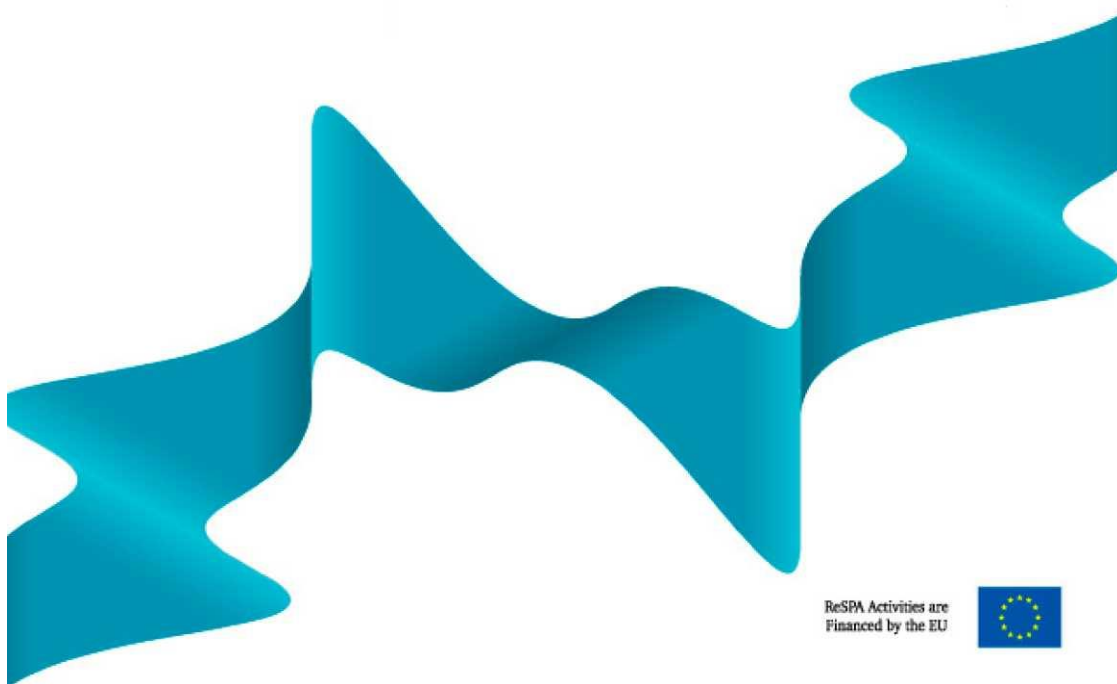


ReSPA
Regional School
of Public Administration

**ANALYTICAL PAPER
ON MANAGING PROCESS OF IMPLEMENTATION OF
PUBLIC ADMINISTRATION REFORM STRATEGIES
IN ReSPA MEMBERS**

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I. Introduction on the state of art of PAR strategies in ReSPA Members

In November 2016 Enlargement package, the European commission set out the Communication on the EU enlargement policy followed by seven reports of the enlargement countries. A continued commitment to the principle of "fundamentals first" remains essential for the enlargement countries. The Commission continues to focus efforts on the rule of law, including security, fundamental rights, democratic institutions and **public administration reform** (PAR), as well as on economic development and competitiveness. These remain the fundamentals for meeting the Copenhagen and Madrid membership criteria.

Progress on **public administration reform** has been uneven and the Commission stressed the following general estimations:

- Most Western Balkan countries have made progress in adopting **public administration reform strategies and public financial management reform programmes**. PAR and PFM strategies are on the priority list for direct budget support through IPA II;

Table 1 PAR and Public Finance Management strategic documents

Montenegro ME	Serbia RS	Macedonia MK	Albania AL	Bosnia and Herzegovina, BA	Kosovo KS
Negotiating	Negotiating	Candidate Status	Candidate Status	Potential Candidate, application accepted	Potential Candidate
PAR 2016-2020 and AP for 2016-2017 (July 2016)	PAR strategy and AP for 2015-2017	Strategy expires at end of 2015. The country is still working on the new PAR Strategy 2017 - 2022	Cross cutting PAR strategy 2015-2020 and its AP (April 2015) ¹ .	PAR strategy expired end of 2014, new strategic framework on PAR 2016-2020 in the process of development.	PAR Strategy and Action Plan 2015- 2020 (September 2015)
Programme of the PFM reform 2016-2020 (adopted December 2015)	PFM reform programme for 2015-2017 is under finalisation.	PFM strategy – Programme of PFM Reform 2016- 2020	PFM strategy for 2015-2020 adopted in December 2014.	The CoM of BiH adopted the PFM Strategy for the level of BiH institutions on 29 December 2016 (entities and District strategies are in preparation).	PFM strategy and action plan adopted in June 2016
Sector reform contract planned under IPA 2017 (€ 15 million currently foreseen). (in 2015, IBM strategy was supported, 20 mil €)	€ 80 EUR sector budget support for PAR (and PFM) under IPA 2015.	Sector reform contract on PFM is potential sector, but still not possible.	-Sector reform contract for PFM, IPA 2014, 42 mil € -Sector reform contract for PAR, IPA 2015, 28mil € -Sector reform contract for anti-corruption IPA2016,18mil€	Preconditions for an SBS have not been met yet (there is no PFM strategy in place).	€ 25 million sector reform contract on PAR planned under IPA 2016.

- **PAR special groups are established in each country** (in 2009 in Macedonia, in 2012 in Albania, in 2013 in Kosovo, in 2014 in Montenegro and Serbia, and PAR committee for

¹ Separate strategies for digital Albania, anti-corruption and decentralisation also adopted in 2015.

Bosnia and Herzegovina was established by the Decision on the First SAA Committee meeting in Brussels, on 17 December 2015);

The Commission also estimated the following:

- **PAR and PFM strategies implementation and long-term sustainability** needs to be ensured;
- **The politicisation of the civil service** remains an issue of concern. Despite modern civil service legislation, exceptions are regularly used, especially for appointments and dismissals of senior civil servant;
- **The quality of policy-making and legal drafting** is not in line with the approach of the EU Better Regulation Agenda. Legislation, public policies and major investments are often prepared without sufficient impact assessments and internal and public consultations;
- In most countries, **the structure of the state administration** remains complex and does not ensure sufficient accountability;
- **Citizens' rights to good administration**, access to information and administrative justice have to be better ensured;
- The introduction of **e-government services** remains a priority as a key factor for transparency, speed, and consistency in public services;
- Many countries have made progress with adopting modern **laws on general administrative procedures**, but legal certainty can only be ensured once contradicting special administrative procedures in sectoral laws are removed;
- Countries still need to find an appropriate **balance between central, regional and local government** that best supports implementation of reforms and the delivery of services to citizens².

In 2016, the Commission revised its **reporting methodology**, introducing six new pilot areas of regional importance for the enlargement process, in total – 16 pilot areas. Each area is evaluated for

- A unique overall membership readiness mark/grade, on the basis of the overall progress made by fall 2016 (state of play or statistical indicator of the **overall progress in achieving EU standards**) – with 5 levels of readiness (static indicators of readiness): Early stage (1), Some level of preparation (2), Moderately prepared (3), Good level of preparation (4) and well advanced (5);
- A unique dynamic mark of progress that the country achieved in the last 12 months (**level of progress in the last 12 months** or the dynamic mark of progress) – 5 levels of activities (dynamic indicators of progress): Backsliding (1), No progress (2), Some progress (3), Good progress (4) and Very good progress (5);

Selected indicators are the following: a) four political criteria: functioning of the judiciary, fight against corruption, fight against organised crime, freedom of expression; b) administrative capacities estimated through public administration reform; c) two economic criteria (existence of a functioning market economy and capacity to cope with competitive pressures and market forces within the Union) and d) nine negotiating chapters of specific importance for EU integration process (public procurement, statistics and financial control). Evaluation of the above mentioned indicators per country is presented in table 2.

² The Communication from the Commission to the European Parliament, the Council, the European economic and social committee and the Committee of the regions, 2016 Communication on EU Enlargement Policy, Brussels, 9 November 2016, pp. 5-6.

Table 2. EC Methodology for evaluation of 16 pilot areas in Enlargement package 2016

	AL	BA	KS	MK	ME	RS
1. FUNCTIONING OF THE JUDICIARY						
State of play	Some level of preparation	Some level of preparation	Early stage	Some level of preparation	Moderately prepared	Some level of preparation
Level of progress	Good progress	Some progress	Good progress	Backsliding	Some progress	Some progress
2. FIGHT AGAINST CORRUPTION						
State of play	Some level of preparation	Some level of preparation	Early stage* / Some level	Some level of preparation	Some level of preparation	Some level of preparation
Level of progress	Some progress	Some progress	Good progress	No progress	Some progress	No progress
3. FIGHT AGAINST ORGANISED CRIME						
State of play	Some level of preparation	Some level of preparation	Early stage	Some level of preparation	Some level of preparation	Some level of preparation
Level of progress	Some progress	Some progress	Good progress	No progress	Some progress	Some progress
4. FREEDOM OF EXPRESSION						
State of play	Some level* / Moderately	Some level of preparation	Some level of preparation	Some level of preparation	some level of preparation	some level of preparation
Level of progress	No progress	No progress	No progress	No progress	No progress	No progress
5. PAR						
State of play	Moderately prepared	Early stage	some level of preparation	Moderately prepared	moderately prepared	Moderately prepared
Level of progress	Some progress	No progress	Some progress	Some progress	Some progress	Good progress
6. ECONOMIC CRITERIA- existence of a functioning market economy						
State of play	Moderately prepared	Early stage	Early stage	Good level of preparation	Moderately prepared	Moderately prepared
Level of progress	Some progress	Some progress	Some progress	No progress	Some progress	Good progress
7. ECONOMIC CRITERIA- capacity to cope with competitive pressure and market forces within the Union						
State of play	Some level of preparation	Early stage	Early stage	Moderately prepared	Moderately prepared	Moderately prepared
Level of progress	Some progress	Some progress	No progress	Some progress	Some progress	Some progress
8. Chapter 1. FREE MOVEMENT OF GOODS (new pilot area)						
State of play	Some level* / Moderately	Early stage	Early stage* / Some level	Moderately prepared	Moderately prepared	Moderately prepared
Level of progress	Some progress	No progress	Some progress	Some progress	Good progress	Some progress
9. Chapter 5. PUBLIC PROCUREMENT						
State of play	Some level of preparation	Some level of preparation	Some level of preparation	Moderately prepared	Moderately prepared	Moderately prepared
Level of progress	No progress	Some progress	Some progress	No progress	Some progress	Some progress
10. Chapter 8 COMPETITION (new pilot area)						
State of play	Some level* / Good progress	Some level of preparation	Early stage	Moderately prepared	Moderately prepared	Some level* / Good progress
Level of progress	Some progress	No progress	Some progress	No progress	Some progress	No progress
11. C 14 TRANSPORT (new pilot area)						
State of play	Some level of preparation	Some level of preparation	Early stage* / Some level	Moderately prepared	Moderately* / Good level	Moderately* / Good level
Level of progress	Good progress	Some progress	Some progress	Some progress	Good progress	Good progress
12. C15 ENERGY (new pilot area)						
State of play	Moderately prepared	Early stage	Early stage	Moderately prepared	Moderately* / Good level	Moderately prepared
Level of progress	Some progress	Some progress	Some progress	Some progress	Good progress	Some progress
13. C18. STATISTICS						
State of play	Some level* / Good progress	Early stage	Early stage* / Some level	Moderately prepared	Some level of preparation	Moderately prepared
Level of progress	Some progress	Some progress	Some progress	Some progress	Some progress	Good progress
14. C24. JUSTICE, FREEDOM AND SECURITY (MIGRATION, BORDER CONTROL, ASYLUM, AND FIGHT AGAINST TERRORISM) - new						
State of play	Some level of preparation	Some level of preparation	Early stage* / Some level	Moderately prepared	Moderately prepared	Some level of preparation
Level of progress	Some progress	Some progress	Good progress	Some progress	Some progress	Some progress
15. Chapter 27. ENVIRONMENT (new pilot area)						
State of play	Some level of preparation	Early stage* / Some level	Early stage	Some level of preparation	Some level of preparation	Some level of preparation
Level of progress	Some progress	Some progress	Some progress	Some progress	Good progress	Some progress
16. Chapter 32. FINANCIAL CONTROL						
State of play	Moderately prepared	Early stage	Early stage	Moderately prepared	Moderately prepared	Moderately prepared
Level of progress	Some progress	Some progress	Some progress	No progress	Good progress	Some progress
Overall state of play 16 pilot areas - average	2,25	1,56	1,19	2,75	2,69	2,56
Level of progress for 16 pilot areas - average	3,00	2,75	3,13	2,44	3,25	3,06

Source: Enlargement package 2016 (author's calculation);

Note: blue colour of font – progress in comparison with 2015 Report; red font – worse result in comparison with 2015;

If we convert every qualitative mark of progress into a quantitative one, we get a static and a dynamic indicator of progress in the process of the European integration for every country of the region.

When we talk about **the overall progress in the mentioned 16 pilot areas** (static indicator in 2016), we can see that Macedonia has achieved the best result – 2,75. According to this methodology for 16 pilot areas, Macedonia is still slightly “readier” for membership than countries with open accession negotiation. Next in line after Macedonia are Montenegro, Serbia and Albania – with 2,69, 2,56 and 2,25 respectively. Bosnia and Herzegovina and Kosovo are potential candidates with a lot of job to be done in the future, especially in the selected pilot areas. Good sign is progress achieved in these countries in the last 12 months. Average for the region regarding overall progress is **2,16**.

When we take a look at the dynamic indicator, Montenegro and Kosovo have achieved the best **indicator of progress in the last 12 months** – 3,25 and 3,13, followed by Serbia and Albania (3,06 and 3,00), than Bosnia and Herzegovina and Macedonia (2,75 and 2,44)³. Average for the region regarding dynamic in the last 12 months is **2,94**.

Overall, this methodology represents the first attempt to interpret qualitative evaluation in quantitative form, which enables us to carry out a more targeted comparative analysis of the Western Balkans countries on their path to the Union.

Among other things, the Commission recommends that Member States consider opening accession negotiations with **Albania** as well as with **Macedonia**.

Following the recognition of meaningful progress in the implementation of the Reform Agenda, in September 2016 the EU Council invited the European Commission to submit its opinion on **Bosnia and Herzegovina's** application for EU membership.

PAR is one of pilot areas in the Commission report for 2016. Regarding overall achieving of the EU standard, Albania, Macedonia, Montenegro and Serbia are moderately prepared, Kosovo achieved some level of preparation and Bosna and Herzegovina are in early stage, according to the EC report. Regarding level of progress in the last 12 months, only Serbia achieved good progress while most of the countries are with mark “some progress”.

³ Serbia had the highest dynamic indicator of progress in the last 12 months in 2015 Enlargement package - on 10 pilot areas – 3.4.

II. Towards optimization of the public administration in Western Balkan countries: PAR institutional framework

1. Albania

In June 2014, the European Council granted Albania candidate status. In the past year, Albania has implemented smoothly its obligations under the Stabilisation and Association Agreement (SAA). Regular political and economic dialogue between the EU and Albania has continued through the relevant structures under the SAA. Among other things, in November 2016 the Commission recommends that Member States consider opening accession negotiations with Albania.

Optimisation process - state of play in relevant areas

a) Budget

In Albania, the Budget is formulated within a multi-annual framework and in accordance with the Law No. 9936/08 on Management of the Budgetary System (MBS) in Republic of Albania.

The Medium-term Budget Programme (MTBP) sets out the macroeconomic projections, as well as the revenue and expenditure forecasts, for the period. The Government publishes a three-year MBTF on a general government basis in the MTBP. The MTBP is well developed at both ministerial and programme levels. For each programme, it includes a description, expenditures and targets (including indicators) for the current year and for all years of the MTBP. The information is comprehensive yet concise; the level of detail is appropriate for an MTBP document. However, as the macroeconomic and fiscal forecasts are not based on realistic assumptions, regular expenditure cuts are necessary. This prevents the MTBP from having the full impact intended.

The medium-term targets in the MTBP are indicative rather than binding. Besides, there are no clearly defined monitoring and enforcement procedures. Although the MTBP is provided to Parliament as supplementary information for the Annual Budget, the Parliament does not vote on it. There is no regular monitoring and enforcement of the rule, and only modest interest in the media.

The Budget is formulated in line with the Management of Budget Systems (MBS), which defines the scope of the Budget, the roles and responsibilities of the key institutions (including the Parliament), and the timetable. The MBS also provides for the MF to issue an annual circular to guide budget users in making their estimates. At present, there is no evidence that information other than the most basic calculations are sought or provided by the budget users. As revenues have not reached the anticipated targets, the Government often has to set new priorities and the Budget is revised during a given year. This uncertainty undermines both budgetary discipline and a commitment to budget planning on the part of budget users.

The Budget documentation presented to Parliament sets out the macroeconomic assumptions, provides medium-term projections for general government fiscal aggregates, and links the Budget to the Government's policy objectives for the upcoming year. It also provides allocations at the institutional level and contains information on current, capital, pay and non-pay expenditures by budget users. On the other side, the documentation lacks precise details about the fiscal risks to which the Budget is exposed, such as interest rates, exchange rates, and risks arising from explicit and implicit obligations to state-owned enterprises. It also fails to provide non-financial performance information, and lacks separate information on baseline expenditure and new policies, final outturn data for the preceding year and multi-annual commitments on capital spending.

