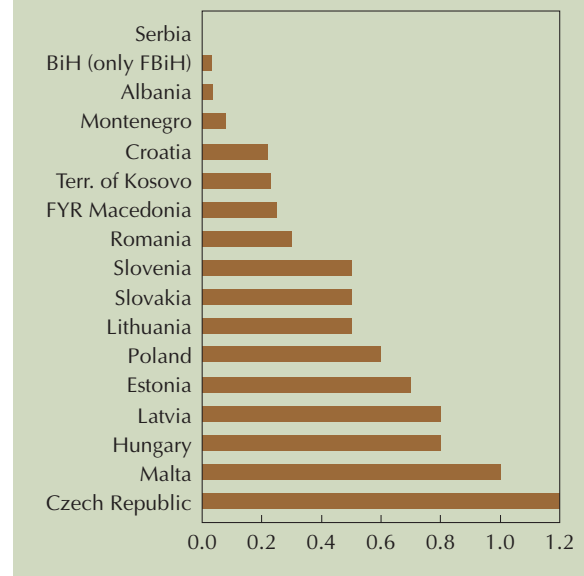
Unless West Balkan countries increase the share of their own budget devoted to the environment, their pursuit of EU membership will be impeded by lack of funding for administrative capacity, co-financing for investment grants, and operations and maintenance funds for new investments. Increased operation and maintenance spending will depend on increased cost recovery and consumer ability to pay for improved services; therefore, investments must be prioritized and sequenced, taking the following factors into account: limits of fiscal space, absorptive capacity, time constraints, and potential for environmental investments. Over time, these will all increase. The West Balkans potential to receive grant resources from the EU post accession is vast given the multiple funding programs that support the environment.

No country has yet developed a comprehensive and detailed financing strategy for environment investments similar to that of some CEE states. Such a strategy could enhance the dialogue with key stakeholders—the private sector, finance ministries, municipalities, and the EU. Countries will need to increase their attention to linkages with fiscal decentralization and municipal finance reforms to encourage the private sector and clarify the operating framework for utilities; similarly, social programs must be adapted to assist vulnerable groups with higher utility costs.

In the West Balkans, environment expenditures as a share of GDP are well below spending in new member states around their accession date, and are *extremely* low in present terms in Serbia, Albania, and Bosnia and Herzegovina (Figure 1.13). Share of the environment in government budgets follows a pattern similar to the overall GDP shares (Figure 1.14).⁵⁴ Some countries have begun to align statistics with Eurostat, which will improve future comparisons; however, no West Balkan country has yet reached full Eurostat reporting. In any case, the data presented are robust enough to conclude that environment spending levels must increase. Increases in environmental spending in new member states reflect both pre-accession and early post-accession EU grants. Over time, expenditures in new member

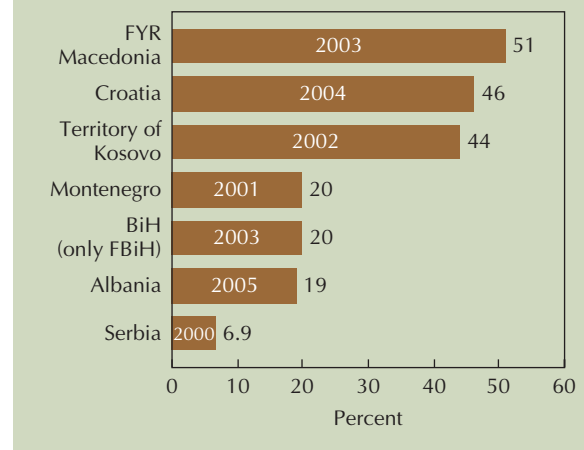
⁵⁴ West Balkans budget data are presented to indicate the shift required as countries near EU accession but cannot be compared in absolute terms given a lack of uniformity in statistical reporting, and limitations of data years available.

Figure 1.13 % GDP Environment Expenditure 2004



Sources: Eurostat, 2006; Government Budgets; UNECE, 2002.

