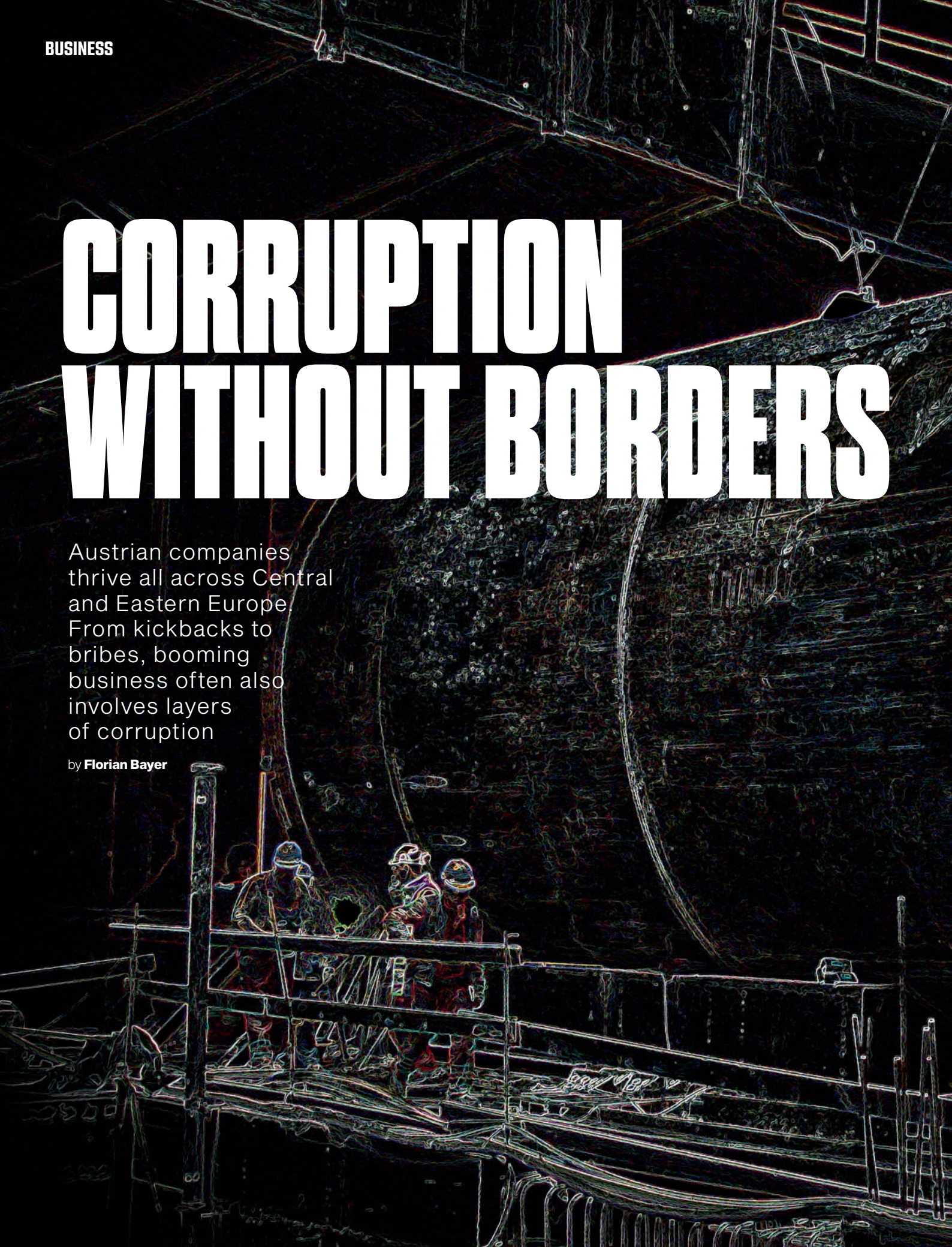