The MoF centrally controls disbursement of funds but on the basis of a “cash rationing” system that more closely reflects what is available than what has been planned in advance. Cash

liquidity is ensured, but this led a serious arrears problem, which the Government has begun to address under the Arrears Prevention and Clearance Strategy, adopted in 2014.

Some information is published during the year, but not in a detailed manner that allows public analysis of evolving revenue and expenditure trends compared to original expectations. The role of Parliament is respected insofar as deadlines are met, but transparency is reduced by the fact that the Annual Report on the Execution of the Budget does not mirror the original Budget format, does not explain variations and does not provide information on state assets.⁴

b) Human Resources Management

Law 152/2013, “**On the Civil Servant**” (CSL) is largely in line with European standards. A latest changes amended 28 articles in 2014 (Law 178/2014). Some substantial changes include: filling lower and middle management vacancies by opening the career system to external candidates; extending the grounds for termination of employment and providing for compensation; shortening the frequency of performance appraisals and providing for quick dismissal. The degree of regulation in the primary and secondary legislation is adequately balanced to allow flexibility and ensure stability of the public service.

The status of civil servants applies to employees in state institutions, as well as employees of subordinated institutions and all local self-government units. Police officers and the foreign-service officials are also public servants and the CSL applies to them, unless otherwise provided for in the special law. However, there are some shortcomings as regards the status of civil servants which extends the list of personnel who are excluded. Besides, there is a clear demarcation between political appointees, public servants and support staff. Furthermore, political appointees and other political offices are clearly excluded from the scope of the public service.

The institutional set-up establishes a **clear political responsibility vested in the MIPA**. The DoPA, responsible for reporting to the State Minister, is sufficiently empowered to lead, support and monitor the implementation of the public service policy and legislation. The DoPA’s legal responsibilities facilitate its key tasks in a wide range of areas, provided it is adequately resourced.

The Commissioner for the Oversight of the Civil Service, an independent body responsible for reporting to the Assembly, was appointed on 30 October 2014. The Regulation “On the supervision/inspection procedures”, approved on 11 March 2015, defines the objective of activities and detailed procedures of the Commissioner.

The Human Resource Management Information System (HRMIS) consisting of information about each civil servant’s identity, education, position, pay structure and tenure, is in the initial implementation phase. Links to the registry of the Treasury (salaries) and Social Security are expected. Since the HRMIS is still not functional, accurate information on the public service is unavailable.

The recruitment and selection process is based on merit, in accordance with the legislation.⁵ Relevant secondary legislation and guidelines are in place.⁶ The eligibility criteria and general provisions ensuring the quality of the recruitment are established in the CSL,⁷ and detailed procedures are covered by secondary legislation and additional guidelines. The appointment of the Permanent Recruitment Committee and the recruitment procedure follow the principle of merit-based competition.⁸ The principle of equal treatment ensures protection

⁴ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Albania, OECD Publishing, Paris, pp. 82-92.

⁵ Article 20. CSL 152/13.

⁶ Decision of the Council of Ministers, No. 143, 12 March 2014, “On the procedures of the recruitment, selection, probation, lateral transfer and promotion of the civil servant of the expert, low and mid-level management category.” Guideline No. 4, dated 13 August 2014, “On the process of filling the vacancies in the civil service through the lateral transfer procedure and recruitment to the civil service of the expert category through the open competition.”

⁷ Articles 21 and 22. CSL 152/13.

⁸ Decision of the Council of Ministers, No. 143, 12 March 2014, “On the procedures of the recruitment, selection, probation, lateral transfer and promotion of the civil servant of the expert, low and mid level management category.”

against discrimination of persons applying to the public service and those employed.⁹ The practice of the first pool-recruitment processes supports the idea that merit has been implemented. However, there are areas of concern regarding the declaration of civil service status and the use of termination, downgrading and other instruments to dismiss public servants.

The main **salary principles** are established in the CSL.¹⁰ The primary rules are further specified in the Law 10405/2011, “On the competences of setting salaries and bonuses.” The Council of Ministers sets the number of classes, salary rates, salary supplements and bonuses based on the job classification. In principle, average salaries for similar positions (secretary general, director general, lawyers, policy analysts) is within a range of 10%, which ensures that there is a similar salary for the same title. Moreover, the managerial discretion in assigning different elements of salary, allowances and benefits to individual public servants is limited, and the fact that all elements are explicitly established in the legislation enhances the transparency of the salary policy. Public servants have reasonable salaries, although declining in the case of senior public servants. Although salaries seem to be the same for comparable positions, there is a need to develop and apply analytical tools for the evaluation of the jobs in order to have a fairer salary system.

Professional training is recognized as a right and duty of public servants¹¹ and is applied in practice. There is no specific requirement for training of a specific number of hours per year or every x number of years. The DoPA, together with the Albanian School of Public Administration (ASPA), defines the policies and training plans based on requests that the institutions submit. The ASPA meets only general training needs, but is expected to put more emphasis on the public servants’ special and professional development. The ASPA also plays a fundamental role in probation periods and the selection of top management corps.¹² However, there has been no evaluation of the training plan and its impact.

The principles of performance appraisal are established in the primary legislation,¹³ and the detailed provisions are established in secondary legislation. In the case of an unsatisfactory marking, the civil servant may be subject to compulsory three-month training and a reappraisal and, if the performance is rated “unsatisfactory” again, the civil servant can be dismissed. This provision allows for the quick dismissal of public servants. The performance appraisal can also be used for more positive rewards, i.e. salary steps.¹⁴ However, the experience with performance appraisals is still limited under the new system, and the percentage of good/very good appraisals results is extremely high.¹⁵

Albania has institutions, legislation and tools in place to **promote integrity** and prevent corruption in the public service: the National Co-ordinator against Corruption, responsible for drafting and monitoring the implementation of the Inter-Sectoral Strategy against Corruption 2015-2020 and its Action Plan,¹⁶ the Law on Co-operation of the Public in the Fight Against Corruption, Law on Access to Information, Law on the Prevention of Conflicts of Interest in the exercise of Public Functions, Law on Asset Declarations, and the Law on the Rules of Ethics in the Public Administration. Other positive steps are a draft Law on Whistleblowing, currently in the inter-ministerial consultation, and the creation of a national online anti-corruption platform¹⁷ which citizens can use to anonymously report cases of corruption and attach relevant documents.

⁹ Articles 5 and 20. CSL 152/13.

¹⁰ Article 34. CSL 152/2013.

¹¹ The CSL 152/2013, Article 38.

¹² Decision of the Council of Ministers, No. 138 of 12 March 2014, “On rules of the organisation and functioning of the Albanian School Of Public Administration and training of civil servants”, Chapter III.

¹³ The CSL 152/2013, Article 62.

¹⁴ The CSL 152/2013, Article 34.

¹⁵ Performance appraisals were carried out under the new legislation in December 2014. Some 95% received good or very good appraisal results for the year.

¹⁶ Inter-Sectoral Strategy Against Corruption 2015-2020, adopted by the Council of Ministers on 20 March 2015.

¹⁷ <http://www.stopkorrupsionit.al>

The main principles and procedural steps of the **disciplinary procedure** are established in the CSL and secondary legislation, and they are applied in practice. A catalogue of disciplinary sanctions is established in the law to ensure proportionality between the misconduct and respective sanctions, and the disciplinary proceedings are further elaborated in a by-law. Many anti-corruption measures are in place, but the perception of corruption is still very high in the country.¹⁸

Public servants have the right to appeal against allegedly unfair disciplinary sanctions.¹⁹ There is no information about the exercise of appeals. Disciplinary procedures are adequately regulated but have created challenges for the units implementing them.²⁰

c) Organisation efficiency and effectiveness

Law 90/2012 on the Organization and Functioning of the State Administration sets out the detailed structure of the state administration and typology of administrative bodies. Ministers are accountable for the overall activity of subordinated institutions and autonomous agencies. The distinction between subordinated institutions and autonomous agencies is not based on clear criteria, and the rules for their operation and supervision are similar. There are provisions allowing delegation of state administration functions to local government units. Subordinated institutions and autonomous agencies are subject to supervision of the ministries under the criteria of legality and effectiveness in implementing management objectives. It should be noted, however, that Law 90/2012 does not establish any performance management scheme requiring setting of objectives and indicators for the institutions under the ministries. The Government aims to promote a culture of results-oriented management through delivery agreements with regard to key policy priorities. This initiative is at an early stage of implementation.

Law 119/2014 established a new framework for **access to public information**. New provisions transferred responsibility for this area to the Commissioner for Freedom of Information and Protection of Personal Data.²¹ The Law contains a broad definition of public information and covers all public institutions and private bodies performing state functions. The right to information may be restricted on numerous grounds, including national security, but also to protect other interests, including “counselling and preliminary discussion within or between public authorities for the drafting of public policy”, “the formulation of monetary and fiscal policies of the state”, and “conduct of inspection and auditing procedures of public authorities”.²² This catalogue of exemptions is extensive and includes vague terms, possibly creating grounds for discretionary refusal of access to information. The new legislative framework on access to public information is in line with the Principles, but with no quantitative data available, it is too early to comprehensively assess implementation.

Mechanisms **for internal and external oversight** with regard to state administration bodies are in place. The level of acceptance of the Ombudsman’s recommendations is high.

Administrative courts began functioning in November 2013 as a separate branch of the judiciary responsible for supervision of administrative acts. Law 49/2012 specifies detailed rules for organisation of administrative justice and procedural rules for operation of the courts. The Code of Administrative Procedure establishes procedural rules on internal administrative appeal. Time limits for lodging complaints to the administrative courts are reasonable (45 days).²³ Court fees do not create significant barriers to access to justice. In addition, the Law on Legal Aid provides several exemptions from court fees based on the means of the applicant. Court procedure follows the inquisitorial principle.

¹⁸ The CSL 152/2013, Articles 57-61; Decision of the Council of Ministers, 05 March 2014 “On defining the disciplinary proceedings and rules of establishing, composition and decision-making of the disciplinary committee of the civil service.”

¹⁹ Council of Ministers Decision on Disciplinary Proceedings in the Civil Service.

²⁰ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Albania, OECD Publishing, Paris, pp. 42-60.

²¹ Previously it was under the Ombudsman.

²² Article 17, the Law 119/2014.

²³ Article 18, the Law 49/2012.

The electronic case management system (Informatics System for Civil and Penal Affairs Management) has been in operation since December 2014. The system should contribute to more efficient case management, but it is too early to assess its impact.

The Constitution of Albania²⁴ guarantees everyone the right to compensation in cases of unlawful acts or omissions of state administration bodies. The general principle of liability is also stipulated in the Article 14 of the Code of Administrative Procedure.²⁵ Law 8510/1999 on non-contractual liability of state administration bodies specifies detailed rules of liability for damages caused by state administration bodies to natural or legal persons. The legislative framework for public liability is in place, but there is no data available to assess how it is functioning in practice.²⁶

The current institutional framework for implementation of policy on **service delivery** does not fully ensure effective coordination. Key responsibilities in this area are assigned to the MIPA. However, MIPA does not have sufficient capacity (staff) to perform this role. The Agency for Delivery of Integrated Services (ADISA), which is responsible for delivery of services, is subordinate to the MIPA. MIPA works jointly with the Office of the Prime Minister Delivery Unit. Although the National Agency for Information Society (AKSHI) falls into the competencies of the MIPA, it is not clear to whom it reports (whether to the Prime Minister or MIPA).²⁷

A reduction of the administrative burden has been identified as one of the key areas of intervention in the Delivery Agreement for the priority of good governance. However, it is too early to determine the effects of this initiative. The framework of the RIA of the Government's proposals requires only the general impact on economic growth to be estimated. MIPA and the Delivery Unit have prepared inventories of public services, including data on procedural requirements for obtaining service and the costs incurred by customers. This should serve as a basis for structured efforts of administrative simplification.

The Government portal **e-albania.al** is the gateway to a wide range of e-services. It primarily provides information on services, and the number of fully available online services is increasing. In 2015, the new version of the e-Albania portal was launched. It offers 32 e-services, including 3 services with transaction possibilities and information on over 500 services (a number that is constantly increasing).

Good governance is among the Government's priorities. The current legislative framework acknowledges general principles of good administrative behavior, though it fails to translate them into detailed procedural rules ensuring that citizens are effectively protected against maladministration. The new Code of Administrative Procedures that is in line with the Principles was adopted by the Parliament on 30 April 2015.

The quality and cost effectiveness of services is not subject to a regular review, and public institutions do not actively seek citizens' feedback. The services included in the inventory are under review, and the reorganization process is progressing. Mechanisms enabling dissemination of good practices across the public sector are not in place and no institution has been made responsible for this.

In recent years, the cost and time needed to set up a business have been significantly reduced and the registration procedure simplified, with the creation of National Registration Centers (NRCs) providing business registration in a one-stop-shop but the cost incurred by applicants remains high.²⁸

²⁴ Article 44 of the Constitution.

²⁵ Article 14 of the Code of Administrative Procedure.

²⁶ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Albania, OECD Publishing, Paris, pp. 62-71.

²⁷ Decision of the CoM No. 703, dated 29 October 2014.

²⁸ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Albania, OECD Publishing, Paris, pp. 73-80.

d) Decision-making process

The basic legislative and institutional framework for policy making, including the EI process, is in place. **The Rules of Procedure**²⁹ (RoP) clearly regulate policy co-ordination, requirements for developing laws, and issues related to EI and Council of Ministers (CoM) decision making. All Government stakeholders are aware of and generally follow the relevant procedures. Regular and official weekly meetings are held at the level of the Secretaries-General, and the Government works with a set of inter-ministerial co-ordination forums.³⁰

The EI co-ordination functions are established, the necessary legal framework is developed and the MEI has the authority to carry out its assigned functions. Co-ordination of EI-related negotiations is not established as a task. Challenges remain regarding the costing of reforms.

The National Strategy for Development and Integration (NSDI) should capture the sectoral strategies in a single document. The RoP sets out the process for developing the Government's annual analytical schedule of draft acts. There is no formal rule documenting how the Government priorities are to be set on the basis of its political programme. As there is no formally adopted and publicly available Government work plan or legislative plan, the indicator regarding the annual implementation backlog of planned commitments in the central planning documents could not be established. Also, Albania does not have a publicly available annual plan listing the strategies to be adopted in a given year.

The Integrated Planning Information System³¹ is a comprehensive strategic planning and management system that links strategy development with the development of the MTBP and allows for thorough monitoring. The Integrated Planning System is the key national decision-making system for determining the strategic directions and allocation of resources (World Bank refers to the Albanian Integrated Planning System as one of the best practices in the region). The main goal of the Integrated Planning System is to draft a strategic, integrated, structural and responsible plan for Albania, including here also the harmonization and adapting of the existing planning and monitoring systems within the new system and the reorganization of structures under the new system. The aim of the Integrated Planning System is to avoid drafting of *ad hoc* policies and strategies, to avoid overlapping between them and ensure compliance with financial planning processes.³² In practice, many of planning documents are not published and have no formal status. Also, there is no full coherence between mid-term policy planning and the MTBP. The financial estimation for sectoral strategies is incomplete.

The Government's activities are monitored, but the monitoring reports include only the achievement of outputs, but not outcomes. Except for strategy implementation reports, **monitoring reports** have recently been made publicly available, but some reports do not ensure a full and comprehensive understanding of the planned and executed work of the Government.

The process of developing Government decisions is well developed with adequate powers provided for checking the quality of drafts from a procedural, as well as from a legal perspective. While Government internal stakeholders are well informed about the decision making process, adherence to timelines cannot be assessed as it is not tracked in the CoM. The agendas of Government sessions are not public, but information about the decisions is routinely provided.

Ministries have clear organizational structures and policy responsibilities among them are clearly attributed. The overall system for policy development is supported by appropriate rules. While the basic framework for policy development has been established, internal rules for steering the policy development and legislative drafting process within ministries are lacking. A

²⁹ Decision No. 584, on the approval of the RoP of the Council of Ministers, 28 August 2003, and amendments after adoption.

³⁰ Orders of the Council of Ministers No. 18, on the establishment of the Strategic Planning Committee, 22 January 2014; No. 162 on the establishment of the Order of the Council of Ministers, 4 August 2013; and on the Establishment of the Inter-ministerial Committee of Economic Development.

³¹ Developed in 2010 and used until 2012.

³² Cross-cutting Public Administration Reform Strategy 2015-2020, p. 8.

challenge remains with regard to the substance of policies and legislation, along with the overall quality of the output generated by the administration.

Albania applies a basic approach to policy development which employs a certain level of consultation and limited analysis without proper costing or alignment to the MTBP. The roles for improving policy development through training have not been properly assigned. The evidence supporting draft proposals is incomplete. Monitoring and analysis of the implementation of policies is not carried out on a regular basis.

