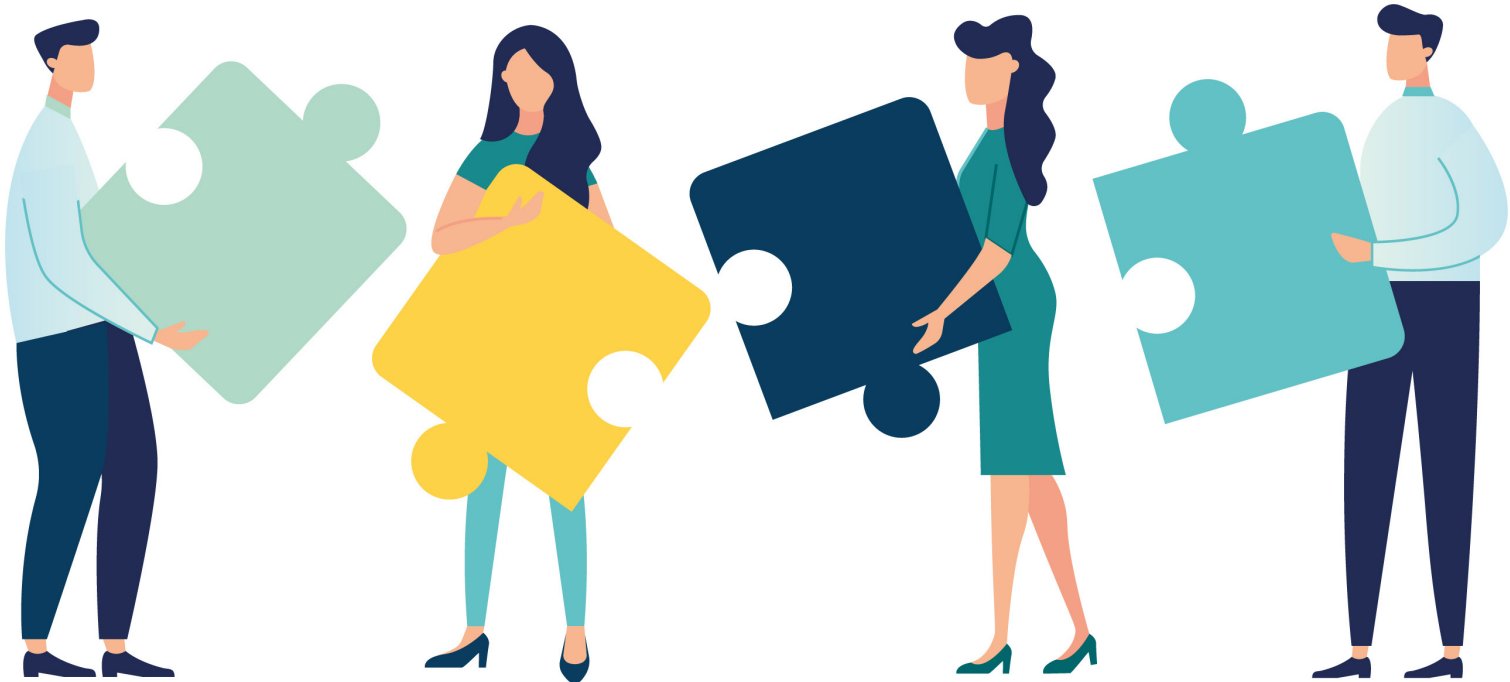Fair Market Conditions for
Competitiveness in the Adriatic Region
OECD Recommendation
on Open Government

OECD

2017 OECD Recommendation on Open Government

> **The OECD Recommendation on Open Government:**
>
> ✓ Establishes a clear, actionable, evidence-based, internationally recognised and comparable framework for open government reforms, taking into account the diverse institutional and legal settings of the Members and non-Members having adhered to the Recommendation;
> ✓ Helps Adherents strengthen public governance, foster democratic practices, and promote more inclusive growth, as well as increase citizens' trust in government;
> ✓ Aims to support the transformation of the government-citizen relationship and foster a move towards the co-creation of public policies and services, including by co-sourcing solutions.

What is the issue?