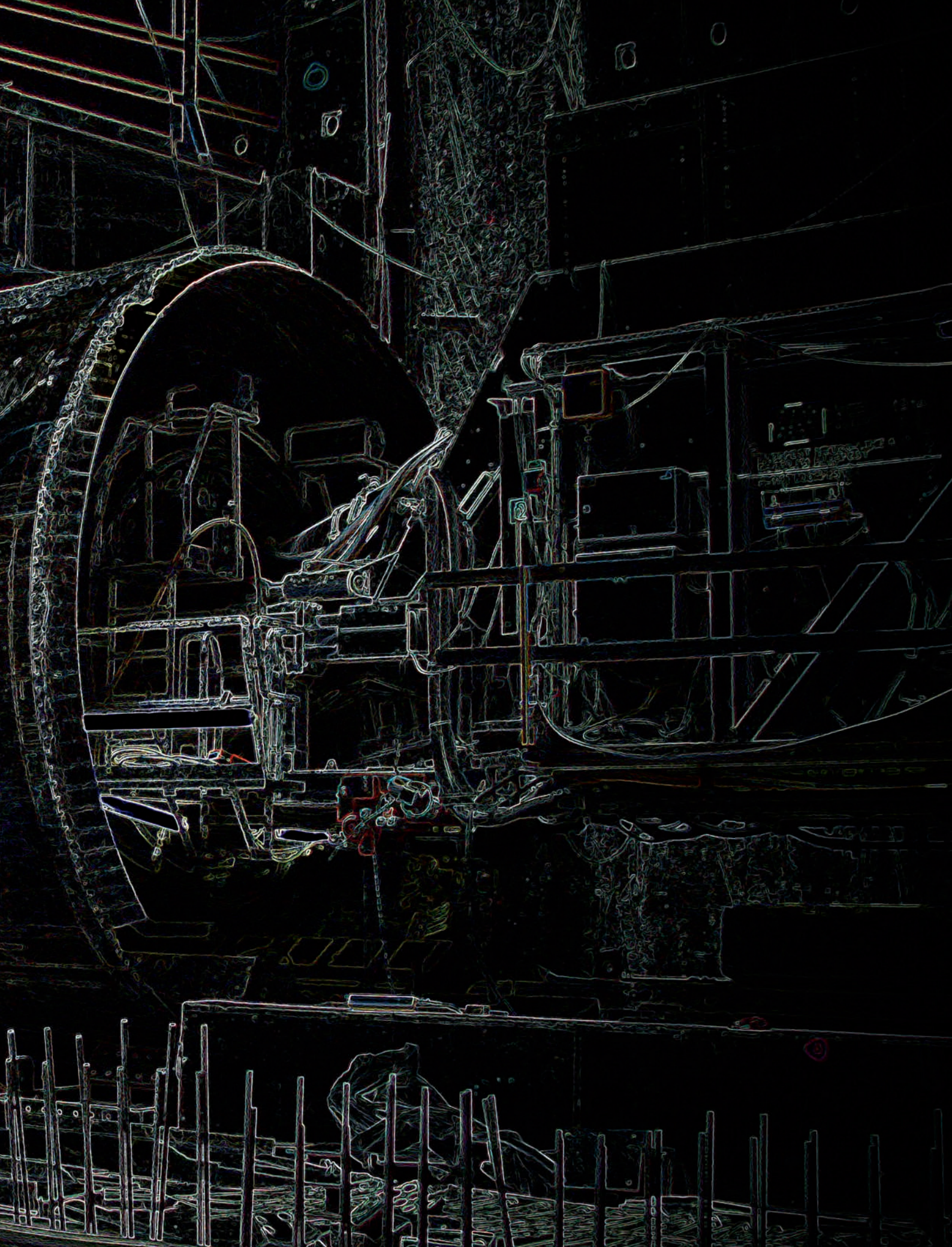