Consultation with external stakeholders is sporadic and consultation practices differ significantly. The Law No. 146/2014 on Public Notification and Consultation aims to improve consultation practices. The full implementation of this Law will require further attention, as currently no unified preparatory process is outlined and preparation of ministries is not monitored centrally. Inter-ministerial consultation procedures on policy and legislative proposals are well developed, but their potential use in resolving conflict is unclear. The Law Drafting Manual³³ is a detailed guide on how a law should be drafted. It provides an explanation on the need for well-structured and clear laws. Albania has a clear procedure for checking the quality of legislation. However, Albania does not publish the consolidated versions of legislation.³⁴

* * *

In the 2016 Report, the European Commission assessed that Albania is **moderately prepared** in the process of reform of its public administration. **Some progress** was made on public administration reform, especially with more transparent recruitment procedures for civil servants. The Report notes that the country implements more transparent recruitment procedures of civil servants, as well as continuation of the implementation of the public administration reform and public financial management reform strategies. At the same time it highlights that further progress is key to consolidate achievements towards a more efficient, depoliticized, and professional public administration. The Report underlines the need for further alignment of the annual budget with the medium term budget program and with the on-going reform strategies and the priorities of the government, strengthening the capacity of human resources managers and selection committee members to further improve the recruitment process, enabling data exchange between the human resources management information system and the treasury, complete alignment of relevant sector legislation with the code of administrative procedures and adopting the relevant by-laws to ensure its coherent implementation.³⁵

In the coming year, Albania should in particular: 1. further align the annual budget and the medium-term budget programme with one another and with the ongoing reform strategies and the priorities of the government; 2. strengthen the capacity of human resources managers and selection committee members to further improve the recruitment process; and enable data exchange between the human resources management information system and the treasury; 3. complete alignment of relevant sector legislation with the code of administrative procedures and adopt relevant by-laws to ensure its coherent implementation.

2. Bosnia and Herzegovina

The EU initiated in December 2014 a new approach to BiH, which provides for the re-sequencing of the conditionalities in order for the country to progress towards the EU and address the outstanding socio-economic challenges it faces. This led to the entry into force of the Stabilisation and Association Agreement (SAA) between Bosnia and Herzegovina and the EU on 1 June 2015. It replaced the Interim Agreement (IA), which had been in force since 2008. In July 2015, the country adopted a Reform Agenda aimed at tackling the difficult socio-economic

³³ "Law Drafting Manual: A Guide to the Legislative Process in Albania" (second revised version from 2009).

³⁴ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Albania, OECD Publishing, Paris, pp. 18-41.

³⁵ EC Progress Report Albania p.10

situation and advancing the judicial and public administration reforms. Its implementation has continued with meaningful progress. In September 2016, the EU Council invited the European Commission to submit its opinion on the EU membership application of Bosnia and Herzegovina, submitted in February 2016.

Optimisation process - state of play in relevant areas

a) Budget

Bosnia and Herzegovina has a complex public finance system. It comprises the State, the two Entities, the FBiH and the RS (the three of which account for the majority of spending), and the BD.

A medium-term forecast framework, **the Global Framework on Fiscal Balance and Policies** (GFFBP),³⁶ is published mid-year of the preceding year to inform and set the parameters for the State, the Entities and the BD. The development of the GFFBP is the responsibility of the Fiscal Council that consists of the Chairman of the BiH CoM, the Prime Ministers of the RS and the FBiH, and the respective Ministers for Finance. The Governor of the Central Bank and the Mayor of the BD each have observer status. An advisory group comprising members appointed by the three Heads of Government and experts from the three Ministries of Finance (MoFs)³⁷ and the Finance Directorate of the BD prepares the draft of the GFFBP.³⁸

The GFFBP covers the three-year period ahead and summarises the proposed fiscal policies for the State, the Entities and the BD in composite tables. It lists risks to the fiscal forecasts being achieved. The GFFBP is not presented for approval to the Parliamentary Assembly at the State level, the Parliament of the FBiH, the Assembly of the RS or the Assembly of the BD, but provides the basis for the MoFs to prepare medium-term budgetary frameworks (MTBFs), which set out overall fiscal projections as well as economic and organisational classifications for their individual budget proposals.³⁹ However, neither the GFFBP nor the MTBFs (which also show projections at the level of public organisations but do not cover extra-budgetary funds (EBFs))⁴⁰ explain how the targets for the coming three years are to be met. Neither do they outline a broad fiscal strategy within the context of a macroeconomic framework. Furthermore, they do not contain any sensitivity analysis. Besides, neither the GFFBP nor the MTBFs contain information on strategic plans for policy development, so there is no link between strategic plans for policy development and budget projections. There are no fiscal rules at the State level. Fiscal targets are a political commitment of the Government, which has the freedom to set the objectives. With no fixed rule, there can be no monitoring of the adherence to it, and there are no defined actions if the targets are not met. There is no independent fiscal council to monitor the Budgets at the State, Entities or BD level.

Based on the GFFBP, **the State level Ministry of Finance and Treasury** (MoFT) prepares an MTBF⁴¹ that is the basis for the annual Budget Law. The Budget timetable is set out in legislation.⁴² Similar provisions apply in the Entities and the BD, where Budget laws require medium-term expenditure outlooks and set out the Budget calendar. The MoFs⁴³ and the Finance Directorate of the BD prepare the annual Budgets and issue guidelines to Budget users (following decisions by the CoM at the State level, and the Governments of the Entities and the BD on the overall parameters of spending and revenue consistent with the MTBF parameters) that set out the overall framework within which requests are made. Based on the overall

³⁶ BiH Law on the Fiscal Council, Official Gazette No. 63/08.

³⁷ The Ministry of Finance and Treasury (MoFT) of BiH, the MoF of the FBiH and the MoF of the RS.

³⁸ BiH Law on the Fiscal Council, Article 9.

³⁹ Budget Framework Paper Institutions of BiH, Budget Framework Document of the FBiH, Budget Framework Paper of the RS and Budget Framework Paper of the BD.

⁴⁰ In the FBiH, the main EBFs are the Pension and Disability Insurance Fund, the Health Insurance Fund and the Employment Fund. In the RS, the main EBFs are the Pension and Invalid Insurance Fund, the Health Insurance Fund, the Public Child Care Fund and the Employment Bureau.

⁴¹ Law on the Financing of the Institutions of BiH, Article 5, Official Gazette Nos. 61/04, 49/09 and 42/12.

⁴² Law on the Financing of the Institutions of BiH.

⁴³ MoFT of BiH, the MoF of the FBiH and the MoF of the RS.

framework and budget requests made by budget users, the State level MoFT submits a draft Budget to the CoM, and thence to the Presidency, before submission to the Parliamentary Assembly. Similar arrangements apply in the Entities and the BD.

For the State level, the FBiH and the BD, although not the RS, **the Budget laws**⁴⁴ prescribe that the respective Budgets are to be supported by explanatory information and documentation (including macro-economic projections, the list of appropriations, policy objectives for the coming year, and information on new policies, debt projections and the current year's outturns) when they are submitted to the Parliamentary Assembly at State level, the Parliament of the FBiH and the Assembly of the BD. Budget documentation does not provide long-term projections (of more than five years) and does not specifically list contingent liabilities. Neither at the State level nor in the Entities nor the BD is an estimate given for the likely outturn of revenue and expenditure for the current year to act as a comparison for the forthcoming year. There is no formal list of fiscal risks published. Only the domestic co-financing element of the Instrument for Pre-accession Assistance (IPA) projects is shown. A specific feature in BiH is the existence of EBFs in the two Entities and the BD (e.g. for Health, Unemployment and Pensions). Parliamentary approval of the budgets of these funds is not required by law³⁷⁹. Non-financial performance information is also absent from budget documentation.

At the State level, in the Entities and in the BD, there are similar provisions relating to the annual Budget timetables (although only the RS sets out a detailed timetable⁴⁵ for the formation of the Budget until its adoption by the Parliament). Common to all is the short time available to the parliamentary bodies⁴⁶ to consider the draft Budget in relation to the three-month timeframe recommended by the OECD.⁴⁷

Budget execution is monitored on a quarterly basis. The annual reports contain only some of the information that an annual report should contain. The reports are audited by the SAIs. There is no composite annual report made to the Parliamentary Assembly covering the State, the Entities and the BD, and none on an ESA-standard basis.⁴⁸ Budget preparation and adoption timelines improved in 2016.

In the absence of an all-encompassing PFM reform programme, ministries of finances at all levels expressed **commitment to preparing a comprehensive PFM strategy**. In July 2016, the BiH Council of Ministers adopted a decision on establishment of a working group with a view of producing a country wide PFM reform strategy.

b) Human Resources Management

There are separate civil service laws adopted for the State level,⁴⁹ the FBiH,⁵⁰ the RS⁵¹ and the BD.⁵² A recent Federation Constitutional Court Ruling from 2010⁵³ regarding the autonomy of the cantons has promoted fragmentation of the civil service system. Three cantons (Una-Sana, West Herzegovina and Posavina) have adopted their own civil service laws; two cantons (Tuzla and Sarajevo) have adopted the CSL of the FBiH as their own; one canton (Bosnian Bodrinje/Gorazde) has adopted a decree by accepting the CSL of the FBiH as an interim solution; and four cantons have not addressed this issue at all.

⁴⁴ Law on the Financing of the Institutions of BiH, Article 8; Law on the Budget in the FBiH, Article 26; and Law on the Budget of BD of BiH, Article 17.

⁴⁵ Law on the Budget System of RS, Article 19.

⁴⁶ State level – Budget submitted on 1 November for adoption by 31 December; the FBiH – Budget submitted 15 November for adoption by 31 December; the RS – Budget submitted by 5 November for adoption by 15 December; and the BD – Budget submitted 1 October for adoption by 1 December.

⁴⁷ OECD (2002), *OECD Best Practices for Budget Transparency*, Article 1.1, OECD Publishing, Paris.

⁴⁸ SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Bosnia and Herzegovina, OECD Publishing, Paris, pp. 84-95.

⁴⁹ Law No. 19/2002 on Civil Service in the Institutions of BiH.

⁵⁰ Law No. 29/2003 on Civil Service of the Federation of BiH.

⁵¹ Law No. 16/2002 on Civil Service in the RS of BiH.

⁵² Law No. 26/02/2014 on Civil Service in the Administrative Bodies of the BD of BiH.

⁵³ Constitutional Court Ruling No. U-27/09 of 20 April 2010, endowing each canton with constitutional power to regulate and manage its civil service.

The definitions of civil servants and public employees are established in the CSLs, but the civil service definition is based on institutional, not substantial, criteria.⁵⁴ The legislation does not make clear the distinction between civil servants and support staff in the FBiH.

The separation between politics and public service is not adequately reflected in the public service legislation. First, several CSLs of BiH regulate the advisors, who are political appointees and whose status should be dealt with in separate legislation.⁵⁵ Second, senior executive managers of the State institutions are appointed for a maximum fixed term of five plus five years,⁵⁶ and some high-ranking officials in the RS are appointed for a fixed term,⁵⁷ but different provisions apply in the FBiH and in the BD.

All legislation of BiH structures identify explicitly or implicitly the **OECD administrative law principles**. A major gap in the application of these principles involves legal certainty. For instance, the CSL of the FBiH⁵⁸ has been amended more than six times since its approval in 2002; the same problem relates to the other CSLs. The amendments affect a number of articles and different processes of HRM which have to be continuously adapted by HR managers of administrative bodies. This creates low legal predictability, a principle that should be safeguarded.

A Civil Service Agency (CSA) is the central co-ordination and management unit of the public service according to the respective Articles of the CSLs⁵⁹ and secondary legislation in the State, the FBiH and the RS. In the BD, the central capacity is with a Sub-Department for HRM of the Government of the BD. Since FBiH Constitutional Court Ruling No. U-27/09, the FBiH CSA continues to deliver its services in those cantons that have yet to draft their own CSL. The CSAs have been created as statutorily independent bodies that answer directly to their respective governments. Their main functions are to plan and implement civil service recruitment and training; to keep a registry of civil servants; and to give expert assistance on HRM to administrative bodies. The heads of the central civil service units meet regularly to improve co-operation and co-ordination and exchange good practices of HRM.

The CSLs, however, do not clearly assign political responsibilities on policy making to a particular minister/ministry except in the RS, where the Ministry of Administration and Local Self-Government is responsible for public service. Each CSA is in charge of submitting an annual report and a plan of activities for the subsequent year to the Government (the CSA of the State to the CoM, the CSA of the FBiH to the Government of the FBiH, the CSA of the RS to the Government of the RS).

The Human Resource Management Information System (HRMIS), or the central civil service registry as provided in the CSL of the State, the CSL of the FBiH, the CSL of the RS and the CSL of the BD,⁶⁰ has been established. In practice, these registries face some challenges for realising their potential. This problem does not appear in the RS because there is no open access to any data. Finally, the information in the registry is incomplete and is not updated on a regular basis.

The independent supervision of the implementation of the CSLs is entrusted to **administrative inspections** in the FBiH and the RS.⁶¹ At the State level and in the BD, the administrative inspections are established based on respective Laws on Administration.

All CSLs are committed to the principle of **merit-based recruitment**. Moreover, internal competition and transfer are preferred to external competition, as clearly stated in the

⁵⁴ CSL of BiH, Article 1; CSL of FBiH, Article 1; CSL of RS, Article 4.

⁵⁵ CSL of FBiH, Articles 5 and 20; CSL of BiH, Articles 5, 14, 15, 18, 22, 43, 44 and 45. This is not the case for the CSL of RS.

⁵⁶ CSL of BiH, Article 34.

⁵⁷ Law No. 117/2011 on Amendments of the CSL of RS, Article 9.

⁵⁸ CSL of FBiH, Amendment Nos. 29/03, 23/04, 39/04, 54/04, 67/05, 8/06 and 4/12.

⁵⁹ CSL of FBiH, Article 64; CSL of BiH, Article 62; CSL of RS, Articles 5 and 6.

⁶⁰ CSL of the FBiH, Articles 19 and 64; CSL of the State, Articles 16 and 62; CSL of the RS, Articles 102-206; CSL of the BD, Article 33.

⁶¹ CSL of the RS, Articles 19-28; CSL of the FBiH, Articles 11 and 13.

legislation.⁶² However, there is a potential for non-merit-based recruitment. The appointing authority can choose any person from the list of eligible candidates.⁶³ Also, termination rules are stated in the legislation. Termination may result from reorganisation,⁶⁴ although the number of dismissals in practice is low. Full information on dismissals in the State, the Entities and the BD was not provided. Besides, appointments to senior managerial positions often entail appeals. It can be concluded that the direct or indirect political influence on the appointment of senior managerial positions in the public service is not prevented.

The CSLs determine the elements of the **salary of civil servants**, and the salary is based on the job classification system of the civil service.⁶⁵ However, a fair and objective job evaluation and classification system related to the salary regulations is still to be implemented to motivate staff through different career paths.

In June 2012, the parliaments of the State and of the FBiH adopted laws amending the Law on Salaries of Civil Servants in the Institutions of BiH⁶⁶ and the Law on Salaries in the FBiH. The changes allowed for an average 4.5% reduction in basic civil service salaries. They also allowed for several allowances to be cut (e.g. for accommodation, transport, food, holidays) to adapt the State and FBiH budget to the fiscal situation and to comply with the requirements of the International Monetary Fund. The average percentage of employee allowances in 2014 was 32.2% of the total salary, which is kept under the limits of a relatively transparent salary system. Additionally, performance-based bonuses were frozen for 2014.

The right and duty to **training** is explicitly expressed in three out of four CSLs.⁶⁷ There are also strategic training plans in the State institutions, the FBiH and the RS, but not yet in the BD. The preferred method to analyse training needs is to use the results of evaluation forms (sent anonymously through electronic format in the State institutions) and input from the administrative bodies. However, performance appraisal results are not used for training needs analyses, except in the RS and the BD.

Performance appraisal is regulated by the CSLs.⁶⁸ The results of performance appraisal may have negative consequences for civil servants. One unsatisfactory rating may result in an employee being obligated to follow a specific programme, and two consecutive adverse performance appraisals may result in dismissal.⁶⁹ Performance appraisals may also have positive consequences, such as the promotion of civil servants⁷⁰ or a salary increase in the Federation and the State institutions.⁷¹ However, the system of performance appraisal is not working adequately in practice having in mind that does not adequately discriminate 'good' from 'bad' performance, so almost all civil servants have the highest grades.

The Agency for the Prevention of Corruption and Co-ordination of the Fight against corruption (ACA) was created in 2009.⁷² According to the Strategy for Fight Against Corruption of BiH 2009-2014 and its Action Plan⁷³ all administrative bodies should have **integrity plans** or

⁶² CSL of the FBiH, Article 22; CSL of the State, Article 19; CSL of the RS, Article 46; CSL of the BD, Article 33. In the CSL of the FBiH, Article 34, open competition is chosen for career advancement (managerial civil servants from Article 6 1-a) and performance appraisal for promotion of other civil servants (Article 6 1-b); there is similar provision in the CSL of the State, Article 31.

⁶³ CSL of the FBiH, Article 31; CSL of the BD, Article 41.

⁶⁴ CSL of the FBiH, Articles 51 and 52; CSL of the State, Articles 50 and 51; CSL of the RS, Article 77.

⁶⁵ CSL of the FBiH (Chapter V was abolished completely by the amendments of 2012, after approval of the Law on Salaries of Civil Servants); CSL of the State, Chapter V; CSL of the RS, Articles 78-84.

⁶⁶ Law No. 32/2012 Amending the Law on Salaries and Allowances in the State Institutions of BiH.

⁶⁷ CSL of the FBiH, Article 50; CSL of the State, Article 49, entitled to training abroad; CSL of the RS, Article 65; CSL of the BD, Article 81.

⁶⁸ CSL of the FBiH, Article 33; CSL of the State, Article 30; CSL of the RS, Article 49; CSL of the BD, Chapter XIII.

⁶⁹ CSL of the FBiH, Articles 33 and 51; CSL of the State, Articles 31 and 50; CSL of the RS, Articles 49 and 77; CSL of the BD, Article 64.