Figure 1.14 Share of Government Budget Allocated to Environment



Sources: Government Budgets; REC, 2006; UNECE, 2004.

states will increase even further to meet EU commitments for heavy investment directives and absorb EU Structural and Cohesion funds targeted at environment investments—potentially further widening the gap with the West Balkans.

Environmental expenditures cover a broad range including public administration, heavy investments such as wastewater, solid waste, air quality, and cont-

aminated sites, among others.⁵⁵ Utilities' operations and maintenance expenditures are generally not captured in these data as these are assumed to be recovered through tariffs retained by the utilities, which operate outside of the government budget. However since the region is not fully aligned to EU policies for cost recovery some of this might be captured through local government budget spending. Spending by environmental funds, or national development banks with budget transfers are usually reflected in these figures (i.e., consolidated for reporting). Connection and capital fees for new infrastructure investment would count as expenditure as they are spent or allocated by government bodies.

The overall share of international assistance to the region is generally on the decline (Figure 1.15) as the post-war reconstruction aid tapers off, growth and income levels improve, and the region embraces a future with European Union as their primary donor partner. The EU grant programs generally favor the environment but internal priorities of each country drive individual needs. Figure 1.16 examines the relative priority environment has received so far through EU CARDS national funds: ranging from a low of 2 percent (Macedonia) to a high of 14 percent (Bosnia and Herzegovina). Even the upper range is low considering the importance of environment in EU grant programming in post accession funds.⁵⁶ In 2007, all West Balkan countries gain access to the EU's new Instrument for Pre-Accession Instrument (IPA), with a capacity-building window open for environment proposals similar to the former CARDS grants. Macedonia and Croatia can additionally access the investment window of IPA, with financing for heavier environment investments similar to the former ISPA and PHARE grant programs.

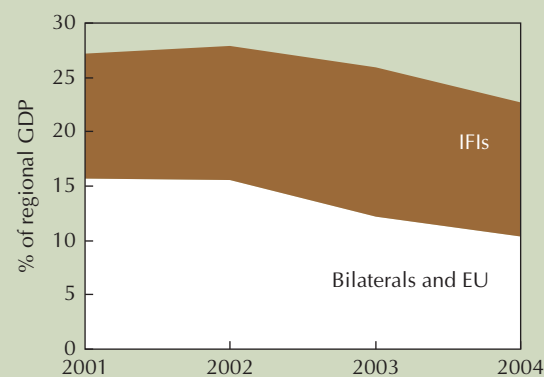
Regional initiatives, such as the Priority Environmental Investment Program (PEIP) for South Eastern Europe, provide an approach to investment project pipeline development (Box 1.6).

Environmental funds are not required by the Environment Acquis and are not a core government function but governments are responsible for pro-

⁵⁵ Eurostat and OECD environment expenditure methodologies are consistent, with OECD PAC methodology being a simplified version of Eurostat SERIEE (See Appendix H for Eurostat definition of Environmental protection expenditure).

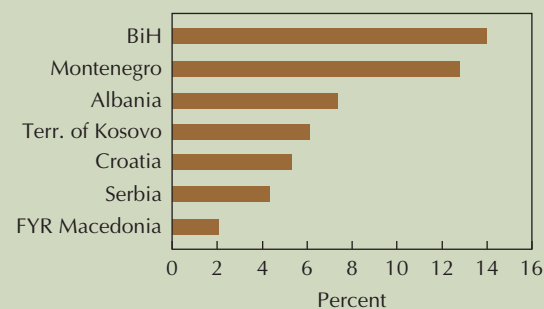
⁵⁶ It is possible that the environment received a higher share of bilateral grant funds so there could be a substitution effect accounted for in the CARDS programming efforts.

Figure 1.15 International Assistance to SEE Region



Source: World Bank, 2006.

Figure 1.16 Environment Share of EU CARDS Programming 2002–04



Source: EU CARDS Program – Financial Statistics and Annual Programs.⁵⁷

moting environmental investments and most funds are established to do this. However strong budget support is essential because environment funds never meet all environmental investment needs.