CORRUPTION WITHOUT BORDERS

Austrian companies thrive all across Central and Eastern Europe. From kickbacks to bribes, booming business often also involves layers of corruption

by **Florian Bayer**





An Austrian telecommunications provider turns off the Belarus’ internet at the height of demonstrations against Lukashenko’s suppressive regime. A highly controversial new pipeline in the Baltic Sea is financed by an Austrian oil company despite massive critique by the EU and US. A famous Viennese architect builds a prestigious opera house on the illegally annexed and occupied Crimean peninsula, and at Putin’s expense.

Austrian companies doing business in Eastern Europe can wallow in some murky waters. Much less discussed publicly are cases of hard-core corruption: Construction jobs with Viktor Orbán’s network of friends and relatives, Romania’s wood mafia, Russia’s dubious ties to Austrian politics – on the agenda in the Ibiza-proceedings – and those gambling licenses in the Balkans. And these are just the tip of the iceberg, as Transparency International (TI) Austria points out on a regular base.

MAJOR IMPROVEMENTS, BUT STILL A LOT TO DO

“Austria is in an early stage in the fight against corruption,” concluded the report published in 2008 by the Group of States Against Corruption (GRECO). It was a devastating verdict that led to numerous and, in part, effective reforms, in legislation, institutions and procedures. Both the executive branch (BAK) and the judicial branch (WKStA) were strengthened, with a new internal structure, more personnel and additional responsibilities.

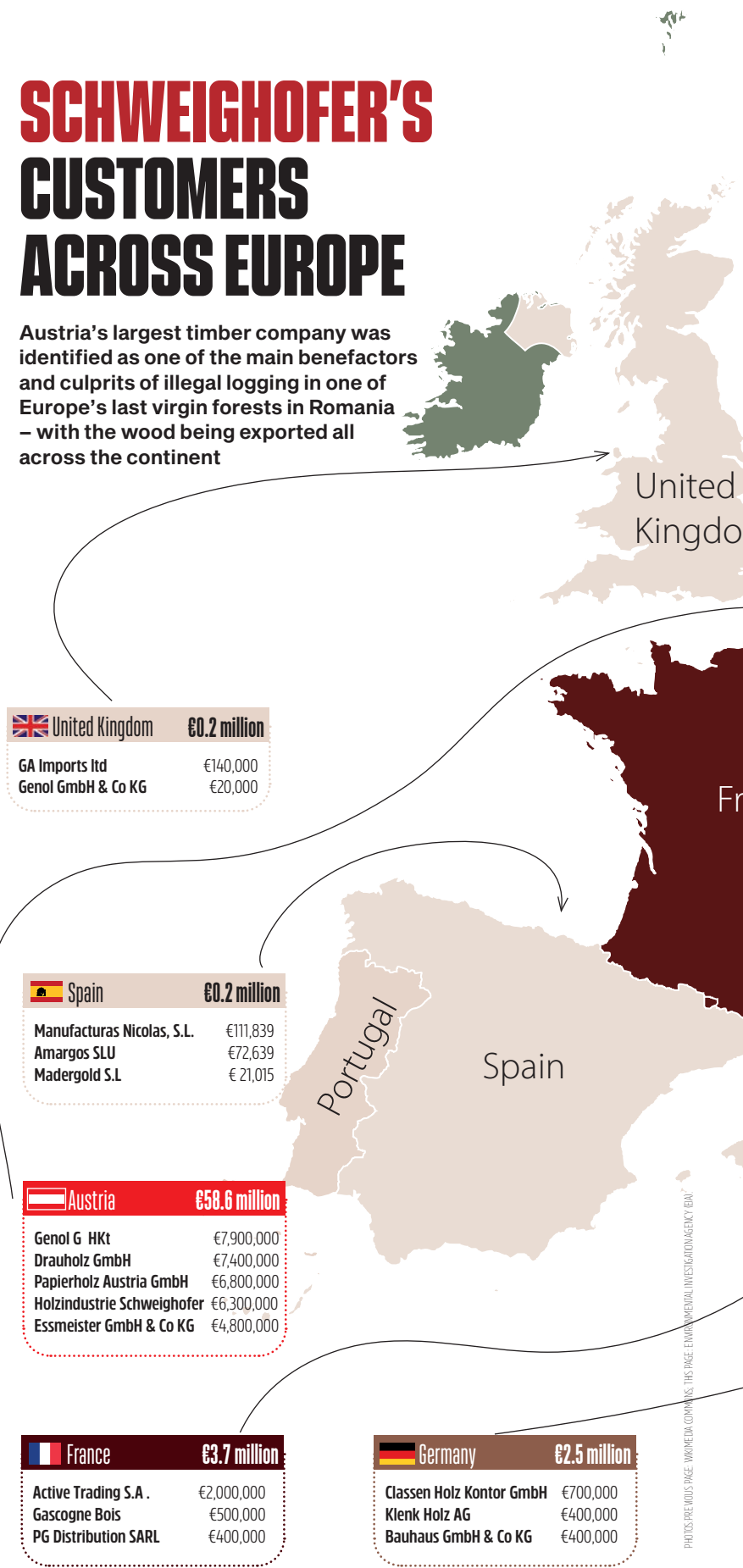
Extensions to the criminal law in 2013 classified corruption by public officials – including parliamentarians – illegal, both in Austria and, for the first time, also abroad. “Our legislation caught up with international standards. Not necessarily because it was the government’s wish, but because of pressure by NGOs, OECD and EU,” says Hubert Sickinger, political scientist at the University of Vienna and a founding member of TI’s Austrian branch.