⁷⁰ CSL of the FBiH, Article 34 for category b, Article 6; CSL of the State, Article 30; CSL of the RS, Article 50.

⁷¹ CSL of the FBiH, Article 40; the Law on Salaries provides for a motivational bonus of 2.5% maximum of the annual salary (SIGMA Assessment 2012); CSL of the BD, Article 65.

⁷² Law No. 103/2009 on the Agency for the Prevention of Corruption and Co-ordination of the Fight Against Corruption.

⁷³ Strategy for Fight Against Corruption of Bosnia and Herzegovina 2009-2014 and its Action Plan <http://www.msb.gov.ba/docs/strategija1.pdf>

anti-corruption action plans. The ACA adopted the Methodology and Guidelines for Drafting the Integrity Plans in Administrative Bodies.⁷⁴ The integrity of the public service is relatively well protected from a legal standpoint in some areas: in the adoption of anti-corruption policies and action plans, codes of conduct for civil servants, the regulation of incompatibilities and the establishment of the ACA. Other areas, according to the *National Integrity System Assessment*⁷⁵ are missing, for example: 1) the legislation does not require public sector employees to make public the information regarding their personal assets and income; and 2) there is still no whistle-blower protection legislation in place in the Entities and in the BD,⁷⁶ which particularly affects the public administration. In practice, the perception of corruption is high.

Disciplinary sanctions and procedures are regulated in the legislation,⁷⁷ but full information on implementation across the public service in BiH is missing.⁷⁸

c) Organisation efficiency and effectiveness

BiH has different structures of administration exist at the State level, in the Entities and in the BD. The structure and competencies of the public administration are set out by relevant laws.⁷⁹ The overall structure of public administration in BiH at the State level remains cumbersome and difficult to manage, which is due to an overlapping and unclear legislative framework. Its major shortcomings are a lack of criteria for distinction between various types of administrative bodies and a lack of procedures ensuring control over the creation of new institutions.

The legislative framework for **access to public information** is in place at the State level, in the Entities and in the BD. The legislative framework for access to public information was passed at the State level in 2000 (Law No. 28/2000⁸⁰). In 2001, separate laws in this area were adopted by the FBiH⁸¹ and the RS.⁸² They are, in general, consistent with Law No. 28/2000. In the BD, the State level law applies, accompanied by administrative instruction.⁸³ However, there are no independent supervisory institutions that have a right to issue binding decisions and guidelines on the implementation of access to public information. Furthermore, there is no clear legal obligation in legislation at the State level, in the Entities or in the BD to proactively disclose public information, apart from the index of public information and the guidelines of public information, and there are no mechanisms to monitor the disclosure of information. At the State level only, the administrative Inspectorate of the Ministry of Justice (MoJ) of BiH is tasked with inspection and monitoring in the area of public information.

The Ombudsman Institution was established according to Annex VI of the General Framework Agreement on Peace for BiH.⁸⁴ It comprises three Ombudsmen acting independently, and there is a formula for rotating co-ordination of the management of the Institution. The status and powers of the Ombudsman Institution as defined in the legislation generally meet international standards. The Ombudsman Institution has the mandate to intervene in individual

⁷⁴ On 31 December 2013.

⁷⁵ Transparency International (2013), *National Integrity System Assessment – Bosnia and Herzegovina 2013*.

⁷⁶ At the State level, the Law on Protection of Persons Reporting Corruption in the Institutions of BiH was adopted in December 2013 (Official Gazette No. 100/13); in the RS Strategy for Fight Against Corruption, the issue of protection of whistleblowers is defined.

⁷⁷ CSL of the RS, Articles 70-77; CSL of the FBiH, Chapter VIII; CSL of the State, Chapter VIII.

⁷⁸ SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Bosnia and Herzegovina, OECD Publishing, Paris, pp. 45-61.

⁷⁹ At the State level - the Law on Administration, OG of BiH No. 32/02, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09, 103/09, 87/12, 6/13 and the Law on Ministries and Other Administrative Bodies, OG of BiH No. 05/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09, 103/09, 87/12, 06/13, 19/16. In FBiH - The Law on Organization of Authorities of FBiH, OG No. 35/05. In RS - Law on Republic Administration, RS OG No. 118/08, 11/09, 74/10, 86/10, 24/12, 121/12, 15/16). In BD – OG 32/02, 102/09.

⁸⁰ Freedom of Access to Information Act of BiH, Official Gazette of BiH No. 28/2000 (amended: Official Gazette Nos. 45/06, 102/09, 62/11 and 100/13).

⁸¹ Freedom of Access to Information Act of FBiH, FBiH Official Gazette No. 32/2001.

⁸² Freedom of Access to Information Act of RS, RS Official Gazette No. 20/2001.

⁸³ Instruction on implementation of Freedom of Access to Information Act of BiH in Brčko District, BD-BiH Official Gazette No. 26/2004.

⁸⁴ The General Framework Agreement for Peace in Bosnia and Herzegovina, Part B, Annex VI.

cases and also to promote human rights protection. No institutions of the executive branch are excluded from its oversight. It can initiate an investigation *ex officio* and has access to the premises of government institutions to investigate cases on site. It should be noted, however, that the Ombudsman Institution may not lodge a case in the Constitutional Court to check the constitutionality of legislation.

The judicial review of administrative acts is also decentralised. Administrative cases are handled by general courts which have jurisdiction for decisions issued by administrative bodies of the State level, the Entities and the BD. The High Judicial and Prosecutorial Council (HJPC) appoints judges from all over BiH.⁸⁵ Performance appraisals of judges are conducted on the basis of uniform criteria set out by the HJPC. A positive development in recent years is that the High Judicial and HJPC has begun to play a significant role in the management of judges, such as setting performance targets and analysing their workloads, across the whole country.⁸⁶

As a result of constitutional arrangements, responsibility for policy making, and especially implementation, in the area of **service delivery** has been decentralised. Most of the services for citizens and businesses are managed at the level of Entities and the BD or at the lower levels.

The scope of responsibilities of the State level administration covers primarily: technical processing of identity cards, passports and driving licences, as well as maintaining the registry of identity documents; VAT services; customs services; issuing licences and permits regarding transport, electronic communications, audiovisual services and medicinal products; patents and trademarks.⁸⁷

The institutional set-up for policy development and implementation for service delivery reflects the overall complexity of the country's administrative system. Initiatives for harmonisation of service delivery were set out in the PAR Strategy and RAP1. However, implementation was based on the voluntary commitment of the administrative bodies at State level, the Entities and the BD.

Some initiatives for **e-services development** cover the whole country, but no strategic framework for this area exists. The laws on e-signature, as a key element of legislative framework for e-service delivery, have been adopted at the State level,⁸⁸ in the Entities⁸⁹ and in the BD.⁹⁰ However, there is no information on its implementation countrywide

At the State level, preparations for the e-government gateway are under way, and there are plans for offering e-services through this portal, starting with one pilot e-service. It should be noted that in the RS, the e-government portal⁹¹ already exists but it simply provides information about services and cannot carry out any transactions.

The State level,⁹² the Entities⁹³ and the BD⁹⁴ have their own **laws on administrative procedure**. In general, these follow a similar model. Major differences stem from specific features of institutional arrangements, e.g. the different organisation of courts dealing with administrative cases. There are no inventories of special regulations excluding or limiting the application of the general rules of administrative procedure.

⁸⁵ Law on the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, Article 17, Official Gazette Nos. 25/04, 93/05, 48/07 and 15/08.

⁸⁶ SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Bosnia and Herzegovina, OECD Publishing, Paris, pp. 63-71.

⁸⁷ Inventory of services provided by State level institutions provided by the General Secretariat of the CoM of BiH.

⁸⁸ Law on Electronic Signature, BiH Official Gazette, No. 91/06.

⁸⁹ Law on Electronic Signature of RS, RS Official Gazette, No. 59/08.

⁹⁰ Law on Electronic Signature of BD of BiH, BD Official Gazette, Nos. 39/10 and 61/10. This law was repealed later by the decision of the Assembly of the BD.

⁹¹ esrpska.com portal

⁹² Law on General Administrative Procedure (LGAP), Official Gazette of BiH, Nos. 29/02, 12/04, 88/07, 93/09 and 14/13.

⁹³ LGAP of FBiH, Official Gazette of FBiH, Nos. 2/98 and 48/99; LGAP RS, Official Gazette of RS, Nos. 13/02, 87/07 and 50/10.

⁹⁴ LGAP of BD, Official Gazette of BD, No. 48/11.

All general laws on administrative procedure (LGAPs) enshrine key principles of good administrative behaviour.⁹⁵ This includes the principle of legality, the right of the parties to comment before the final decision is reached by the administrative body and the right to appeal against decisions taken in the first instance. Legislation at State level, the Entities and the BD also require administrative bodies to provide reasons for decisions and details of appeal rights and procedures. From 2014 to 2016 through the IPA 2011 project named “Education of Managers of Administrative Procedures and Inspectors”, approximately 2000 managers of administrative procedures and inspectors completed trainings related to administrative proceedings.

There is no overarching mechanism for improving the quality of public services throughout the country. The RAP1 envisaged introduction of a quality-monitoring scheme and regular customer satisfaction surveys in institutions at State level, the Entities and the BD.

According to data provided by PARCO, three institutions⁹⁶ at the State level have **introduced quality management schemes** based on the International Organization for Standardization (ISO). There are also plans to implement pilot projects of Total Quality Management, Common Assessment Framework (CAF) and ISO in some institutions. The monitoring of customer satisfaction takes different forms and is not conducted by all institutions. Regular **monitoring of customer satisfaction** is performed in a limited number of institutions.⁹⁷ Other institutions focus on handling customer complaints as a tool for acquiring feedback from citizens. Besides, there is more initiatives. Progress has been achieved in reducing the time needed to issue identity documents. However, the efficiency of the business registration process varies across the country, as the procedures have not been harmonised.

The accessibility of services and e-services is uneven at the State level, in the Entities and in the BD as a result of the decentralisation of responsibility for most public services for citizens and businesses. Only the RS has a functioning e-government portal. At the State level, the e-VAT system has been introduced. The State level has developed e-services for VAT and improved the accessibility of websites of State level institutions.⁹⁸ Due to the country’s highly decentralised responsibilities for service delivery, there is a need for an increased focus on user-oriented administration.

d) Decision-making process

Due to the complex nature of decision making stipulated by the Constitution⁹⁹ in BiH, the policy development and co-ordination system is not established uniformly across the whole country. **The policy-making system** is very fragmented. A ‘whole-of-government’ approach is provided for in the legislation but challenges remain over how to put it into practice. There was some progress in moving towards countrywide strategy development, including an agreement between the state and the entities’ governments to set up an inter-institutional structure for public administration reform strategy development. At the same time, coordination between the state and the entities’ institutions still needs to be substantially improved¹⁰⁰. The analysis below, therefore, mainly focuses on the State level, where the legal framework for policy development and co-ordination is partially in place, including for European integration (EI).

The institutions fulfilling the functions of the CoG at the State level of BiH are: 1) the Secretariat-General (SG) of the CoM, which is responsible for preparing sessions and meetings,

⁹⁵ LGAP (State level), Articles 1-15, LGAP of the FBiH, Articles 5-10; LGAP of RS, Articles 5-11; LGAP of BD, Articles 4-10.

⁹⁶ Agency for Identification Documents, Registers and Data Exchange of BiH (IDDEEA), Institute of Metrology of BiH, the Agency for Medicinal Products and Medical Devices of BiH.

⁹⁷ At the State level, the regular monitoring of customer satisfaction is conducted, for example, in the Directorate for Civil Aviation, the Agency for Identification Documents, Registers and Data Exchange of BiH and the Agency for Medicines and Medical Devices.

⁹⁸ SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Bosnia and Herzegovina, OECD Publishing, Paris, pp. 73-82.

⁹⁹ Annex 4, General Framework Agreement for Peace in Bosnia and Herzegovina (also known as the Dayton Agreement), 14 December 1995.

¹⁰⁰ EC Reporet 2016, p. 9-10.

developing the work plan of the CoM, monitoring implementation of CoM decisions, and communication activities; 2) the Legislative Office (LO), which is responsible for legal scrutiny, as well as ensuring the publication of decisions in the Official Gazettes of BiH, the two Entities and the BD; 3) the Directorate of Economic Planning (DEP), which is responsible for fiscal and economic medium-term planning and development planning, and checks proposals from this perspective; 4) the Ministry of Finance and Treasury (MoFT), which ensures fiscal scrutiny; and 5) the Directorate for European Integration (DEI), which is responsible for co-ordination of EI matters.

The legal framework for the functioning of the CoG at the State level of BiH consists of the following regulations: the Constitution of BiH,¹⁰¹ the Law on CoM of BiH,¹⁰² the Law on Administration of BiH, the Law on Ministries and Other Bodies of Administration of BiH,¹⁰³ the Law on Financing Institutions of BiH,¹⁰⁴ the Rules of Procedures (RoP) of the CoM,¹⁰⁵ the Uniform Rules on Preparation of Legal Acts in the Institutions of BiH,¹⁰⁶ the Regulations on Consultations in Legislative Drafting¹⁰⁷ and the Instruction on the Process of Preparation of the Work Programme of CoM of BiH.¹⁰⁸

In FBIH¹⁰⁹ the following regulations are important: the Rules of procedures of the Work of the Government of the Federation of BiH,¹¹⁰ the Rules and procedure in the process of drafting laws and by-laws of the Federation of BiH,¹¹¹ the Decree on business planning and reporting of the business results of the Government of the Federation of BiH,¹¹² the Decree on rules for participation of interested parties in the process of preparation of laws and by-laws¹¹³ and the Decree on Regulatory Impact Assessment.¹¹⁴

For **decision-making process in RS**¹¹⁵ the following regulations are relevant: the Rules of Procedure of the Government of the Republic of Srpska,¹¹⁶ the Regulation on Principles of Internal Organization and Systematization of Jobs in Republic Authorities of the Republic of Srpska,¹¹⁷ the Guidelines for Republic Administrative Authorities on public participation and consultation in the drafting of legislation,¹¹⁸ the Decision of the Government of the Republic of Srpska on Regulatory Impact Assessment in the Process of Drafting Laws,¹¹⁹ the Rules for Drafting Laws and Other Regulations of the Republic of Srpska¹²⁰ and the Decision on the Procedure of Planning, Monitoring and Reporting on the Implementation of

¹⁰¹ Constitution of BiH, OG No. 25/09.

¹⁰² Law on CoM of BiH, OG No. 30/03, 42/03, 81/06, 76/07, 81/07, 94/07, 24/08.

¹⁰³ Law on Ministries and Other Bodies of Administration of BiH, OG No. 5/03, 42/03, 26/04, 42/04, 45/06, 88/07, 35/09, 59/09, 103/09, 19/16.

¹⁰⁴ Law on Financing Institutions of BiH, OG No. 61/04, 49/09.

¹⁰⁵ Rules of Procedures of the CoM, OG No. 35/03, 92/05, 40/07.

¹⁰⁶ Uniform Rules on Preparation of Legal Acts in the Institutions of BiH, OG No. 11/05, 58/14, 60/14.

¹⁰⁷ Regulations on Consultations in Legislative Drafting, OG No. 81/06.

¹⁰⁸ Instruction on the Process of Preparation of the Work Programme of CoM of BiH, OG No. 21/07.

¹⁰⁹ Questionnaire.

¹¹⁰ Rules of procedures of the Work of the Government of the Federation of BiH, OG FBIH 6/10, 37/10 62/10.

¹¹¹ Rules and procedure in the process of drafting laws and by-laws of the Federation of BiH, OG FBIH 79/14.

¹¹² Decree on business planning and reporting of the business results of the Government of the Federation of BiH, OG FBIH 89/14, 107/14.

¹¹³ Decree on rules for participation of interested parties in the process of preparation of laws and by-laws, OG FBIH 51/12.

¹¹⁴ Decree on Regulatory Impact Assessment, OG FBIH 55/14.

¹¹⁵ Questionnaire.

¹¹⁶ Rules of Procedure of the Government of the Republic of Srpska, OG RS No. 10/09.

¹¹⁷ Regulation on Principles of Internal Organization and Systematization of Jobs in Republic Authorities of the Republic of Srpska, OG RS No. 18/09, 105/11.

¹¹⁸ Guidelines for Republic Administrative Authorities on public participation and consultation in the drafting of legislation, OG RS No.123/08, 73/12.

¹¹⁹ Decision of the Government of the Republic of Srpska on Regulatory Impact Assessment in the Process of Drafting Laws, OG RS No. 19/13.

¹²⁰ Rules for Drafting Laws and Other Regulations of the Republic of Srpska, OG RS No. 24/14.

Adopted Strategies and Plans of the Government of the Republic of Srpska and Republic Administrative Bodies.¹²¹

While there is no countrywide CoG, at the State level the basic legislative and institutional framework for a functioning CoG, including the EI process, is in place. However, co-ordination of policy content has been defined only partially, and implementation challenges have also been observed with regard to ensuring the affordability of proposals. Implementation of the co-ordination of communication functions and the handling of relations with other state bodies cannot be assessed due to the lack of evidence.

As defined in the Law on CoM of BiH,¹²² the Law on Ministries and other Administrative Authorities of BiH¹²³ and the Decision of the CoM of BiH on the DEI,¹²⁴ the DEI has the mandate to co-ordinate and harmonise activities of authorities at all levels in BiH in the EI process, as well as for communication with the EC. However, the State level, the two Entities and the BD all have a share in deciding and implementing integration matters.