Around the world, governments are faced with growing challenges and increased complexity in tailoring policy responses on all levels. Challenges include low levels of public trust, rising economic and financial instability and social fragmentation into polarised groups. Meanwhile, citizens are becoming more vocal: they demand to be involved in policy processes that shape their lives, particularly given the amplifying effect of digital technologies, and their expectations for better public services and a more participatory, transparent and accountable public sector are growing.

The OECD defines open government as a "culture of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth" (OECD, 2017). The concept is based on the idea that citizens and the public should be enabled to see, understand, contribute to, monitor, and evaluate public decisions and actions. Open government policies and practices are today widely recognised as key contributors to the needed democratic renewal and to regaining trust in public institutions. In this regard, the results of the OECD's first Trust Survey (2022) highlight that giving access to public information, providing opportunities to engage in the policy-making process and responding to public feedback and demands has an important impact on the way citizens' perceive their government.

As such, open government is considered a hallmark of good governance and key for renewing citizens' relationships with public officials and to regaining their trust in governments. This is especially important in times of rapid change and uncertainty such as the COVID-19 pandemic. There is compelling evidence that, if properly implemented and enforced, open

government frameworks can support a number of benefits both for governments and societies (Involve & OECD, 2009). For example, a World Bank study of the impacts of transparency on governance found that greater access to information could, among other things, improve risk management, economic performance and bureaucratic efficiency in governments. A more informed and empowered public can contribute to more cohesive community relations, more effective public services and lead to more active and trusting citizens (Involve & OECD, 2009).

Open government is also a key contributor to achieving different policy outcomes in domains such as public sector integrity and anti-corruption, public sector modernisation, civic freedom, digital government, public procurement, as well as all major socio-economic targets within the framework of the 2030 Global Agenda for Sustainable Development Goals (OECD, 2017).

Why is Open Government key for the Adriatic Region?

For Bosnia and Herzegovina, Croatia and Serbia, open government can play a key role in raising public trust and political interest, in fostering good governance, and ultimately, strengthening democracy. It can also serve as a strong response to the survey results from the Balkan Barometer (2021) and Open Budget Survey (OBS) (International Budget Partnership, 2021) which have shown that trust in the government and local authorities is rather low in the Adriatic Region. Further, even though access to information laws in these countries comply with international standards – Serbia and Croatia's Access to information laws are in the top 10 according to the Global Right to Information Rating (n.d.) – their implementation remains limited.

In particular, the Balkan Barometer on Public Opinion revealed that 71% of respondents in Bosnia and Herzegovina do not trust the government and 61% do not trust local authorities. Only 18% of respondents think that requests for information held by a government agency are granted in a timely manner. Only one in five respondents think that the requested information is pertinent, complete and granted at a reasonable cost. Complementing the Barometer's findings, the Open Budget Survey (OBS) is a tool which assesses public access to central government budget information and formal opportunities for the public to participate in the national budget. The OBS uses a score range from 1 (low performance) to 100 (high performance), the threshold for sufficient performance being 61. Regarding public access to information, Bosnia and Herzegovina performs significantly below it with a score of 32. When it comes to public participation, its performance (9) is also under the global average (14).

In Serbia, 37% of respondents do not trust the government and 44% do not trust local authorities (Balkan Barometer, 2021). Only one in five respondents think that requests for information held by a government agency are granted in a timely manner and that this kind of requested information is pertinent and complete, while only 17% think it is granted at a reasonable cost. In the OBS, Serbia scored 46 deeming its budget transparency insufficient and, like in Bosnia and Herzegovina, the level of citizen participation is below the global average (2).

Regarding Croatia, the Eurobarometer (2022) shows that 75% of respondents in Croatia tend not to trust the parliament and 76% tend not to trust the government (EU Barometer, 2022). While Croatia reached better results in the OBS for public access to information (64), and it performs above the global average in terms of public participation (17), there is still room for improvement.

Taking into account the importance of open government for social and economic development and the need to improve trust in governments in the Adriatic Region, the OECD Recommendation on Open Government can provide helpful guidance for Bosnia and Herzegovina, Croatia and Serbia. This policy brief gives an overview of the objectives and the provisions of the Recommendation. Furthermore, it outlines open government strategies and policies for access to information in the three countries, while also identifying achievements and remaining challenges to meaningful participation. The conclusion provides policy recommendations addressing key challenges identified.