But when it comes to international corruption, there is still a lot to do, as the report “Exporting Corruption” by Transparency International makes clear. It measures to what extent the OECD Anti-Bribery Convention is being enforced, e.g. how many corruption cases are being carried out in a country. Among the 47 largest global exporters, Austria ranks only in the third of four categories, conducting only “limited enforcement” against corruption. Only the US, UK, Switzerland and Israel are in the top group and are considered to have “active enforcement.” Germany, France and Italy rank just below, providing “moderate enforcement.”

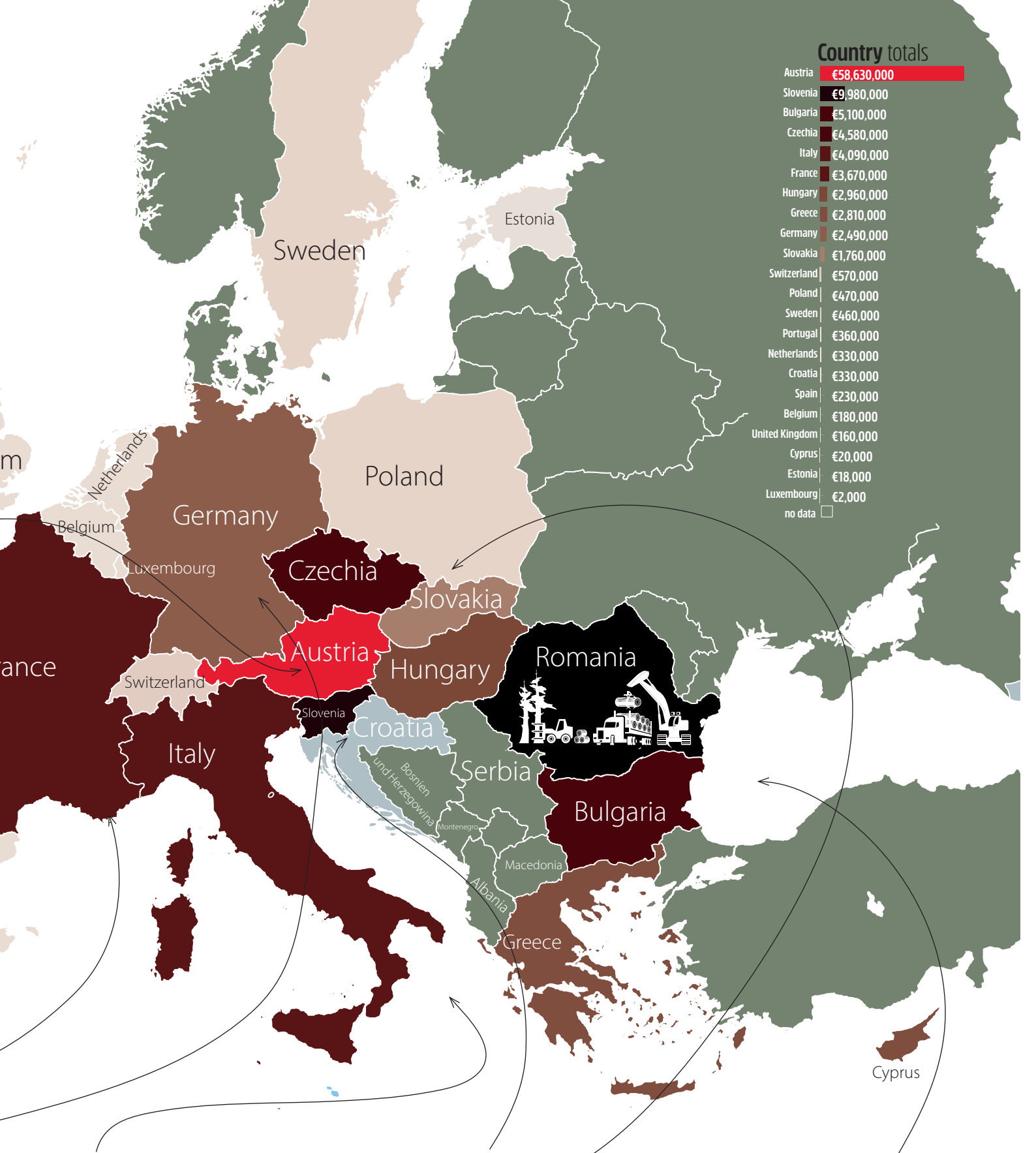
Austria is doing better in TI’s Corruption Perceptions Index, where it currently (2020) ranks 15th with 76 points, alongside Belgium and one point behind Australia, Canada and the United Kingdom. Countries in Eastern Europe, where many Austrian firms are doing business, score much worse: Slovenia is ranked 35th (60 points), Poland 45th (56p), Ukraine on the 117th place (33p). Is it possible to always play by the rules and do business entirely honestly in such an environment?