While the EI co-ordination structure is in place for the whole country and the DEI is positioned to fulfil all tasks applicable to BiH at the current stage of EI, the State level, the two Entities and the BD all have a share in deciding and implementing integration matters. Planning and regular monitoring of EI is not fully ensured for the whole country, and the integration process is seriously hampered by the lack of co-operation between the State level, the two Entities and the BD in EI matters, especially with regard to a unified approach to harmonisation with the *acquis*.

Except for the Global Framework on Fiscal Balance and Policies,¹²⁵ medium-term planning has not been established for the whole of the country, though sector strategies developed at State level are supposed to cover sectoral issues for the whole country from a medium-term perspective.

Medium-term planning at the State level is regulated by the RoP and the new Decision on Mid-Term Planning. In accordance with the RoP,¹²⁶ the CoM shall adopt an annual work programme by the beginning of the calendar year, consisting of the most important tasks for the year. As the Decision on Mid-Term Planning, Monitoring and Reporting Procedure in the Institutions of BiH was adopted by the CoM in July 2014, the basis for medium-term planning from a strategic perspective has also been established. In accordance with this decision, the mid-term work programme of the CoM for three years should be elaborated and should serve as a basis for the budget framework document and the annual planning of government work.¹²⁷ However, as it is a recent initiative, implementation in practice cannot be assessed.

There is no formally established countrywide or State level medium-term planning system for EI matters. Planning of EI matters is decentralised between the State level, the two Entities and the BD, and also between ministries at the State level, with high independence of the ministries. At the State level there is no separate annual plan for EI. The AWP contains a separate chapter on EI-related commitments but, although the DEI is the institution responsible for EI matters, it does not steer its elaboration. The AWP is not aligned with financial limits.

Although legislation sets standards for reporting on the work of the CoM on an annual basis, as well as reporting on implementation of strategies, publicly available reports provide only a limited picture of the development of various matters, as achievements against set policy objectives are not covered.

The legal framework establishes the requirements for preparation of the CoM meetings and clearly sets out responsibilities for ensuring conformity with rules and requirements. Legal

¹²¹ Decision on the Procedure of Planning, Monitoring and Reporting on the Implementation of Adopted Strategies and Plans of the Government of the Republic of Srpska and Republic Administrative Bodies, OG RS No. 50/16.

¹²² BiH Law on CoM, Article 23.

¹²³ BiH Law on Ministries and other Administrative Authorities, Article 18.

¹²⁴ Decision of the CoM of BiH on the DEI, Article 3.

¹²⁵ BiH Law on the Fiscal Council, Official Gazette No. 63/08.

¹²⁶ RoP CoM, Article 18.

¹²⁷ Decision on Mid-Term Planning, Monitoring and Reporting Procedure in the Institutions of BiH, Article 4.

scrutiny is ensured, but other formal and substantial requirements are not fully adhered to. Information on the agenda of formal Government sessions is public.

On the State level, the responsibilities of ministries for developing policies and legislation in their respective policy fields have been established by regulations. Internal rulebooks also prescribe the division of tasks between the sectors and departments of the ministries, but they do not stipulate the policy development process within the ministry. The data on staff allocation between sectors and departments was not available.

The legal framework establishes the procedure for transposing the *acquis* at the State level and this is adhered to by the administration, including the use of Tables of Concordances. However, the lack of co-ordination between the State level, the Entities and the BD regarding legal harmonisation hampers the overall transposition process necessary for successful EI.

Existing regulations stipulate the obligation to identify alternative solutions and their costs and benefits, and to analyse fiscal impacts, but this is not done in practice. Responsibility for overall quality control of analysis supporting the proposal (i.e. the Explanation) lies with the body adopting the proposal and the MoF is supposed to provide an opinion on the assessment of fiscal impacts. These roles are exercised only in the formal sense.

Regulation exists on the manner of **public consultation** as well as on **inter-ministerial consultation**. The comprehensive Regulations on Consultations have not been fully implemented, as at least some of the drafts are not consulted, and outcomes of the consultation process are not shared with all stakeholders. The procedure for inter-ministerial consultations is only partially followed, as the co-ordination and conflict resolution mechanisms intended to function at the higher administrative and political levels (Committees) were not functioning and became operational only recently, and it is not clear how the results of inter-ministerial consultation are shared with the CoM.

The requirements for legislative drafting have been set, with the LO responsible for assuring that the rules are followed in practice for regulations adopted and approved by CoM. Legislation at State level and FBIH is made available through a single source, but not always electronically and not in consolidated form.¹²⁸

* * *

In the 2016 Report, the European Commission assessed that Bosnia and Herzegovina is at an **early stage** with the reform of its public administration. **No progress** was achieved in the past year and backsliding has been recorded with the amendments to the legal framework for the civil service in the Federation entity, increasing the risk of politicisation. The insufficient political support for countrywide reforms and the fragmentation of the public service are hampering efforts to carry out institutional and legislative reforms. A harmonised approach to policy development and coordination is still largely lacking.

In the coming year, Bosnia and Herzegovina should in particular address the Commission's **recommendations** from last year: 1. develop, adopt and start implementation of a new countrywide strategic framework for public administration reform with strong political leadership and guidance; 2. ensure implementation of an effective human resources management system, in particular in recruitment, and amend civil service legislation in an inclusive and evidence-based process to reduce the risk of politicisation of the civil service at all administrative levels; and 3. adopt a countrywide reform programme for public financial management that is aligned with the new strategic framework on public administration reform.

3. Macedonia

The European Council granted the status of candidate country to Macedonia in December 2005. The Stabilisation and Association Agreement between the Macedonia and the EU entered into force in April 2004. The Commission first recommended to the Council the opening of

¹²⁸ SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Bosnia and Hercegovina, OECD Publishing, Paris, pp. 22-43.

accession negotiations with the country in 2009.¹²⁹ In 2015, the Commission stated that it was prepared to extend its recommendation, conditional on the continued implementation of the Pržino Agreement, which was facilitated by Commissioner Hahn and three Members of the European Parliament in 2015, and substantial progress in the implementation of the 'Urgent Reform Priorities'. However, the deep political crisis continued in 2016. The Pržino agreement is partially implemented and limited progress was made in terms of concrete implementation of the 'Urgent Reform Priorities'. The agreements and important decisions taken in summer 2016, which pave the way for early parliamentary elections, provide an opportunity for the country's leaders to finally overcome the long-lasting crisis¹³⁰.

Optimisation process - state of play in relevant areas

a) Budget

In 2014, the **Fiscal Strategy for 2015-2017** was adopted covering all general government revenues and expenditures, including planned funding from the Instrument of Pre-Accession. The Budget Law requires that the Fiscal Strategy should cover the directions and objectives of fiscal policy, as well as the main categories of the estimated revenues and appropriations for the period.¹³¹ In the Fiscal Strategy for 2015-2017, the revenues and expenditure (appropriations) are set out at a general level. The Strategy does not support medium-term planning at the level of administrative units.

All the ministries prepare comprehensive medium-term strategic plans. These are prepared after the Fiscal Strategy, which does not include any sector planning. These strategic plans incorporate policy plans and annual work plans, as well as three-year financial estimates in a consistent manner. The relationship between these documents remains unclear in the Budget Law.¹³²

The process for the preparation of the annual budget is set out in **the Budget Law**. The budget appropriations are comprehensive and cover programmes as well as administrative units. However, a comparison with the latest estimate for the current budget year is provided only at aggregate level. The budget documentation includes a description of new Government policies, but no indication of the related spending.

Performance objectives are described for every budget organisation, but the indicators are not usable to monitor the performance of the organisation. Usually, the indicators "number of employees" and "operating expenditure per employee" are used, supplemented by a basic output indicator. No information is given within the budget documents on contingent liabilities or on the long-term development of revenues and expenditures of the Government.

The three-year strategic plans of ministries, which are submitted with the annual budget proposal, provide a clearer link between planned policies and spending. Also, indicators used in these medium-term plans represent the policy content more adequately than the indicators used in the budget documentation.

The legal basis for the single treasury account is set out in the Budget Law, and the MoF has the sole authority to open bank accounts and disburse funds on behalf of central government. This system covers both spending and commitments (including IPA funds) and is used by all budget organisations.

The MoF prepares **monthly cash flow reports** with budget organisations. There is an additional check and control on a quarterly basis. All these reports are produced directly through the treasury single account system. Local government can borrow only with the approval of the MF but state-owned enterprises (SOEs) are currently not subject to an *ex ante* approval system before taking any fiscal risks. However, SOEs do provide financial reports on a monthly basis, which enables regular monitoring of the level of their liabilities.

¹²⁹ EC Progress Report The Former Yugoslav Republic of Macedonia, 2015, p.4

¹³⁰ EC Report 2016, p. 4.

¹³¹ The Budget Law, Article 16.

¹³² The Budget Law, Article 14.

Debt management is well structured but planning of total public debt has not been accurate for 2014. The Government has demonstrated positive results in 2014 by borrowing successfully from the international market. The Government publishes its strategy for debt management as part of the Fiscal Strategy and the annual reports provide detailed information.

The MoF publishes **monthly reports on the budget execution**, but these are at a very high level of aggregation and do not provide information at the level of budget organisations. There is no comparison to the initial cash flow/spending plan and deviations are not explained. Local government financial reports do not include borrowing and the stock of arrears, expenditures and revenues are not broken down in detailed categories.¹³³

b) Human Resources Management

A new legal framework for a professional public service with coherent human resource management (HRM) entered into force on 13 February 2015. **The new Law on Administrative Servants (LAS)** builds upon the previous legislation and expands the scope of the public service to areas for which there was public employment status or status regulated by labour legislation in the past. **The Law on Public Sector Employees (LPSE)** covers all employees working in the public sector,¹³⁴ provides principles and criteria for an overall personnel policy, and helps the MISA to play a relevant role in public sector planning and monitoring.

The enforcement of the LPSE and the LAS has increased the number of administrative servants. The expansion has taken place in two dimensions: first, the LPSE covers almost all employees that work for the public sector; and second, it extends the LAS-regulated, merit-based recruitment procedures to customs, tax and inspection, and state audit officers, among others.¹³⁵ Also, The upper level of the public service includes civil servants discretionarily appointed to top positions who do not meet the criteria of merit.

The Methodology for HR recruitment plans has not yet been adopted.

Performance appraisal has not been properly implemented, resulting in a meaningless process in which 97% of employees are assessed as top performers.

The primary and secondary legislation is coherent, but not balanced. The LAS specifies in excessive detail several processes that should be left to secondary legislation. For instance, it prescribes in detail the public announcement of a vacancy, e-applications and specific accepted language certificates, among other certificates.¹³⁶

MISA was recently side-lined when the Law on Transformation into Permanent Contracts, drafted by the MoF, was adopted on 11 February 2015, two days before the new LAS entered into force.

There is not a unified Human Resource Management Information System (HRMIS) for the administrative servants, as there were two separate registries for civil servants and public servants, and several dozen registries in individual administrative bodies; the information available is, therefore, very limited. MISA has designed a new, comprehensive system,¹³⁷ not operational at the time of writing this report.

The Administrative Inspectorate, accountable to MISA, is responsible for overseeing the implementation of public employment legislation. However, its performance raises concerns.

The recruitment regulations in the LAS, in force as of February 2015, establish the principle of merit for filling civil servant positions,¹³⁸ a clear improvement on the previous

¹³³ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Former Yugoslav Republic of Macedonia, OECD Publishing, Paris, pp. 79-88.

¹³⁴ The LPSE is a framework law that covers four groups of public employees: 1) administrative servants; 2) officials with special powers (security, defence and intelligence); 3) public service providers (e.g. health, education and culture); and 4) auxiliary and technical staff. The LAS, the main focus of this assessment, covers the first group of administrative servants, made up of civil servants (previously covered by the CSL) and public servants.

¹³⁵ LAS No. 27/2014, Article 4.

¹³⁶ LAS No. 27/2014, Articles 35, 36 and 39.

¹³⁷ Rulebook on the content, form and manner of keeping of the Register of public sector employees, means of access, use, data processing, as well as the responsibility for ensuring data reliability and security (Official Gazette number 132/14).

¹³⁸ LAS No. 27/2014, Article 30.

system. The recruitment and selection process, consisting of several phases, will be entirely conducted by a selection committee set up and assisted by the AA, and will be based upon clear criteria.¹³⁹

There are non-discrimination policies for ethnic representation in place. The main improvement in **respect of equal representation from non-majority communities** (NMCs) is the abolition of the separate recruitment channel, conducted by SIOFA. Recruitments will follow a single selection channel, with a system of quotas for ethnic communities,¹⁴⁰ according to annual recruitment plans.

According to the new LAS, termination of employment could take place after one “insufficient” performance appraisal rating or two partially satisfactory appraisals.¹⁴¹ The appraisals will be based on a “360-degree” model, not only on the superior’s opinion. Decisions on termination of employment could be appealed to the AA.

Top managerial positions have civil service status since they have to be appointed from current managerial-level civil servants, but they are appointed discretionarily by ministers or equivalent political appointees and their term of office ends with the term of the official who appointed them. Thus, the recruitment process based on merit, equal opportunities and open competition is not ensured.

Under the new legal framework, **basic salary components** are clearly established in the LAS.¹⁴² In practice, the supplement for special working conditions is only used for compensating the special availability of political advisors working in ministers’ cabinets. The law also foresees the possible use of market supplements for certain specific positions in justified cases and under a Government decision. Supplements are also foreseen for those working at night or in shifts. Finally, the annual budget laws will establish the amounts of certain allowances and expenses to be compensated.¹⁴³ The Government has not yet adopted the detailed method for allocation of these allowances. In the absence of data on paid salaries, it is difficult to ascertain how transparent the system is in practice.

Pay will be increased for top and reduced for bottom performers. The administrative servants whose annual grade is “A” shall be rewarded with a bonus in the amount of one month’s salary. According to the LAS, no more than 5% of administrative servants in an institution may be evaluated in the top grade. At the same time, the LAS provides that the bottom 5% of the appraised servants shall be dismissed or have their salary reduced by 5-20% for a period of six months.¹⁴⁴ These regulations create a serious risk of unfair dismissals and, if not carefully applied, could have a very negative effect on employee satisfaction.

In the new LAS **training needs assessments** are part of the methodology for drafting annual training plans.¹⁴⁵ Besides, the new LAS stipulates that performance appraisal results be used for termination, reduction of salary, allocation of performance bonus, additional training, mentoring and as a prerequisite for internal promotion.¹⁴⁶ The new approach to the professional development of public servants is encouraging, as a competency framework will guide the development of the required competencies. The capacity to provide sufficient quality training remains a challenge.

There are several pieces of recent secondary legislation to support the **ethical infrastructure** of the civil service,¹⁴⁷ as well as legislation on **asset declaration** (only for elected and appointed officials) and the Law on Prevention of Conflict of Interest. However, public authorities do not have integrity plans as required by the legislation. Disciplinary

¹³⁹ LAS No. 27/2014, Articles 37-44.

¹⁴⁰ Law No. 20/2015 on Transformation into Permanent Labour Contracts.

¹⁴¹ LAS No. 27/2014, Article 68.

¹⁴² LAS No. 27/2014, Articles 86-92.

¹⁴³ LAS No. 27/2014, Article 93.

¹⁴⁴ LAS No. 27/2014, Articles 65 and 68.

¹⁴⁵ LAS No. 27/2014, Articles 54 and 56.

¹⁴⁶ LAS No. 27/2014, Articles 68 and 48.

¹⁴⁷ Decree No. 153/2014 on How to Dispose the Gifts Received by the Public Sector Employees, the Records of the Received Gifts and Other Questions about Receiving Gifts; the Rulebook No. 183/2014 on the Code of Conduct of the Administrative Servants.

sanctions and procedures are regulated in primary and secondary legislation,¹⁴⁸ but information on their implementation is lacking.¹⁴⁹

c) Organisation efficiency and effectiveness

The Law on Government and the Law on the Organisation and Operation of State Administrative Bodies (LOOSAB) specify the detailed structure of the state administration. The LOOSAB establishes ministries and defines the scope of their activities. It also provides for a typology of administrative bodies within ministries and independent bodies. Many of the bodies created by the LOOSAB are further regulated under special laws. The ministries are primarily responsible for formulating policies in their own areas of responsibility. It is usually clear that the autonomous bodies should implement policies and provide services, but not design policy.

According to LOOSAB, autonomous bodies are supervised by the relevant ministry but their material laws usually include provisions that autonomous bodies (and some bodies within the ministries) should report to the Government on their performance for the previous year. In practice, this system creates overlapping supervision, with bodies accountable both to the Government as a whole (or specifically to the Prime Minister) and to the relevant ministry. The accountability system of state bodies (both those that are autonomous and those that are set up within ministries) is weak. It is based both on supervision of the legality of their activities and on the annual activity reports sent to the Government. The LOOSAB does not contain any instrument to enhance results-oriented management through specific performance indicators.

Access to public information is a constitutional right, specified in further detail in the Law on Free Access to Information of Public Character.¹⁵⁰ The definition of public information is wide, and the list of entities classified as “public information holders” includes private bodies that perform public functions. The scope of exceptions is too broad and general formulations of provisions leave room for discretionary decisions by information holders.¹⁵¹ Public information requests may also be rejected if they relate to documents that are still under preparation.¹⁵² The applicants are not obliged to provide reasons for their requests for public information. The information must be disclosed in the requested form. Access to information is, in general, free of charge. Deadlines for handling requests and fees, that are calculated according to fixed rates and are imposed if processing the request generates additional cost,¹⁵³ do not hinder access to the public information.