What is the OECD Recommendation on Open Government?

The Recommendation on Open Government ("the Recommendation") was adopted by the OECD Council on 14 December 2017 on the proposal of the Public Governance Committee. The Recommendation aims to help Adherents to design and implement successful open government strategies and initiatives by identifying a clear, actionable, evidence-based, and internationally recognised understanding of what they entail and, more specifically, what the characteristics of their governance should be in order to maximise their impact. It identifies four key principles: transparency, integrity, accountability and stakeholder participation.

The Recommendation includes ten provisions that can be grouped into enablers, implementation support and the way ahead, meaning how to move towards a more open state (OPSI, n.d.). Enabling elements are important preconditions for developing open government strategies and initiatives, including political commitment, policy and legal frameworks. Elements that support the implementation of open government policies include coordination across government, monitoring and evaluation practices, as well as creating learning mechanisms. Further key enablers are effective communication, and the use of open data, digital tools and innovation. Having an open state means that the executive, legislature, judiciary, independent public institutions and all levels of government collaborate, exploit synergies and share good practices and lessons learned to promote transparency, integrity, accountability and stakeholder participation.

The following table provides an overview of the ten provisions grouped into the three categories.[1]

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[1] Adapted from the OECD *Recommendation on Open Government* (2017)*.*

Table 1: Provisions of the OECD Recommendation on Open Government

Provision category	Open Government Provisions
Enablers	Develop and implement open government strategies/initiatives, in all branches and at all levels of the government, in collaboration with stakeholders while fostering stakeholder commitment
	Ensure the existence and implementation of the necessary open government legal and regulatory framework while establishing adequate oversight mechanisms to ensure compliance
	Ensure the operationalisation and take-up of open government strategies/initiatives by (i) providing public officials with the mandate to design and implement open government strategies/initiatives, including adequate resources, while promoting a supportive organisational culture; (ii) promoting open government literacy at all levels of government and among stakeholders
	Make available clear, complete, timely, reliable and relevant public sector data and information that is free; easy to find and understand, access and use; and disseminate it through a multi-channel approach
	Grant all stakeholders equal and fair opportunities to be informed and consulted, and actively engage with them in all phases of the policy-cycle and service design and delivery, while avoiding undue influence and policy capture
Implementation support	Coordinate, through the necessary institutional mechanisms, open government strategies/initiatives across all levels of government to ensure that they are aligned with and contribute to all relevant socio-economic objectives
	Develop and implement monitoring, evaluation and learning mechanisms for open government strategies/initiatives by (i) identifying institutional actors to be in charge of collecting and disseminating up-to date and reliable information and data in an open format; (ii) developing comparable indicators to measure processes, outputs, outcomes, and impact in collaboration with stakeholders; (iii) fostering a culture of monitoring, evaluation and learning among public officials in collaboration with stakeholders
	Communicate on open government strategies/initiatives, as well as on their outputs, outcomes and impacts, to ensure that they are well-known, to favour their uptake and to stimulate stakeholder buy-in
	Promote innovative ways to effectively engage with stakeholders to source ideas and co-create solutions and seize the opportunities provided by digital government tools
Open state	Explore the potential of moving from the concept of open government toward that of open state

What can policy makers in the Adriatic Region do?

1. Enable elements for Open Government

Following the OECD recommendations introduced in the 2017 report "Open Government – the Global Context and the Way Forward", the economies in the Adriatic Region should take a step-by-step approach towards strengthening open government. These include:

1. Co-create a single definition of open government

2. Develop a holistic and integrated open government strategy
3. Create an enabling environment for open government
4. Foster citizen and stakeholder participation

Co-create a single definition of open government

The development of a single definition of open government created with, accepted by and communicated to the whole public sector and all stakeholders including citizens, civil society, private sector etc., is crucial to ensure the success of open government reforms. This definition should be conceived through a consultative process to ensure buy-in and ownership by all stakeholders. Having a well-defined understanding of what open government entails contributes to a more efficient and sustainable implementation of open government strategies, initiatives and practices (OECD, 2017).