SCHWEIGHOFER'S CUSTOMERS ACROSS EUROPE

Austria’s largest timber company was identified as one of the main benefactors and culprits of illegal logging in one of Europe’s last virgin forests in Romania – with the wood being exported all across the continent



PHOTOS: PREGIUS SPAE; WAP MEDIA; CORPORS; THIS PAGE: ETHER; IMPERIAL INVESTIGATION AGENCY; OBA



Country totals

Austria	€58,630,000
Slovenia	€9,980,000
Bulgaria	€5,100,000
Czechia	€4,580,000
Italy	€4,090,000
France	€3,670,000
Hungary	€2,960,000
Greece	€2,810,000
Germany	€2,490,000
Slovakia	€1,760,000
Switzerland	€570,000
Poland	€470,000
Sweden	€460,000
Portugal	€360,000
Netherlands	€330,000
Croatia	€330,000
Spain	€230,000
Belgium	€180,000
United Kingdom	€160,000
Cyprus	€20,000
Estonia	€18,000
Luxembourg	€2,000
no data	□

	Italy	€4.1 million
Pircher Oberland SpA	€2,500,000	
Genol GmbH & Co KG	€1,300,000	
Ecogest SRL	€100,000	

	Slovenia	€10.0 million
Drauholz GmbH	€4,400,000	
Genol GmbH & Co KG	€3,000,000	
Habersatter & Wieser Holzhandel Co KG	€1,400,000	

	Czechia	€4.6 million
Klaus Timber LTD	€1,4XXX00	
Pilousspol s.r.o.	€1,100,000	
Demos Trade	€1,000,000	

	Bulgaria	€5.1 million
MOMA LTD	€1,400,000	
Builes Group LTD	€1,100,000	
Ecotrade Bulgaria LTD	€1,000,000	



Construction projects such as those at Budapest's M4 metro line (pictured above) often involve complex bidding processes and delays – and fertile ground for politicians to ask for bribes and for companies to offer “gifts” to tip the scales in their favor.

THE BALKANS BEGIN AT THE RENNWEG

Without doubt, decades of socialism and a rapid transformation to free-market economies have left their mark in many Eastern European countries. After 1989, many previously state-run industries were privatized – offering lots of opportunities for Austrian companies. With the EU's Eastern enlargement 2004, cohesion funds and steady economic growth attracted even more foreign investors.

Even today, Austria remains one of the largest investors in many Eastern European countries. How fitting: “When corruption is concerned, Romanians refer to Austria as the ‘German-speaking Balkans,’” says Alina Mungiu-Pippidi, Romanian political scientist, professor for democracy studies at the Hertie School of Governance in Berlin and founder of the European Research Centre for Anti-Corruption and State-Building.

Doing business in countries with a high level of government favoritism – such as Croatia, Romania, Hungary, Czechia – almost “requires” a company to pay for market access through kickbacks, she argues, and adds: “Multinationals are treated leniently in Romania compared to the crackdown on domestic investors.” The

same goes for many other countries. “In highly corrupt countries, it is almost impossible to do business without kickbacks and bribes,” says Sickinger. Awareness has risen in recent years, however, and in Austria, corruption is no longer considered a trivial offense.