Appeals following refusals to release information are reviewed by an independent Commission for Protection of the Right to Free Access to Information of Public Character. However, the Commission has no capacity to monitor whether the requirements regarding proactive disclosure are respected by state administration bodies, nor has it the right to impose sanctions. Furthermore, there is no control over compliance or any obligation to maintain registries of information and documents gathered by public institutions.

The Law on the use of public sector data was adopted in 2014. This Law establishes that bodies and institutions in the public sector have an obligation to publicly disclose data generated by the exercise of their competences in accordance with the Law. The goal is to permit the use of such data by businesses or individuals to create new information, content, applications or services.¹⁵⁴ The MISA supervises the implementation of the provisions of this Law.¹⁵⁵

¹⁴⁸ LAS No. 27/2014, chapter XII; Rulebook No. 142/2014 on the disciplinary proceedings and a model for ballot; Rulebook No. 142/2014 on the content and form of the Annual report on disciplinary and material liability measures for the administrative servants; Rulebook No. 142/2014 on the procedure for determining the financial liability and the content and form of the decision on compensation.

¹⁴⁹ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Former Yugoslav Republic of Macedonia, OECD Publishing, Paris, pp. 58-67.

¹⁵⁰ Law on Free Access to Information of Public Character, Official Gazette, Nos. 13/2006; 86/2008; 6/2010 and 42/2014.

¹⁵¹ For example, access to information may be refused if it concerns “information relating to commercial and other economic interests, including the interests of monetary and fiscal policies”.

¹⁵² Law on Free Access to Information of Public Character, Article 6.

¹⁵³ Law on Free Access to Information of Public Character, Article 29.

¹⁵⁴ Law on the Use of Public Sector Data, Article 1.

The Ombudsman has the status of an independent constitutional body. The Constitution enshrines the general mandate of the Ombudsman to protect citizens' rights. It requires the Ombudsman to devote particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in public institutions. The Law on Ombudsman generally meets international standards. The vast majority of Ombudsman recommendations in individual cases are implemented by state administration bodies. The recent boycott of most opposition MPs undermines parliamentary oversight.

The instruments of parliamentary control over the Government are formally guaranteed by the legislation, including parliamentary questions, interpellations or enquiry committees. However, the political situation and specifically, the absence of opposition in the Parliament, has undermined parliamentary oversight.

The current **Law on General Administrative Procedure** (LGAP) ensures the general right to internal administrative appeal against administrative acts, which is implemented through a two instance system of administrative appeals. Final administrative decisions may be appealed to the Administrative Court. In practice, the right to administrative justice is hampered by the limited number of decisions on merit and by delays in the enforcement of court rulings.

The general principle of public liability for the harmful acts or omissions of administrative bodies is not enshrined in the Constitution. The current LGAP stipulates that all state administration bodies, when ruling on administrative matters, should be accountable for the damages caused by undertaking illegal actions or by illegally refusing to take appropriate actions. However, the law does not specify the procedure for seeking compensation, the types of compensation available or the criteria for its calculation. The liability of the administrative bodies for damages caused must be proven in civil court procedure, according to the Law on Litigation.¹⁵⁶ Data on compensation for damages is not available, which makes it impossible to assess its functioning in practice.¹⁵⁷

The general policy on **public services** (including e-services) is integrated into the PAR Strategy, and coupled with the Law on the Introduction of a System of Quality Management. The newly enforced Law on Public Sector Employees contains an article on the principle of service orientation,¹⁵⁸ to direct employees to ensure quality services for the citizens.

The issue of administrative simplification was primarily addressed by the initiative of regulatory guillotine, focusing on both a systematic review of business legislation and removing administrative barriers. Also, the RIA of draft legislation includes analysis of the implications of the draft on creating/reducing red tape but implementation of that requirement varies and analysis of samples illustrated an uneven level of administrative burden analysis.

The e-government portal¹⁵⁹ provides limited access to e-services; in the majority of cases, only information on services is available. A comprehensive interoperability framework for e-services does not exist, but data is exchanged among institutions based on bilateral agreements.

The Constitution enshrines key principles of good administrative behaviour, including the principle of legality and the right to appeal against acts of administrative bodies. The current LGAP specifies also other principles, such as equality, impartiality, objectivity and efficiency, but does not meet modern standards of law making. In particular, it reflects a casuistic approach and results in overregulation of administrative procedures. Furthermore, the scope of regulation is limited to administrative acts and does not cover other administrative operations affecting the legal situation of citizens, e.g. factual acts of administrative bodies. No provisions are in place to promote the delegation of decision making competences.¹⁶⁰

¹⁵⁵ Law on the Use of Public Sector Data, Article 12.

¹⁵⁶ Law on Litigation, Article 44.

¹⁵⁷ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Former Yugoslav Republic of Macedonia, OECD Publishing, Paris, pp. 42-56.

¹⁵⁸ Law on Public Sector Employees, Article 8.

¹⁵⁹ <http://www.uslugi.gov.mk/>

¹⁶⁰ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Former Yugoslav Republic of Macedonia, OECD Publishing, Paris, pp. 69-77.

d) Decision-making process

The major regulations regarding decision-making process are the **Law on the Government**¹⁶¹ and the Rules of Procedure (RoP) for Operation of the Government.¹⁶² Responsibilities for management of the policy process are clearly assigned to administration bodies under legislation which sets the framework for a policy planning system. However, it does not specify responsibility for co-ordination and scrutiny of policy content.

The EI co-ordination function is established in the SEA and governed by the Deputy Prime Minister in charge of European Affairs. The National Programme for Adoption of the *Acquis Communautaire* (NPAA) is prepared and revised each year. The Manual on Transposing the EU *acquis* into the Legislation¹⁶³ has been developed, and the SEA provides consultations on issues regarding EI matters to ministries and other central state bodies.

The medium-term planning system in the country is established by the RoP, Methodology for Strategic Planning and Preparation of the Annual Work Programme of the Government, Guidelines on Preparing Strategic Plans of the Ministries and Other State Administration Bodies, the Manual on Strategic Planning 2014,¹⁶⁴ and the Law on Budget. A system of medium-term policy planning is in place that produces prioritised plans with indications of fiscal impacts at the Government and institutional levels, but sectoral planning is underdeveloped and sectoral strategies do not provide information on costs of the actions foreseen. Planned initiatives cover only a small proportion of the total number of initiatives sent to the Government in 2014. This indicates that prioritisation and comprehensive planning of actual work is not ensured.

The EI planning and monitoring system is in place and is linked with the GAWP. The NPAA is a comprehensive document with costed activities. However, while the backlog in EI-related tasks is low, there is only a moderate rate of transposition, with half of the initially planned activities not delivered.

The Law on Government obliges the Government to inform the public of its work and on implementation of the GAWP.¹⁶⁵ The RoP establish the **obligation to monitor the work of the Government**, to prepare periodic reports and to inform the public on the decisions of the Government.¹⁶⁶ At the Government level, for both the GAWP and EI-matters, monthly and annual reports are developed (for the GAWP semi-annual reports are also prepared). Institutions also report on a monthly and annual basis. None of these reports contains information on achievements against the set policy objectives. Moreover, apart from the budget report, these reports are not publicly available, and information summarising the work of the Government is not provided regularly to the public.

Formal processes for preparation of Government decisions are in place and well adhered to by all stakeholders. The procedure for checking legislation is clear and applied. Scrutiny of RIAs is only done for a minority of the cases required by regulation. Information on the agenda of formal Government sessions is not public.

Procedures for scrutiny of legislation in the Assembly are well defined. There is forward-planning and regular dialogue between the Government and the Parliament. However, the

¹⁶¹ The consolidated text of the Law on the Government. Official Gazette Nos. 59/2000, 12/2003, 55/2005, 37/2006, 115/2007, 19/2008, 82/2008, 10/2010, 51/2011, 15/2013 and 139/2014). Decision of the Constitutional Court No. 131/2000 of 31 March 2001, Official Gazette No. 26/2001.

¹⁶² The consolidated text of the RoP of the Government integrates: The RoP of the Government (Official Gazette No. 38/01, with Amendments published in the Official Gazette Nos. 98/02, 9/03, 47/03, 64/03, 67/03, 51/06, 5/07, 15/07, 26/07, 30/07, 58/07, 105/07, 116/07, 129/07, 157/07, 29/08, 51/08, 86/08, 144/08, 42/09, 62/09, 141/09, 162/09, 40/10, 83/10, 166/10, 172/10, 95/11, 151/11, 170/11 and 67/13, which indicate the date of their entry into force.

¹⁶³ *The Manual on Transposing the EU acquis into the Legislation* (In Macedonian).

¹⁶⁴ The Manual is comprehensive, covering all major steps for preparation of a strategic plan. While it lacks concrete examples and a methodology for costing, it serves as a useful tool for improving policy making and policy documents within the public administration.

¹⁶⁵ Law on the Government (2000), Article 7.

¹⁶⁶ RoP, Articles 87-89, 91 and 120-124.

volume of legislation passed under the shortened procedure creates limitations regarding Parliamentary scrutiny of legislation proposed by the Government.

Regulations clearly allocate policy development responsibility for different fields among ministries and to the top level of management of each ministry. Ministries' rulebooks describe the areas for which sectors and departments are responsible. However, there are no rules for the policy development process within ministries. Ministries do not focus solely on policy development.

The legislative framework establishes rules for transposition of the *acquis*, including the use of tables of concordance, which are an integral part of the overall policy development process. Quality control of approximation is ensured but the SEA, the main institution responsible for the integration process, is not a mandatory part of the control procedure.

The RoP set out the means of **evidence-based policy development**. An impact assessment is obligatory for all proposed new primary legislation, and fiscal impacts must be assessed for all proposals submitted to the Government for review.¹⁶⁷

According to the RIA Regulations adopted by the Government,¹⁶⁸ the RIA process should go hand in hand with the general legislative process and identification of alternative policy options. Analysis of these should be completed before the decision to proceed. The guidelines for carrying out a specific impact assessment are comprehensive, including problem analysis, identification and comparison of possible solutions, and several possibilities for consultations with the interested parties through the **Single National Electronic Registry of Regulation** (SNERR). However, implementation of the guidelines is sporadic. Tools for evidence-based policy making are developed and there is regular training on RIA, but the analysis is not comprehensive and the principle of proportionality is not always applied when developing legal drafts.

Procedures are in place to facilitate both public and inter-ministerial consultation. In the course of the preparation of laws and other regulations within their competencies, state administrative bodies are obligated to consult citizens and obtain opinions from interested citizens' associations.¹⁶⁹ Guidelines supporting the regulations for public consultation¹⁷⁰ envisage prior notification of concerned parties of the start of the policy development process and deadlines for the period during which proposals must be available to the general public for comment. After consultation, the ministry must include in the RIA report an overview of opinions received, specifying why comments and proposals were not accepted, and must publish the report on the SNERR.¹⁷¹ Thanks to the recently introduced e-session system, the Government gets a comprehensive report on the results and outcomes of the inter-ministerial consultation process. Under regulations adopted by the Government, the GS is required to monitor implementation of both public and inter-ministerial consultation processes.¹⁷²

The Rulebook on Nomo-technical Rules (2007) and the Handbook on Transposition of the *Acquis Communautaire* into the Legislation of the Country (2010) provide guidance on drafting formalities. The guidelines are comprehensive and help drafters develop primary and subordinate legislation.

All primary and secondary legislation is available electronically through the Official Gazette.¹⁷³

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In the **2016 Report**, the European Commission assesses that Macedonia is **moderately prepared** with the reform of its public administration. Furthermore it notes that there has been **some progress**, although limited, over the past year. The implementation of the new legal

¹⁶⁷ RoP, Article 8.

¹⁶⁸ Regulations Governing Regulatory Impact Assessment, MISA, September 2013.

¹⁶⁹ Law on Organisation and Operation of State Administrative Bodies, Article 10.

¹⁷⁰ Guidelines on Ministerial Procedures in the Process of Application of the Regulatory Impact Assessment, Articles 6, 7, 9, 17 and Chapter 4, Articles 21-25.

¹⁷¹ Government RoP, Article 68a (5).

¹⁷² Code of Good Practice for the Participation of Civil Society in Policy Making and the Law on Government, Article 40a.

¹⁷³ <http://www.slvesnik.com.mk/>

framework on human resources management started. However, there is insufficient progress in the implementation of the Commission's previous recommendations. Rather than being suspended, temporary contracts continued to be transformed into permanent ones without The implementation of the new legal framework on human resources management started. However, there has been insufficient commitment to implement the Commission's 2015 recommendations. Ineffective accountability lines, the use of the public sector as a political instrument, allegations of pressure exerted on public employees and alleged politicization of administration in an electoral year continue to be of concern. Furthermore, the Report highlights that the lack of political commitment to deliver on necessary reforms in public financial management led to a significant reduction of EU financial assistance in 2016.

The 2016 EC Report stresses the need for strong political commitment to guarantee the independence of the public administration and respect for the principles of transparency, merit and equitable representation. Accordingly, the Report notes that Macedonia should address serious concerns about politicization of the public service, ensure full implementation of the principles of accountability, transparency and merit (as provided for in the 'Urgent Reform Priorities' as well as the law), suspend and review the implementation of the law on transformation of temporary positions into permanent contracts until the principle of merit is fully observed (as per the 'Urgent Reform Priorities'), adopt a public administration reform strategy and a public financial management reform programme, which will address the weaknesses identified, including budget transparency.¹⁷⁴

4. Montenegro

The European Council granted the status of candidate country to Montenegro in December 2010. The Stabilization and Association Agreement (SAA) between Montenegro and the EU entered into force in May 2010. Accession negotiations were opened in June 2012. To date, 24 negotiating chapters have been opened, of which two have been provisionally closed.

Optimisation process - state of play in relevant areas

a) Budget

The Law on Budget and Fiscal Responsibility¹⁷⁵ was adopted in 2014 In order to improve the public finance system through strengthening of fiscal responsibility measures. This Law has recognized several novelties: fiscal responsibility, inspection and accountability measures and penalty provisions. A basic strategic document, Fiscal strategy outlines the main fiscal objectives to be achieved in the medium term and is the basis for planning of medium-term and annual policies. On annual basis, the Government adopts the Guidelines on fiscal policy, based on the Fiscal Strategy, which establishes a three-year macroeconomic projection, the objectives of economic and fiscal policy, spending limits.

The Law on Budget and Fiscal Responsibility establishes fiscal rules, and the MoF began to publish the information as regards those rules on a regular basis. The development of a stronger medium-term budgetary framework began by identifying specific sectoral budget limits for all ministries in the instrument for medium-term budgetary planning, i.e. Guidelines for Macroeconomic and Fiscal Policy. However, the existing practice of public expenditure management is characterized by the lack of medium-term financial planning. Sectoral plans are not related to the medium-term financial planning. Hence there is a need to implement the best EU practices and the medium-term budgetary framework and changes to the existing procedures.¹⁷⁶

¹⁷⁴ EC Progress Report Macedonia Page 10

¹⁷⁵ The Law on Budget and Fiscal Responsibility OGM No. 20/14, 56/14 (Montenegro's Organic Budget Law).

¹⁷⁶ It should be noted that the Strategy 2016-2020 addresses those areas which are highly relevant to other issues related to the state administration reform. The remaining areas are covered by the Public Finance Management Programme (PAR Strategy 2016-20, p.35).

In order to establish the basic principles of sound fiscal management, with clear links between budgeting and government policies, **further development of the program budgeting** will continue, as one of the most effective and efficient method for achieving mentioned objective. So far, extensive activities have been conducted in the field of program budgeting, which are very important in terms of changing the methodology of budgeting and greater compliance with international practices, and in terms of creating a solid basis for transparency and accountability. Although the total structure has been established, the system is not fully developed, success indicators have not been introduced, the links between the results-based budgeting and policies of the Government are not fully established. Although capital expenditures are part of the overall budget, annual procedures for planning capital investments are separated from budget planning carried out by ministries, and should be improved.¹⁷⁷ The debt management strategy was adopted for the period 2015-2018¹⁷⁸.

The Public Finance Management Reform Programme 2016 -2020¹⁷⁹ defines two goals of the reform of public finance management: the first relates to Montenegro's readiness to identify, preclude and manage fiscal risks, excessive fiscal deficits and adverse macroeconomic imbalances, while the second relates to the fact that reform should ensure that public spending structured in a way to maximize the development impact on the economy and provide better quality of life of all citizens.¹⁸⁰

b) Human Resources Management

The new **Law on Civil Servants and State Employees (CSL)**,¹⁸¹ is largely in line with EU standards and the secondary legislation is in place. This law applies to employees in state authorities.¹⁸² At local level, the Law on Local Self-Government stipulates relevant implementation of the CSL to legal status of local officials, local civil servants and employees and prescribes relevant implementation of the Law on Salaries of Civil Servants and State Employees.¹⁸³ Agencies and other organizations exercising public powers have legal entity status of public law, and their employees do not have the status of civil servants within the meaning of the CSL. Therefore, the Labour Law applies to rights, obligations and responsibilities of employees in these organizations, as a general regulation in that field.