While the concept of open government is not yet widely spread in Bosnia and Herzegovina and Serbia, Croatia has undertaken first steps, as illustrated in the box below and can serve as an example for the broader Adriatic Region.[2]

Good practice examples from Croatia:

✓ Since 2014, Croatia has been a member of the Open Government Partnership, a multilateral initiative that aims to facilitate improvements in transparency and openness of public administration bodies. This includes the engagement and empowerment of citizens and civil society, the fight against corruption and the use of new technologies for the improvement of service quality provided to citizens by the public administration.

✓ In 2021, Croatia aligned several policy commitments (including commitments on fiscal transparency, political financing and election campaign transparency as well as on the protection of persons reporting corruption and the commitment on Central State Portal development with other strategic or legal documents) which contributed towards their full or substantial completion.

✓ One of the benefits has been increased transparency in political financing and election campaigns, which improved the legal and institutional framework, and created an IT system for public monitoring of political activity and campaign funding in four election cycles (EU, presidential, parliamentary and local elections). This also improved the quality of campaign funding data submitted by candidates and political parties, and allowed the interested public and the media to access and analyse such information.

Develop a holistic and integrated whole-of-government open government strategy

More and more OECD Member and Partner countries (e.g. Canada, Colombia, Italy, Finland, Tunisia, Morocco) are adopting holistic and integrated open government strategies as a means to provide coherence to existing but scattered initiatives and to bring open

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[2] Adapted from the Open Government Partnership *Croatia Transitional Results Report 2018-2020* (2021).

government to the centre of political attention. An open government strategy can provide an umbrella policy frameworks that gives a clear and compelling vision to a country's agenda to open the government, coupled with actionable and measurable initiatives.

Create an enabling environment for open government

A Law on Access to Information (ATI) is at the heart of open government reforms, stipulating that information and data should be made available through proactive and reactive disclosure. The former is the act of regularly releasing information before it is requested by stakeholders.[3] This disclosure is essential to achieve more transparency in government by ensuring timely access to information to all. Provision 7 of the OECD Recommendation on Open Government specifies that data and information disclosed should be clear, complete, timely, reliable relevant, free of cost and made available in an open and non-proprietary machine-readable format, easy to find, understand, use and reuse, and disseminated through a multi-channel approach, to be prioritised in consultation with stakeholders (OECD, 2017).

ATI laws also include provisions for reactive disclosure, which refers to the right to request information that is not made publicly available online. These provisions describe the procedure for making the request, including who can file the request, the possibility for anonymity, the existence of fees, and the delay for response to the request and sanctions for non-compliance. Finally, to ensure the proper implementation of law, countries have established different bodies responsible for guaranteeing the implementation, and/or oversight, of, several provisions of the laws. Such bodies can take the form of an independent information commission with a specific mandate for ATI, transparency and/or anti-corruption. It can also be an Ombudsman with a mandate on ATI as part of a wide range of other topics such as human rights, discrimination and gender.

The creation of an adequate enabling environment for open government may further include the review and adoption of specific laws that promote citizen and stakeholder participation, as well as the inclusion of open government policies and practices in laws on integrity such as lobbying, whistle-blower protection, open government data and others.

Foster citizen and stakeholder participation

The involvement of citizens and civil society is not only critical to developing, securing and implementing reforms that aim to open the government. Participation being one of the open government principles needs to be mainstreamed across all policy sectors and all levels of government. Collaborative relationships between government and civil society reformers are needed to develop, secure and implement policy reforms. However, levels of participation in the Adriatic Region are currently rather low (EPI, 2019).

Therefore, the countries in the region need to develop an enabling environment for civil society that would translate into a solid framework for citizen participation. This implies a

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[3] The OECD Recommendation on Open Government defines stakeholders as: "any interested and/or affected party, including: individuals, regardless of their age, gender, sexual orientation, religious and political affiliations; and institutions and organisations, whether governmental or non-governmental, from civil society, academia, the media or the private sector".

shift in the modus operandi of the public sector, towards one that fully recognises that reformers inside and outside government need to create alliances and collaborate with citizens as key stakeholders.

Citizen and stakeholder participation in the policy cycle is increasingly recognised as an important tool to improve the quality of public policies and services, increase compliance, enhance transparency and regain people's trust in public institutions. New and innovative forms of citizen participation are emerging across the world (e.g. co-creation and co-production) (OECD, 2021).