“Businesses behave different outside their home market,” says István János Tóth, general director of the Corruption Research Center Budapest. One of the most problematic sectors is the public procurement sector, he says. In Hungary, Orbán's infamous business networks have been a problem for years. And since European funds are also being misused, EU's anti-fraud office OLAF finds itself conducting investigation after investigation.

CONSTRUCTION, TRAFFIC, GAMBLING

Austrian companies are also involved: The country's largest construction company, STRABAG and third largest, Swietelsky, were part of the construction consortium of Budapest's Metro Line 4, which opened in March 2014. The project costing €1.7 billion, was co-financed through EU's Cohesion Funds. “Serious irregularities, fraud and possible corruption have been

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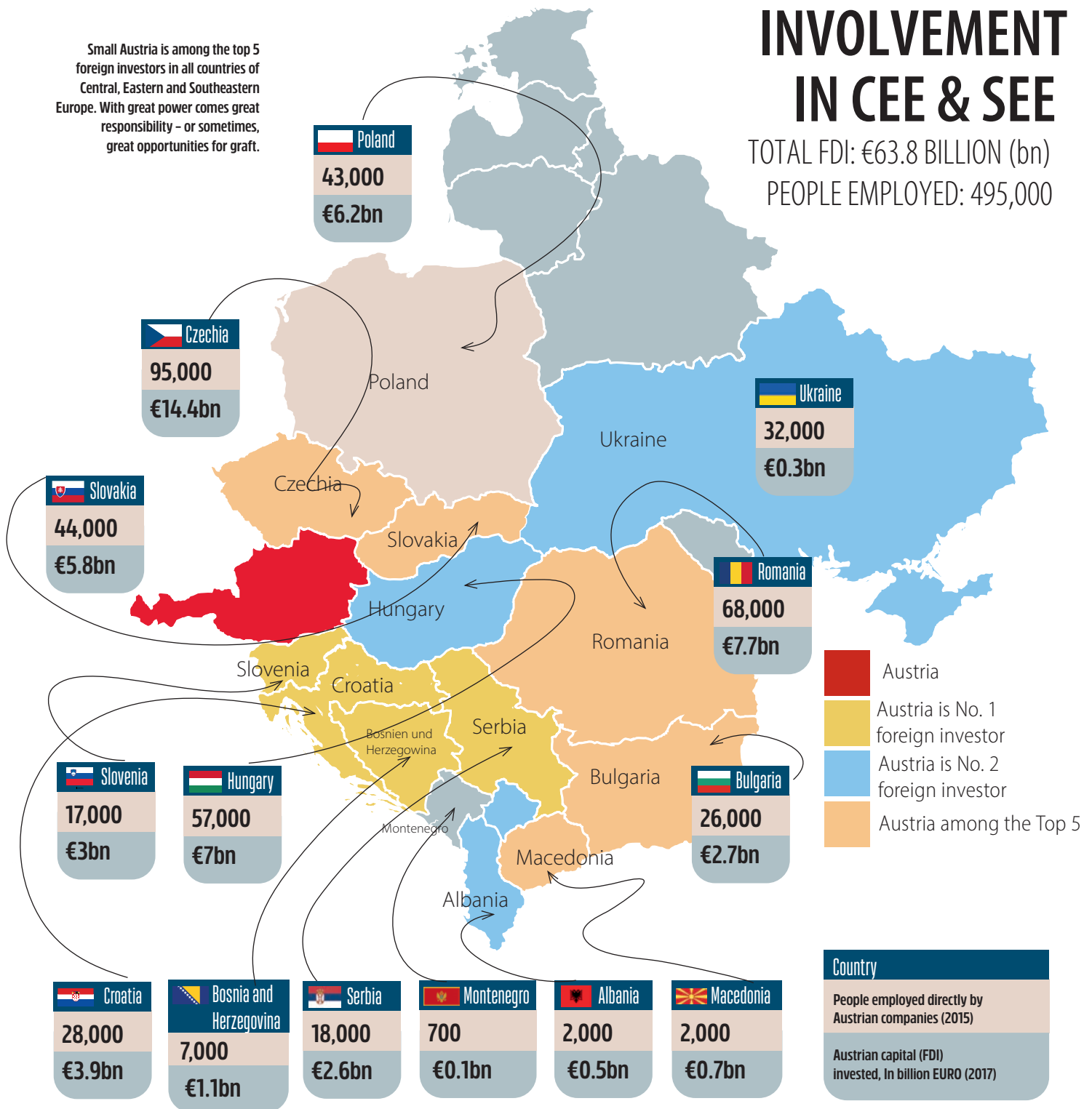
Alina Mungiu-Pippidi, Romanian political scientist, professor for democracy studies at the Hertie School of Governance Berlin