The new solutions from the CSL raised the level of professionalism and de-politicization in public authorities. Positions of heads of authorities are available to all interested candidates who meet the requirements of the competition, as well as the positions within the category of senior management. Consequently, the political influence in making decisions on selection has been reduced, because the whole process is carried out transparently and according to pre-defined conditions and procedures.¹⁸⁴

Existing legal solutions have not clearly defined responsibilities and obligations of the **HRMA, the MoF and other state authorities** in preparation, unification and monitoring of

¹⁷⁷ Strategy of Public Administration Reform in Montenegro 2016-2020, pp. 25, 26.

¹⁷⁸ Government of Montenegro, 25 June 2015.

¹⁷⁹ The Public Finance Management Reform Programme 2016 -2020, p.15.

¹⁸⁰ Future activities will be focused on strengthening of the human resources management in the SAI and improving the professional skills of audit staff. Activities will include the strengthening of audit capacities to perform different types of audits, especially financial and performance audit, aligned with International Standards of Supreme Audit Institutions (ISSAI) standards

¹⁸¹ Law on Civil Servants and State Employees, OGM, no. 39/11, 50/11, 66/12, 34/14, 53/14, 16/16.

¹⁸² The implementation of this Law has been expanded to employees of the Pension and Disability Insurance Fund of Montenegro, Montenegro Health Insurance Fund, Montenegro Employment Agency, Labour Fund and the Agency for Peaceful Settlement of Labour Disputes, as well as to employees in other authorities, regulatory and independent authorities, if prescribed by a separate law.

¹⁸³ Law on Salaries of Civil Servants and State Employees, OGM no. 16/16.

¹⁸⁴ According to SIGMA report, the senior management positions are only formally included in the civil service system, but the selection procedures remain quite unclear and differ from the procedures for other civil service positions, as they fail to ensure that sufficiently high professional standards are met. It is necessary to determine a model of competencies for this specific category, along with precise procedures for determining the manner, form and criteria for testing candidates' abilities, in order to further contribute to the professionalization of the civil service. (PAR strategy 2016-20, pp. 21-22).

Human Resource Plan. The inaccuracy of the Central Personnel Records constitutes a major issue when it comes to human resource planning in state authorities, especially due to the fact that the records of salaries kept by the MoF are not completely compatible and linked with the records kept by the HRMA.¹⁸⁵

Merit-based recruitment system in the state authorities and local self-governments unit is established. Regarding recruitment, a novelty is the introduction of a practical part in a written test into the process of verifying capabilities of candidates, which includes resolving tasks related to job description of a specific work place. In this context, it is necessary to focus on additional strengthening of capacities of the HRMA and its roles in the procedure for testing the capabilities of candidates. Despite significantly improved recruitment procedure, the implementation of legal solutions in practice has shown certain shortcomings. The number of candidates who apply for internal vacancies within and between state authorities is at a very low level, showing that mechanisms of internal mobility of employees do not work in the desired manner. Unlike in the case of internal procedures, the number of candidates applying to public announcement is increasing, which reflects positively on the competitiveness of the employment in state authorities. Also, although the procedures for merit-based recruitment formally exist, there is still no reliable system for transparent selection based solely on professional criteria (competencies). Besides, when it comes to selection process, the majority of complaints, lodged in cases where top-ranking candidates from the ranking list were not selected which shows that heads of authorities to a large extent make exceptions to the rule that the first-ranked candidate from the ranking list is selected. However, many complaints were also lodged against decisions on the selection of the first-ranked candidates.

The new **Law on Salaries in Public Sector** harmonise pay levels for similar jobs in the whole public sector which includes all users of the state budget, local self-government units, state-owned enterprises, regulatory bodies etc. In addition to correcting the salaries and raising the level of transparency, expectations of this Law are focused on developing a system that will be stimulating, promote rewarding for good performance and which will take into account the complexity of tasks performed within a specific work place, as well as the quality of their performance.

Performance appraisal of civil servants, i.e. employees is regulated in a different manner by the CSL in relation to previous law. The new grading system provides legal bases for effective monitoring of performance, i.e. measurement and analysis of the results achieved, independence and creativity in the performance of work; quality of work organization; cooperation with associates, customers and other authorities. In practice, grading system proved to be unsatisfactory and there is awareness of the need to reform it. Transparent criteria for the assessment are missing, and in practice most employees receive maximum (outstanding) ratings. Another shortcoming is that performance appraisal is not fully implemented in practice and is not connected with promotion in the case of the highest grade. In addition, measurement of satisfaction level of civil servants and employees in authorities in which they work has not yet been carried out. There is no measurement or analysis of organisational climate.

Issues in the area of **professional development of staff** are still obvious relate to: insignificant number of officials from the category of high managing staff attend training, a small number of officials from the category of expert-management staff attend training, frequent examples of delegation of officials to training regardless of whether the concrete training relates to the performance of the workplace, frequent non-attendance of a training course and lack of strategic planning of professional development and training in public administrative authorities. In this regard, it is necessary to strengthen the system of accountability in relation to implementation of training, as well as strengthening of strategic planning of training at authorities' level. In the above mentioned context, the issue of vocational training and development is also recognized by the Strategy for professional development of local civil servants and employees.

¹⁸⁵ PAR Strategy 2016-2020, pp. 26-27.

The CSL stipulates the obligation of authorities to adopt **integrity plans** and obligation that authorities appoint a civil servant responsible for preparation and implementation of integrity plan. The Ministry of Justice adopted the Guidelines for preparation of Integrity Plan on 31 January 2013. Besides, in order to effectively fight corruption, the Law on Prevention of Corruption was adopted in 2014,¹⁸⁶ which, among other things, regulates issues relating to protection of persons who report threats to public interest which indicates the existence of corruption. The Agency for Prevention of Corruption has been established by the Law.¹⁸⁷

c) Organisation efficiency and effectiveness

The organization and responsibilities of ministries and their subordinate bodies are clearly defined in the **Decree on the Organization and Operation of the State Administration**. Ministries perform affairs of proposing internal and external policy, conduct development policy, normative activities, administrative supervision and other activities having strategic and developmental content, while operational and executive tasks of administration in departments are performed by other administrative bodies (administrations, secretariats, bureaus, directorates and agencies). The total number of state administrative authorities, including administrative authorities within ministries, has **increased** in the past period, which represents a negative trend in comparison to what was envisaged. No systematic analysis has been carried out about the functional and financial effects of implementation of concept of administration authorities within ministries. Local self-government units in Montenegro carry out activities falling within their own scope, as well as state administration activities which can be delegated to them by the Law, i.e. entrusted to them by Government regulation. The status and functioning of organizations with public powers (public agencies, public funds, public institutions) should be clearly defined, as well as developing of a clear and comprehensible typology of organizations with public powers.¹⁸⁸

The Law on Free Access to Information¹⁸⁹ regulates issues of importance, manner and procedure for exercising the right to free access to information. The Law gives great opportunities for free access to information and is a good framework for exercising this right. Also, provides for proactive access to information, and relates to a list of documents, i.e. information that every public authority is obliged to publish on its website. Jurisdictional control of administrative authorities' decisions on the request for free access to information is the responsibility of the Agency for Protection of Personal Data and Free Access to Information.¹⁹⁰ The following challenges are evident in the field of free access to information: insufficient awareness of obligations of entities subject to the Law, particularly in part relating to proactive publication of information, in part relating to provision of information by authority which do not possess such information, frequent "administrative silence" in procedures related to free access to information; the public is insufficiently aware of the right of free access to information and poor administrative and technical capacities of the Agency. The issue could also be the number of complaints against authorities which rapidly grows, especially bearing in mind the capacities of this Agency, while administrative silence remains one of key issues.

Supervision of public administration activities is established at multiple levels (within ministries, inspection supervision¹⁹¹, competent state authorities supervise the legality of work of local self-government bodies). The Administrative Court carries out direct judicial supervision over the administration by means of administrative disputes. As a mechanism of oversight over the work of public administration, it is also important to mention the activities of the Protector

¹⁸⁶ Law on Prevention of Corruption OGM no. 53/14.

¹⁸⁷ Civil service system and human resource management, PAR Strategy 2016-2020, pp. 20-27.

¹⁸⁸ PAR Strategy 2016-2020, p. 14.

¹⁸⁹ Law on Free Access to Information, OGM No. 44/12.

¹⁹⁰ <http://www.azlp.me/index.php/en/>

¹⁹¹ Inspection supervision is governed by a separate law and carried out by the administrative authority in charge of inspection supervision – Administration for Inspection Affairs, except in the fields of state administration, taxation, defence and security, rescue and protection, transport of hazardous materials and explosives and air traffic security and safety. Since August 2016, exception also oncludes agriculture, fisheries, food safety and animal feed, veterinary and phytosanitary affairs (new Agency for food safety is established by the Food Safety Law).

of Human Rights and Freedoms of Montenegro (Ombudsman¹⁹²). Finally, the control of the Parliament over the executive is established.¹⁹³

The new Law on Administrative Procedure (LAP)¹⁹⁴ is service-oriented towards users of administrative services and through a large number of novelties it is harmonized with the best comparative practices in this area. Successful implementation of new legal solutions depends on meeting certain preconditions, which primarily relate to training of civil servants who conduct administrative procedures, as well as harmonization of rules of procedures in specific laws which process is underway. The new Law on Administrative Disputes is in line with the new LAP.

Administrative authorities still require citizens and enterprises to submit documents on the data which exist in the official records. The new LAP introduces the general principle of the exchange of data between authorities, but after the beginning of implementation of the Law on General Administrative Procedures (LGAP) many special rules could remain in effect. Therefore, special efforts should be invested even after the beginning of LGAP implementation in order to eliminate different rules in separate regulations. In practice, it is necessary to have a system of safe and reliable data exchange between national authorities in order to apply this principle.

So far, there is **no system of measuring the level of customer satisfaction** with existing public services, so it is not possible to assess the quality of services from the standpoint of citizens and enterprises.

Montenegro is ranked 45th as regards **E-government development index** of the United Nations (UN E-Government Survey 2014), which makes Montenegro the best ranked country of the Western Balkans. The level of development of registers and digital infrastructure provides excellent opportunities for further improvements.

The Ministry for Information Society and Telecommunications has established a project of E-government as **an electronic one-stop-shop for access to administrative services at the local and state level**, which is available on the web address www.euprava.me. Given that currently the Portal offers 141 services, of which only one is a proper one-stop-shop service, it is necessary to realize more such services in the forthcoming period (2016-2020).

Key electronic registers (central population register, business register, cadastre) have been established, but interoperability is still under preparation. The recent development of electronic government is characterized by resistance of administration to changes, which is why the Law on Electronic Government¹⁹⁵ was adopted, with the intention to enable greater progress in this area through legislative norms. Although the aforementioned Law is clear in the sense that all services should be available electronically by February 2016, setting up on-line services is not progressing as previously envisaged.¹⁹⁶

d) Decision-making process

The legal framework for the development and coordination of policies, including policies relating to European integration, exists and provides the necessary mechanisms and procedures. However, when it comes to implementation, there is need for further improvement in this area. The key legal grounds for the work of the ministries for policy planning and co-ordination are: **the Rules of Procedure of the Government (RoP); the Decree on Government; the Law on State Administration; and the Law on Budget and Fiscal Responsibility**. Regulations specify the responsibilities, provide the authority to assume these responsibilities, and create a framework for coordinating activities among key institutions in the Centre of Government (CoG).

The Government adopts its **Annual Work Programme (GAWP)** by the end of the current year for the following year, which governs basic tasks, these tasks holders and deadlines for

¹⁹² The Institution of the Ombudsman is established by the Constitution of Montenegro as an independent and autonomous body, but its independence is limited in the areas of appointment and financial management. The implementation rate of its recommendations is high. (<http://www.ombudsman.co.me/>);

¹⁹³ Strategy of Public Administration Reform in Montenegro 2016-2020, pp. 8-11.

¹⁹⁴ Law on Administrative Procedure, OGM No. 56/14, 20/15.

¹⁹⁵ Law on Electronic Government, OMG No. 32/14.

¹⁹⁶ Strategy of Public Administration Reform in Montenegro 2016-2020, pp.19-20.

their execution. Implementation of the GAWP is monitored by the GS which prepares a report on its implementation which then submits to the Government. The Government considers the report on implementation of the GAWP quarterly. Regular monitoring of Government performance is not systematically set up and the reports on horizontal Government affairs do not provide sufficient information about progress towards outcomes. In the area of interdepartmental coordination in public policy, public administrative bodies are obliged to cooperate in accordance with the RoP.¹⁹⁷ On the other side, **medium-term planning system** has not been fully developed. The aim is to formulate the medium-term objectives, through the adoption of a strategic document for the work of the Government in the four-year period, as well as the formulation of annual objectives and performance indicators, through correction of the current form of the GAWP and ministries, in order to obtain higher-quality information as the basis for decision-making and improved implementation of Government policies.

An EI medium-term planning system is in place (The Programme of accession of Montenegro to the EU for the period 2016-2018). The medium-term plan provides detailed insight into the country's work ahead on alignment with the *acquis*. However, activities in the plan are not clearly prioritized and the information on budgetary requirements is not sufficient to guarantee that they are viable.

Montenegro has a **well-developed procedure for RIA** but, in practice, the analysis and evidence supporting draft proposals is incomplete. The use of RIA is also limited in scope, since it is primarily used to assess financial impacts. Regular training on legislative issues and on the development of RIAs is not sufficiently provided. Besides, RIA analyses are usually prepared in the final stages of drafting legislation, i.e. immediately before submission to the Government, which is reflected in their quality. RIA analyses are rarely prepared with draft laws in order to be accessible to general public during public consultation.¹⁹⁸

The Decree on the Manner and Procedure for Conducting Public Debate in Drafting Laws¹⁹⁹ provides normative preconditions for effective implementation of consultation with the public in drafting laws, other acts, strategic and planning documents and thus is focused on strengthening participatory democracy. Besides, the **Decree on the Manner and Procedure of Cooperation between State Administrative authorities and Non-Governmental Organizations**²⁰⁰ improves a normative framework for cooperation with the NGO sector through three modalities: information, consultation and participation of NGOs in working bodies formed by public administrative bodies. A special challenge for the future presents in monitoring of implementation of the above mentioned Decrees.

RoP contains detailed legal and technical rules for drafting laws and bylaws to which proposers of regulations must adhere. There are no formal requirements or mechanism for planning implementation of laws. The material submitted to the Government does not need to contain an implementation plan.²⁰¹

While the RoP sets forth a procedural framework and main requirements for new legislative proposals, including detailed requirements for policy preparation, obligations for ministries to analyse implementation of policies were not stipulated. Currently there is **no system that analyses and detects difficulties in implementation** (for example, a system of ex post evaluation of priority legislation or policies). There is no systematic practice for analysing implementation of major legislation. The Parliament does not have many supervisory powers over implementation of laws.

In order to improve the coherence of the legal system and the quality of existing

¹⁹⁷ Strategy of Public Administration Reform in Montenegro 2016-2020, p. 28.

¹⁹⁸ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Montenegro, OECD Publishing, Paris, pp. 16-36.

¹⁹⁹ Government adopted the Decree on the Manner and Procedure for Conducting Public Debate in Drafting Laws, OGM No. 12/12).

²⁰⁰ Decree on the Manner and Procedure of Cooperation between State Administrative authorities and Non-Governmental Organizations, OGM No. 7/12.

²⁰¹ Implementation plans and action plans are nevertheless sometimes adopted on a case by case basis as regards certain agreements or laws, such as the Criminal Code, the Law on Free Legal Aid, the Law on Misdemeanors, the Law on Notaries etc.

regulations, implementation of the "**Guillotine of regulations**" is of great importance. The project "Guillotine of regulations" represents a comprehensive analysis of regulations, in terms of simplifying administrative procedures, improving business environment, as well as faster and better implementation of the rights of citizens before the public administrative bodies.²⁰²

* * *

Montenegro is **moderately prepared** with the reform of its public administration. **Some progress** has been made, notably with the adoption of the public administration reform strategy 2016-2020, the public financial management reform programme, the entry into force of the new law on salaries and the simplification of administrative procedures. However, strong political will is needed to effectively address the de-politicisation of public service and 10 right-sizing of the state administration (recommended last year, and still needed). In the coming year, Montenegro should in particular: allocate the appropriate budgetary resources to the 2016-2020 PAR strategy, and start to implement and regularly monitor it in close coordination with the 2016-2020 public financial management reform programme; improve the quality of regulatory impact assessment and ensure public consultations are conducted in line with the existing legislation; further amend the civil service framework in order to fully ensure merit-based recruitment, an improved career path across the public service at national and local self-government level, and objective dismissal procedures for senior managers.²⁰³

5. Serbia

The Stabilisation and Association Agreement (SAA) between Serbia and the EU entered into force in September 2013. Accession negotiations were launched in January 2014. Serbia remained committed to its strategic goal of EU accession. It continued to implement the SAA through an ambitious political and economic reform agenda. In the previous period, the first four negotiating chapters were opened, including chapter 35 dealing with normalisation of relations between Serbia and Kosovo* and the rule of law chapters 23 and 24.²⁰⁴

Optimisation process - state of play in relevant areas

a) Budget

The Ministry of Finance (MoF) is in charge for public finance system having in mind competences regarding: budget; preparation of the consolidated public revenues and expenditures balances; public spending policy; management of the available public funds; public procurements; financial impacts of the system for determination and accounting of salaries financed from the Serbian budget; harmonization of the activities in the area of planning, mobilizing and use of grant proceeds, EU funds, and other types of external development assistance; budget controls and audit of the Serbian budget direct and indirect spending units.²⁰⁵

Serbia has a **medium-term budgetary framework**. The 2015 Budget is the first to be presented on a programme budget basis.²⁰⁶ Besides, the MoF adopted the Act on the Manner of Presentation and Reporting of Estimated Financial Effects of Acts on the Budget²⁰⁷ in order to give public administration institutions the comprehensive guidance on how to develop and present the estimated financial impact for all types of policy documents.