Croatia, Macedonia, and Serbia have environmental funds and other West Balkan states have plans to develop them in an attempt to steer more government resources to environmental investments. Initially Macedonia's environment fund was independent; later it was moved to the Ministry of Environment and consolidated with the Ministry budget.⁵⁸ Croatia and Serbia

⁵⁷ http://ec.europa.eu/comm/enlargement/cards/index_en.htm

⁵⁸ Contrary to expectations and experience in CEE–Macedonia's experience with this consolidation has resulted in a loss of transparency and reduced funding to the environment. Their experience underscores the importance of strengthening national budget systems, and the transitory role funds may have.

Box 1.6**Priority Environmental Investment Program (PEIP) for South Eastern Europe**

This program was developed within the framework of the Regional Environmental Reconstruction Program for South Eastern Europe (REReP) to assist national and local governments to plan environmental investments, prepare projects, and find financing for implementation. The program facilitates strategic national environmental investment planning: it helps identify, prioritize, formulate, and prepare projects that face national resource limitations. PEIP supports national environmental investment planning in SEE, through institutional

strengthening and capacity building. The work covers the air, water, and waste sectors, which are priority environmental heavy-investment needs in the region. The Program provides information to the donor community. The Regional Environmental Center for CEE (REC) manages and implements activities under the PEIP, with the contribution of EU CARDS program.

Project website: <http://www.rec.org/REC/Programs/REREP/PEIP/default.html>

have extra-budgetary funds outside the prime environment ministry with government representation on their boards. Both funds collect revenues from environmental fees and taxes, and Serbia's environment fund collects a portion of all privatization proceeds. Appendix I presents an overview of some of the environmental funds in the CEE states for comparison. Revenues for these funds vary but typically consist of environment-related fees and fines including resource utilization fees, pollution and gasoline taxes, carbon taxes, privatization proceeds, and debt-for-environment swaps with donors. The EU CARDS projects in some countries have supported proposals to establish new environment funds including in Bosnia and Herzegovina, Albania, Kosovo, and Montenegro.

Environmental funds are most useful when focused and time-bound, for example, in niche activities such as administering an international debt-for-environment swap, remediation of former state-owned properties, or brokering carbon finance projects. Therefore, governments must examine trade-offs: a fund requires substantial capacity building, which has high opportunity costs, especially in countries where environment capacity is already weak, as is the case with most of the West Balkans. Furthermore, the usefulness of a fund must be evaluated in the context of a comprehensive national environment strategy for investment financing. For example, in CEE, the more successful funds were later restructured, strengthened, and used to administer EU grants, but because environment funds are most effective in the short- to medium-term, several new member states are now designing exit strategies for their funds.

In fact, experiences have been mixed among the many new member states that set up environmental funds to manage environment revenue streams within and outside of the budget. Development partners such as OECD have developed methodologies to assess the operations of environment funds. The OECD assessments revealed a lack of transparency and poor governance, which outweighed the benefits of secured funds for environment investment needs, and a greater flexibility for investment planning de-linked from more rigid national budget cycles. The relative importance of these funds in some cases later became more limited when alternative structures were established for EU Grant programs.

In most countries the central budgeting process lacks a clear and transparent framework for performance-based budgeting, thus the amount of central budget support required to sustain environment functions is unclear. Explicit links between performance and budget would improve financial support and could demonstrate environment agencies' ability to cover some of its costs (e.g., an IPPC permit fee could be based on staff cost to prepare it). Furthermore, an overall reform strategy should include policies to promote a wider role for the private sector and public-private financing of environmental investments. Heavy infrastructure tariffs need to consider affordability and social impacts to be sustainable in the longer term.

International Cooperation

The global dimension of environmental challenges is reflected in numerous international treaties and con-

ventions. The EU Environment Acquis has directives linked to global conventions, which detail EU-specific policies for compliance (e.g., PCB Directive, and Carbon Emission Trading Directive). Furthermore, acceding countries and EU members must ratify and be parties to the same international conventions as the EU, and integrate the international requirements into their national legal frameworks.