PHOTOS: THIS PAGE: WIREIMAGE.COM/PHOTOS; GRAPHIC: NEXT PAGE: KARNI/DREHER; KARNI/GARIBOLDI/GETTY

INVOLVEMENT IN CEE & SEE

TOTAL FDI: €63.8 BILLION (bn)
PEOPLE EMPLOYED: 495,000

Small Austria is among the top 5 foreign investors in all countries of Central, Eastern and Southeastern Europe. With great power comes great responsibility – or sometimes, great opportunities for graft.



uncovered in all phases of the construction,” OLAF confirmed to *Metropole*. More than €200 million have been diverted.

The construction of the M5 motorway (2004) in Hungary, too, was at least questionable, with STRABAG allegedly paying a kickback of €15 million to “Eurocontact” – some of which supposedly went to Hungarian political parties, according to the Austrian daily *Die Presse*. “STRABAG adapted to the Hungarian way of doing

business,” says Tóth. Obliging, the responsible court (*Oberlandesgericht*) dropped the charges after five years of investigation: According to the court, no sufficient proof was found.

More recent cases include Kapsch TrafficCom, which was raided by Czech police in March 2019 for suspicions of corruption and alleged bribes. And the gambling company Novomatic, which was accused of buying legislation in the Bosnian Republic Srpska protecting a monopoly



Austrian timber companies have been at the center of illegal logging and exploitation of protected forests in Ukraine, Belarus and Romania, as pictured above. With local justice slow and cumbersome, it fell to international NGOs and media to name and shame the criminal activities of these corporations.

lottery, as reported by *Der Standard* in January 2020. Whether these allegations ever will be tested in an Austrian court of law remains uncertain at the time.

In general, to get any information about ongoing, or even past, corruption investigations from Austrian authorities is next to impossible. Other than in Sweden, there is no database of conducted lawsuits, not even if there is justified public interest. Only if such information is being leaked to the media or released in the rare official press releases, does the public get to know about these cases.

Transparency, as experts claim again and again, is not the strong point of Austria’s administration and judiciary.

“THE WOOD-MAFIA”

Another well-known problem is the exploitation of protected forests in Ukrainian, Romanian and Belarussian forests by Austrian lumber companies. London-based environment-NGO Earthsight has meticulously documented how the firms Schweighofer (now: HS Timber Group), Kaindl/Kronospan and Egger are buying and processing illegally obtained wood. “We have checked trade data, court records and interviewed key witnesses. We could expose that vast amounts of Ukrainian wood, about 40 percent of all timber harvested, is illegally cut,” says Earthsight’s director, Sam Lawson.

Their report “Complicit in Corruption” (2018) shows multiple breaches of harvesting regulations and corruption attempts (many successful) against regional

politicians and forest authorities – and the other way around. Since the illegally obtained wood continues to flow, as it has for many years, Lawson does not believe these activities are being prosecuted in Austria. Early in 2021, however, the Romanian Competition Authority issued a multimillion-euro fine to these and other companies – for violating competition laws and illegal pricing agreements. Also the Environmental Investigation Agency (EIA), headquartered in Washington, D.C., collected plentiful evidence regarding the use of illegal Romanian wood by Austrian companies.

“HS Timber Group operates exclusively within the framework of every relevant law and regulation in the countries where it is active,” is Schweighofer’s standard response to critics. These press statements are supplemented with references to new certificates and sustainability reports – “greenwashing attempts,” according to Earthsight. After the NGO’s 2018 report, the European Commission planned new guidelines regarding imported Ukrainian timber. “They spent two years debating them, then quietly shelved the idea altogether under pressure from lobbyists, among them the Austrian companies, we believe,” says Lawson.