The following box illustrates good practices from Finland which can serve as an example for the Adriatic Region.[4]

Good practice examples from Finland*:*

✓ Finland acknowledged the significance of sound dialogue skills for civil servants and included commitments to further improving these skills in its first Open Government Partnership (OGP) Action Plan (2013-14). The Plan's six aims were formulated as follows:

   1. Standard language titles and resumes will be drafted for government proposals.
   2. Visualisation of decisions with a special focus on expenditures of the state budget will be created.
   3. Training will be organised for civil servants on use of clear and plain language including committing to use of terms already known.
   4. The comprehensibility of the texts produced by public administration will be tested together with citizens and service users.
   5. The terms and concepts used in public administration and service production will be standardised and clarified.
   6. The comprehensibility of customer letters and decisions will be enhanced, especially when using standard texts.

✓ The case of Finland shows how communication, engagement and collaboration between citizens and civil servants can be enhanced which in turn can improve the perception of government. Open government, if understood as a culture of governance, requires today's and the coming generations of civil servants to acknowledge the more active role of citizens throughout the entire policy cycle.

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2. Implement support for Open Government

The monitoring and evaluation of open government strategies and practices

To ensure that open government strategies are sound, robust and accountable, they need to be developed on the basis of evidence. As such, the monitoring and evaluation of open

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[4] Adapted from the OECD *Recommendation on Open Government* (2017)*.*

government strategies and practices are essential. However, at the current stage, monitoring and evaluation practices are limited in most countries. The OECD is currently leading an ambitious agenda to create the first-ever comprehensive set of comparable indicators in the field. In 2021, the OECD launched the Open Government Dashboard and it is currently in the process of designing an OECD Open, Participatory and Representative Government Index which aims to take a citizen's perspective to answer the question: "How open is my government?".

The following box illustrates good practices from Open Government Partnership (OGP) organisation mechanisms (OECD, 2017). These can serve as an example of improving the monitoring and evaluation of governmental strategies and practices for the Adriatic Region.

Good practice examples from OGP*:*

✓ Country Self-Assessment: During the two-year National Action Plan (NAP) cycle, governments will produce yearly self-assessment reports. In order to minimise the administrative burden, the two self-assessment reports will resemble one another, differing primarily in the time periods covered. The mid-term self-assessment should focus on the development of the NAP and the consultation process with the criteria relevance and ambitiousness of the commitments as well as on the progress to date. The end-of-term self-assessment should focus on the final results of the reforms completed in the NAP, the consultations during implementation and the lessons learned. The development of the self-assessment reports must include a two-week public consultation period, as stipulated in the OGP Guidelines.

✓ Independent Reporting Mechanism: The Independent Reporting Mechanism (IRM) is a key means by which all stakeholders can track OGP progress in participating countries. The IRM produces annual independent progress reports for each country participating in the OGP. The progress reports assess governments on the development and the implementation of OGP Action Plans and the progress in fulfilling open government principles. They also make technical recommendations for improvements. These reports are intended to stimulate dialogue and promote accountability between members of government and citizens.

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3. Measures for moving towards an Open State

The creation of an Open State is an aspiration for all OECD Members. An Open State is defined by the Recommendation as a state in which "the executive, legislature, judiciary, independent public institutions, and all levels of government – recognising their respective roles, prerogatives, and overall independence according to their existing legal and institutional frameworks – collaborate, exploit synergies, and share good practices and lessons learned among themselves and with other stakeholders to promote transparency, integrity, accountability, and stakeholder participation, in support of democracy and inclusive growth".

Among others, the need to move towards the promotion of the open government principles in all branches of the state and at all levels of government is based on the finding that citizens

expect the same levels of transparency and the same opportunities to be heard when engaging with any state actor. In some countries, the move towards an open state may also include a cohesive and co-ordinated approach amongst all actors. This approach may take the form of co-ordination meetings (for instance in a National Open State Committee) or sharing of good practices and experiences. An Open State may also reflect the co-creation and implementation of a comprehensive and integrated open state strategy to promote open government principles (OECD, 2017).