Trans-boundary cooperation—particularly to manage air and water as global public goods—has meant that the environment is a prime vehicle to re-establish ties between countries. Around the region, countries are developing trans-boundary projects, especially in water and nature protection, but the explicit support of governments can strengthen sub-regional cooperation. The West Balkans do not maintain regular regional ministerial-level cooperation on the environment, despite ad-hoc ministerial meetings on specific issues.

Since 2000, sub-regional cooperation on the environment has taken place mainly at the working level under the REReP. The European Commission established this program, which operates through a Secretariat at the Regional Environment Center (REC) in Hungary, with local support through REC offices in SEE States (Box 1.7). Most participants comprise senior technical staff from Ministries of Environment who define priorities and exchange information. The ECENA network was formed under this umbrella to cooperate specifically on training and capacity building for environmental enforcement, as mentioned earlier. This program should eventually fully embed

its management and governance in the public administration work programs to be sustainable. A good practice case study recommended by CEE states is the Baltic Environment Forum; its success stems from close integration with national capacity-building strategies. (Case Study No. 4 in Appendix E)

Trans-boundary cooperation in the region has advanced predominantly on shared water resources with support from the Global Environment Facility. Participants developed shared management strategies for the Black Sea-Danube (Slovenia, Croatia, Serbia, and Bosnia and Herzegovina) and Mediterranean Basins (all SEE), and initiated specific projects on trans-boundary lakes and rivers including Lake Ohrid (Albania/Macedonia), Lake Prespa (Macedonia/Greece), Lake Shkoder (Albania/Montenegro), Lake Perucac and the Drina River (Serbia, Montenegro and Bosnia and Herzegovina), Neretva River (Bosnia and Herzegovina and Croatia), and the Sava-Drava River Basin. Most projects embody an integrated approach to land and water management. Trans-boundary cooperation on nature protection has also progressed well; examples include Lake Shkoder (Montenegro, Albania), West Stara Planina (Serbia, Bulgaria), and Neretva Delta (Bosnia and Herzegovina, Croatia). New proposals and projects are emerging, including a proposed Balkans Peace Park in the mountains of Montenegro, Albania, and Kosovo; plans for a trans-boundary hiking trail connecting National Parks in Croatia and Bosnia and Herzegovina; and trans-border cooperation at the Iron Gates National Park (Serbia and Romania).

Box 1.7

The Regional Environmental Reconstruction Program

The Regional Environmental Reconstruction Program (REReP) is an initiative under the Stability Pact for South Eastern Europe, shaped by Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Romania, Montenegro, and Serbia and Kosovo (currently under UN interim administration). A task force guides its implementation: the task force comprises South Eastern Europe (SEE) ministers of environment, donors, international organizations, institutions and NGOs. Regional Environmental Center for CEE (REC) was mandated as Secretariat of REReP, with the contribution of EU CARDS program. The SEE ministers launched the

program in 2000. In 2001, the REReP mechanism was revised to align with the rapidly developing Stabilization and Association Process (SAP), which reflected the changing political landscape; REReP became a vehicle to assist SEE countries in their long-term goal of EU integration. The REReP priorities are building institutional capacity, supporting environmental civil society, devising regional cooperation mechanisms and cross-border projects, and reducing environmental health threats and biodiversity loss.

Project website: <http://www.rec.org/REC/Programs/REREP/>

Sub-regional cooperation can expand to include sharing environmental data, particularly related to enforcement and cooperation controlling illegal cross-border movement of waste; promoting policies to share services of high capital investment cost facilities such as hazardous waste incinerators and certified laboratories;

coordinating support for legal transposition of the Acquis; and sharing long-term training programs for environment professionals. Ultimately, harmonized institutional structures will increase transboundary cooperation, and sustain environmental Acquis implementation.



Source: Ana Gjokulaj