Another of the standardized HS Timber responses states: “Private corporations cannot, should not and must not take over the sovereign functions and duties of countries (like those of the federal prosecution, jurisdiction or executive authorities). To be made responsible for

PHOTO: WWF

“Austria doesn’t have much political and economic interest in prosecuting its own companies operating abroad.”

Robert Kert, professor for criminal law at the Vienna University of Economics (WU Wien)

criminal acts allegedly perpetrated in a country when one may in fact be the victim of those criminal acts must be rejected emphatically.” It seems that HS sees the problem. Still, they are not doing anything to solve it, Lawson criticizes: “These Austrian companies are among the biggest producers of boards in the world. It should be a matter of public interest.”

NATIONAL LAW, INTERNATIONAL ECONOMY

One of the problems in the fight against international corruption is that business is more globalized than ever, while laws are to a large extent still based on nation states and the principle of territoriality. Many lines of production and handling are being “outsourced” to daughter companies, partners, suppliers abroad, but legislation cannot always cover them. What is more, cross-border investigations are not always working effectively, says Robert Kert, professor for criminal law at the Vienna University of Economics and Business (WU Wien).

“Austria doesn’t have much political and economic interest in prosecuting its own companies operating abroad,” he says and struggles to think of any such cases prosecuted here. In general, companies are allowed “to do” more abroad than at home, he argues. This is why diamonds can be skimmed in Africa under inhuman conditions, and it can be perfectly legal. The same goes for illegal logging in Ukrainian forests, which are close enough for Schweighofer’s trucks, but probably too distant for Austrian legislation to get a hold on it.

There are, however, more and more high-level discussions about expanding criminal and civil law to all countries where the mother company or employer is active. When implemented, there could be liability for damages even far away from the home market. There was, for example, a court case about German textile producer Kik in 2009, after a factory in Pakistan burned down, killing 259 people.

The court in Dortmund ruled in the negative, but this could be the beginning of a new discussion of universal corporate responsibility in civil, but also in criminal law, Kert says.

MORE COMPLIANCE

“Companies have learned fast that they have to invest in compliance,” says Alois Birklbauer, professor for criminal law at the Johannes Kepler Universität Linz. If there were compliance efforts implemented prior to the crime, a milder verdict could be expected. This helped to promote general awareness: “Especially the pharmaceutical sector, but also banks and insurance companies, have

done their homework very well.”

Ruslan Stefanov, director of the Bulgarian Center for the Study of Democracy, hopes for more shared European efforts: “The EU has not been very coherent in tackling corruption within the Union. For example, the European Commission stopped publishing its anti-corruption report immediately after the first issue.” In his home country, the most problematic is high-level corruption. Which is also the least effectively prosecuted. “I cannot recall a single case, where a final verdict against a high-ranking politician, prosecutor or judge was spoken in this country,” Stefanov says.

When it comes to Austrian investigations of international corruption, neither Birklbauer nor Kert see an overly large effort to prosecute them. “Most public prosecutors would rather focus on domestic affairs, which are easier to lead and more likely to be successful,” says Kert, adding: “If we are not even fighting corruption within Austria effectively, the chances to do it proper abroad are even smaller.”

Language problems, a lack of judicial assistance and too little cooperation in cross-border investigations already handicap such investigations within EU-states, but even more so outside. In total, there are only about 40 public prosecutors working at WKStA, responsible both for severe economic crimes, including domestic (which is the lion’s share) and international corruption, as well as internal administration. This is nowhere near enough.

FUTURE OUTLOOK

What can we expect from 2021? After the pandemic is eventually brought under control, the government might focus again on its *Regierungsprogramm 2020-2024*, which plans to evaluate WKStA’s current work and improve prosecution and criminal laws by different reform steps. Also new debates regarding leniency for suspects turning state’s evidence (*Kronzeugen*) might kick off again, since such programs are considered a more efficient method to reveal “hidden crimes.”

What is more, whistleblowers and anonymous informants will play a larger role, particularly in corruption cases, predicts Kert. Both BKA and WKStA on their websites offer virtual postboxes, which are anonymous and allow a two-way communication. Already now, on average, 140 anonymous reports and evidence are being uploaded at WKStA’s whistleblower platform per month, which have initiated more than 700 preliminary proceedings since 2013.

Austria’s corruption hunters will never run out of work uncovering the vast bottom of the iceberg. 