The following box illustrates good practices on Open State from France which can serve as an example to the Adriatic Region.[5]

Good practice example from France:

✓ In 2015, France adopted the National Action Plan on Parliamentary Openness in the framework of the Open Government Partnership with the goal of strengthening the transparency of the legislative process and increasing the involvement of citizens in the work of the National Assembly.

✓ The key goal was to implement user-friendly collaboration systems exemplified in the "Eliasse" application used. The application now allows access to the text of amendments, explanatory statements and signatories. By using "Eliasse", citizens can express their opinions and get information about the agendas and current bills of the National Assembly. With the desire to promote citizen participation in the project, citizens are able to participate by sharing their recommendations and observations on draft laws.

✓ In addition to the increase of the data openness and collaboration, the government also focused on the monitoring of parliamentary activities. Each citizen can today contribute to the decision-making process via the National Assembly website. These contributions are analysed by a rapporteur who can present them as an addition to the bill. According to the Action Plan, more than 800,000 parliamentary documents were available in digital format by the end of 2015, including reports of committee meetings and plenary sessions.

Where do we go from here?

This policy brief elaborates why open government is crucial for enhancing good governance, focusing in particular on transparent and inclusive policy making and service delivery.

The document illustrates the relevance of open government to raise public trust and create stronger and more robust democracies. It describes the OECD Recommendation on Open Government as a key tool to establish clear, actionable, evidence-based, internationally recognised and comparable policy practices. This Recommendation is particularly relevant for

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[5] Adapted from the OECD *Recommendation on Open Government* (2017).

the Adriatic Region in view of the rather low levels of trust in state institutions and the limited possibilities for citizens to access information and to participate in the policy making process (EPI, 2019). Furthermore, the document highlights fields in which authorities in Bosnia and Herzegovina, Croatia and Serbia should be particularly attentive, such as developing open government strategies and respective monitoring practices. In this context, the brief illustrates the tools governments have at hand to bring about advancements in these areas.

Rather than being exhaustive, this note has outlined the main areas where policy makers in the Adriatic Region can take action. However, there are a number of related fields and tools that would further benefit the governments of the Adriatic Region. The Open Government Toolkit would allow Bosnia and Herzegovina, Croatia and Serbia to learn how to implement and use the OECD Recommendation on Open Government in practice. Furthermore, taking into consideration the important role of innovative approaches that emerge in the area of open government, policy makers in the region should also consult the OECD Observatory for Public Sector Innovation, which gives concrete advice to governments on how to adopt new approaches to address societies' complex problems.

Do you want to find out more?

For further information, please consult:

https://www.oecd.org/gov/open-government/

https://oecd-opsi.org/

https://oecd-opsi.org/guide/open-government/

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Annex

About the Fair Market Conditions for Competitiveness in the Adriatic Region Project

This 3-year project intends to support the creation of a level-playing field and fair market conditions in three pilot countries from the Adriatic region (Serbia, Croatia and Bosnia and Herzegovina) in order to enhance competitiveness and integrity in a sustainable and inclusive way.

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POLICY BRIEFING NOTES

FAIR MARKET CONDITIONS FOR COMPETITIVENESS IN THE ADRIATIC REGION PROJECT

High levels of corruption and lack of transparency are key constraints to economic growth and competitiveness in many countries worldwide. The Policy Briefing Notes, designed for stakeholders from the Adriatic Region, aim to provide practical guidance to tackle corruption, foster integrity and level the playing field for all firms. They draw on OECD guideliness, legal instruments and good practices and are tailored to the region's circumstances.

The Policy Briefing Notes are one output of the three-year OECD project to promote fair market conditions for competitiveness in Bosnia and Herzegovina, Croatia, and Serbia, supported by the Siemens Integrity Initiative. Through Collective Action, government officials from the region along business leaders, anti-corruption experts and practitioners, civil society representatives and academics have engaged to jointly identify country-specific challenges to integrity and foster fair market competition.

These efforts are part of the engagement of the OECD South East Europe Regional Programme, which collaborates with the region since 2000 to foster private sector development and competitiveness, improve the investment climate and raise living standards for an inclusive and sustainable future for the people of South East Europe.

www.oecd.org/south-east-europe
oe.cd/fair-market-conditions