The Fiscal Strategy is predicted in the Budget System Law.²⁰⁸ It requires the Government to seek the opinion of the Parliament, as well as of the Fiscal Council which is responsible to the

²⁰² Strategy of Public Administration Reform in Montenegro 2016-2020, p. 20-24.

²⁰³ EC Progress Report Montenegro Pages 9-10

²⁰⁴ EC Report Serbia 2016, Brussels, 9 November 2016, p. 4.

http://ec.europa.eu/enlargement/pdf/key_documents/2016/20161109_report_serbia.pdf

²⁰⁵ Article 3. Law on ministries, OG RS No. 44/14, 14/15, 54/15, 96/15.

²⁰⁶ EC Progress Report 2015, p. 10.

²⁰⁷ No. 110-00-171/2015-03, 2015.

²⁰⁸ Articles 27c - 27f Budget System Law, OG RS No. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13, 108/13, 142/14, 103/15.

Parliament. The Government adopted its three-year Fiscal Strategy annually which contains macroeconomic projections and fiscal projections that are based on existing government policies. The MoF is responsible for coordination with line ministries and subordinated bodies. However, the Strategy does not contain clearly defined monitoring and enforcement procedures having in mind differences between actual and projected revenues and expenditures that the fiscal projections are indicative rather than binding. Also, there are no long-term capital-expenditure projections, and details are lacking about capital expenditure in general. Although the Strategy contains a list of fiscal risks, there is no sensitivity analysis that would show the likely direction of public finances should the major variables be less positive. The Strategy covers ministries, but not strategic initiatives and programmes.

The Budget System Law provides for a budget that is transparent, comprehensive in scope and formulated within a timetable that allows the key actors to carry out their roles. It also requires that the financial plans of the social insurance funds be presented as part of the Budget.²⁰⁹ There is a top-down ceiling within which the budget is framed, in accordance with details that the MoF establishes in an annual circular. The macroeconomic assumptions and general government projections are published, as is a list of fiscal risks. The published Budget separates capital and current expenditure, and pay and non-pay expenditure, for each public institution. In practice, however, there is a significant difference between budgeted and actual revenues and expenditures. Also, there is no rigorous analysis of the users' Budget requests, and it contains minimal explanatory detail. Failure to respect the deadline for submitting the Budget to the Parliament suggests that the Parliament's role is not strong.²¹⁰

Serbia is committed to improving **budget transparency**. It has made the executive's budget proposal and the enacted budget more informative. Furthermore, a Citizens' Budget, a pre-budget statement, and a mid-year report are to be produced and published. The executive's budget proposal and the year-end report should be made more comprehensive. Public participation in the budget process is weak and budget oversight by the legislature needs to be improved.²¹¹

The Programme of Public Finance Management Reform 2016 -2020 was adopted in 2015. The aim of the Programme is to provide a comprehensive and integrated framework for planning, coordinating, implementing and monitoring the progress in the implementation of a set of sustainable actions to improve macro fiscal stability, to ensure efficient and effective allocation and use of public resources and to improve service delivery by the Serbian public administration, whilst at the same time improving transparency and overall functionality of the PFM and fulfilling the necessary requirements for the EU accession process. The Ministry of Finance is the leading institution for implementing PFM reforms. Besides, there are the Working Group, the PFM Reform Program Technical Secretariat and PFM Reform Program Steering Committee.²¹²

b) Human Resources Management

The **Ministry of Public Administration and Local self-Government** (MPALSG) is in charge for HRM having in mind competences regarding: labour relations and salaries in state bodies, public agencies and public services; capacity building and training of employees in the bodies of local self-government; labour relations and salaries in local self-government and autonomous provinces.²¹³ Besides, the **Human Resources Management Service** (HRMS) is in charge for specialist tasks related to HR management in ministries, special organisations,

²⁰⁹ Article 32. Budget System Law.

²¹⁰ SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Serbia, OECD Publishing, Paris, pp. 84-86.

²¹¹ EC Report Serbia 2016, Brussels, 9 November 2016, p. 10,11.

²¹² Programme of Public Finance Management Reform 2016 -2020, p.3, 40-43.

²¹³ Article 10. Law on ministries.

services of the Government and support services of administrative districts (eg. regarding job competitions, HR Planning, internal organization, organization of professional training).²¹⁴

Primary legislation on public service is governed by the Law on State Administration (LSA),²¹⁵ the Law on Civil Service (CSL)²¹⁶ with following by-laws²¹⁷ the Law on Employment in the Autonomous Provinces and Local Self-Government Units (LEAPLSG),²¹⁸ the Law on Salaries in State Authorities and Public Institutions,²¹⁹ and the Law on Salaries of Civil Servants and Public Employees²²⁰ (which is to be aligned with the new Law on the Salary System in the Public Sector²²¹ by the end of 2017). Besides, the Law on the Method of Determining the Maximum Number of Employees in the Public Sector²²² was adopted, as well as Government Decision on the maximum number of permanent employees in the system of state authorities, public services system, the autonomous province of Vojvodina and local self-government system for 2015.²²³ The Law on Registry of employees, elected, nominated, appointed and persons engaged in public funds beneficiaries which regulates its content and method of management, as well as the protection and availability of data.²²⁴

The CLS defines the notion of public servants, but several important parts of the civil service have special HRM legislation for recruitment and selection (the Tax Administration, the Customs Administration, the Administration for Execution of Criminal Sanctions). Furthermore, the LSA and the CSL determine a clear distinction between civil servants who carry out administrative functions and state employees who perform technical functions. There is also a clear legal distinction between political posts and senior civil service posts.

The CSL and supporting secondary legislation regulate all necessary **HRM aspects**, such as: the scope and principles of the civil service; classification; recruitment and selection of civil servants, including those in senior managerial positions; rights and obligations of civil servants, including the integrity system; remuneration (the main principles and components of the salary system); professional development, including performance appraisal, training, mobility and promotion; disciplinary procedures, including suspension from the civil service; termination of employment, including demotion and redundancy; and central co-ordination of the civil service. The LEAPLSG extends the existing state civil service framework to the local level and introduces a system of merit-based human resources management.

²¹⁴ Decree on Establishment of Human Resources Management Service „Official Gazette of RS”, No. 106/05, 109/09 and Article 97a Law on Civil Servants.

²¹⁵ Law on Public Administration, OG RS No. 79/05, 101/07, 95/10, 99/14.

²¹⁶ Law on Civil Servants, OG RS No. 79/05, 81/05, 83/05, 64/07, 67/07, 116/08, 104/09, 99/14.

²¹⁷ Decree on establishing the Human Resources Management Service, OG RS No. 106/05, 109/09; Decree on Development of the Human Resources Plan for the State Authorities, OG RS No. 8/06; Decree on the classification of job posts and standards of job descriptions for civil servants, OG RS No. 117/05, 108/08, 109/09, 95/10, 117/12, 84/14; Decree on the classification of jobs posts of public employees, OG RS No. 5/06, 30/06; Decree on Appraisal of Civil Servants, OG RS No. 11/06, 109/09; Decree on conducting internal and public competitions to fill vacancies in the state authorities, OG RS No. 41/07, 109/09; Decree of Professional Training of Civil Servants, OG RS No. 25/15; Decree on State Exam, OG RS No. 16/09, 84/14; Decree on the procedure for obtaining approval for new employment and further engagement of public funds beneficiaries, OG RS No. 113/13, 21/14, 66/14, 118/14; Decree on compensation of expenses and severance of civil servants and public employees, OG RS No. 25/15; Rulebook on professional qualifications, knowledge and skills assessed in the selection procedure, modes of their verification and selection criteria for employment, OG RS No. 64/06, 81/06, 43/09, 35/10.

²¹⁸ Law on employment in the autonomous provinces and local self-government units, OG RS No. 21/16.

²¹⁹ The Law on Salaries in State Authorities and Public Institutions, OG RS No. 34/01, 62/06, 63/06, 116/08, 92/11, 99/11, 10/13, 55/13, 99/14.

²²⁰ Law on Salaries of Civil Servants and Public Employees, OG RS No. 34/01, 62/06, 116/08, 116/08, 92/11, 99/11, 10/13, 55/13 and Decree on Coefficients for the Calculation and Payment of Salaries of Designated and Appointed Persons and Employees in State Authorities OG RS No. 44/08, 2/12.

²²¹ Law on the Salary System in the Public Sector, OG RS No. 18/16.

²²² Law on the Method of Determining the Maximum Number of Employees in the Public Sector, OG RS No. 68/15.

²²³ Government Decision on the maximum number of permanent employees in the system of state authorities, public services system, the autonomous province of Vojvodina and local self-government system for 2015, OG RS No. 101/15.

²²⁴ Law on Registry of employees, elected, nominated, appointed and persons engaged in public funds beneficiaries, OG RS No. 68/15, 79/15.

The scope of the civil service has improved with the adoption of two important pieces of legislation. **The Law on the Salary System in the Public Sector** introduces a general salary framework for all public sector employees, and hence enhances the coherence of the remuneration framework for all civil servants. **The Law on the Police** ²²⁵ enables the application of the CSL to the great majority of staff of the MoI who carry out horizontal administrative functions and introduces modern HRM principles to the police.

The CSL establishes a solid foundation for a merit-based, coherent and transparent system for civil service recruitment, demotion and termination of employment. However, legislation on its own is not sufficient to safeguard the merit principle, especially as certain parts of the civil service have their own recruitment rules, the application procedure is overly bureaucratic and the capacities of the competition committees are weak. The merit principle is undermined by the discretion of the head of an institution to select one of the candidates from a closed list, and the exemption from the normal recruitment and selection processes for temporary personnel, who constitute around 10% of the civil service.

The **vertical scope of the civil service** is legally well defined, and the grounds for internal and external recruitment and selection based on merit, equal opportunity and open competition have been formally granted. However, direct and indirect political influence on filling senior managerial positions in the civil service is not prevented in practice. Around two-thirds of senior civil servants working for the Government are still political appointees; the high number of recruitment competitions has not resulted in a high number of appointments by the Government. The transparency and fairness of the termination procedure for senior managerial positions is jeopardised by the legal provision for terminating senior managerial employment due to “serious disturbance” in the institution, which is not formally defined.²²⁶

Professional development is neither promoted consistently nor monitored properly for any category of civil servants. There is still no link between the provision of training and the performance appraisal system. No progress has been made with the implementation of the national strategy for professional development or the planned establishment of a national training institute for public servants.²²⁷

Conflicts of interest for public servants are regulated in the CSL and in the Law on the Anticorruption Agency.²²⁸ Also, the Code of Conduct for public servants was adopted in 2008. Awareness of this Code is limited, and most state authorities have developed their own codes. The novelty is the Law on Whistle Blower Protection²²⁹ and a “Rulebook on Protection of Persons who Declare Corruption”, which provides a procedure for reporting corruption cases on its website.²³⁰

c) Organisation efficiency and effectiveness

The **MPALSG** plays the lead role in the area of organisation efficiency and effectiveness (with two bodies in its composition Directorate for e-Administration and Administration Inspectorate) having in mind competences regarding: system of state administration and organization of the work of ministries and special organizations, public agencies and public services; administrative inspection; administrative procedures; the development of electronic government; system of local self-government and territorial autonomy; guidance and support to local governments in ensuring the legality and efficiency.²³¹ Besides, **the Republican Secretariat for Legislation** is in charge for: establishing, monitoring and improvement of the legal system; ensuring compliance regulations and general acts in the legal system in the process of their adoption and care of their normative-technical and linguistic validity; control over and

²²⁵ Law on Police, OG RS No. 6/16.

²²⁶ SIGMA(2016) Monitoring Report, The Principles of Public Administration Serbia, OECD Publishing, Paris, pp. 5-26.

²²⁷ EC Report Serbia 2016, Brussels, 9 November 2016, p. 11.

²²⁸ The Law on the Anti-corruption Agency, section III, OG RS No. 97/08.

²²⁹ Law for Whistle Blower Protection, OG RS No. 128/14.

²³⁰ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Serbia, OECD Publishing, Paris, pp. 40-57.

²³¹ Article 10. Law on ministries.

taking care of publishing regulations and other acts of the Government, ministries and other bodies and organizations which are legally mandated, prepares regulations relating to organization and operation of the Government, as well as other duties specified by law.²³²

The regulations clearly define the **responsibility of all state organisations**. The most important are as follows: the Law on Government²³³ with relevant bylaws;²³⁴ the Law on Public Administration²³⁵ with relevant bylaws;²³⁶ the Law on Ministries;²³⁷ the Law on the Ombudsman;²³⁸ Law on Public Agencies;²³⁹ the Law on Free Access to Information of Public Importance;²⁴⁰ the Law on Electronic Signature;²⁴¹ the Law on Electronic Document;²⁴² the Law on Electronic Communications;²⁴³ the Law on Inspection Supervision;²⁴⁴ the Law on Local Self-Government;²⁴⁵ the Law on Territorial Organisation of the Republic of Serbia;²⁴⁶ the Law on General Administrative Procedure;²⁴⁷ the Law on Administrative Dispute.²⁴⁸

One of the key priorities of the Government is the **rightsizing of the state administration**. Since 2015 the number of public employees has been reduced by more than 16,000. However, the structure of the state administration is a key outstanding issue that the country should address in order to maximise the impact of rightsizing efforts. Lines of accountability between agencies and parent institutions are blurred within the current organisation, contributing to overlapping functions, fragmentation and increased politicisation.

Citizens' right to good administration is protected through internal and external oversight mechanisms. **The Ombudsman's Office** plays a key role, and public authorities are obliged to report on implementation of its recommendations. The right to access public information is regulated in the Law on access to public information, which is not fully in line with European standards. The major issue is the administrative silence. Also, the Office still lacks resources.

Progress has been made as regards the right to administrative justice with the adoption in February 2016 of a new **Law on General Administrative Procedures**, whose implementation will start in mid-2017. A continuing backlog of administrative disputes to be resolved by the court system undermines public confidence. The right to seek compensation is often not enforced, partly due to the lack of a specific law on public liability. Even though an important step towards simplifying administrative procedures was taken with the adoption of the law on general administrative procedures, Serbia will still need to address a number of special administrative procedures, regulated in different pieces of legislation, which hinder transparency and legal certainty.

Creating a more user-oriented administration is a key government priority. Some progress has been made with the adoption of an **E-government strategy** and Action plan and provision of a certain number of integrated e-services to citizens and businesses through one-stop-shops. Citizen satisfaction with the delivery of public services is still not regularly measured.²⁴⁹

²³² Article 24 Law on ministries.

²³³ Law on Government, OG RS No. 55/05, 71/05, 101/07, 65/08, 16/11, 68/12, 72/12, 7/14, 44/14.

²³⁴ Decree on the Secretariat General, OG RS No. 75/05, 71/08, 109/09, 85/12, 102/13; Decree of Government Services, OG RS No. 75/05, 48/10; Government Rules of Procedure, OG RS No. 61/06, 69/08, 88/09, 33/10, 69/10, 20/11, 37/11, 30/13, 76/14.

²³⁵ Law on Public Administration, OG RS No. 79/05, 101/07, 95/10, 99/14.

²³⁶ Decree on Principles of the Internal organization and Classification of Jobs in Ministries, Separate organizations and Government Services, OG RS No. 81/07, 69/08, 98/12, 87/13; Decree on Administrative Districts, OG RS No. 15/06; Government Decision on Establishing a Council for Public Administration Reform, OG RS No. 55/13.

²³⁷ Law on Ministries, OG RS No. 44/14, 14/15, 54/15, 96/15.

²³⁸ Law on the Ombudsman, OG RS No. 79/05, 54/07.

²³⁹ Law on Public Agencies, OG RS No. 18/05, 81/05.

²⁴⁰ Law on Free Access to Information of Public Importance, OG RS No. 120/04, 54/07, 104/09, 36/10.

²⁴¹ Law on Electronic Signature, OG RS No. 135/04.

²⁴² Law on Electronic Document, OG RS No. 51/09.

²⁴³ Law on Electronic Communications, OG RS No. 44/10, 60/13, 62/14.

²⁴⁴ Law on Inspection Supervision, OG RS No. 36/15.

²⁴⁵ Law on Local Self-Government, OG RS No. 129/07, 83/14.

²⁴⁶ Law on Territorial Organisation of the Republic of Serbia, OG RS No. 129/07, 18/16.

²⁴⁷ Law on General Administrative Procedure, OG RS No. 18/16.

²⁴⁸ Law on Administrative Dispute, OG RS No. 60/03, 32/11.

²⁴⁹ EC Report Serbia 2016, Brussels, 9 November 2016, p. 11, 12.

d) Decision-making process

Five institutions have specific competences regarding decision-making process: 1) the General Secretariat of the Government which co-ordinates preparation of Government sessions, develops the annual work plan of the Government, monitors the fulfilment of the plan, and is responsible for co-ordinating communication activities of the Government and for the relationship with other state bodies; 2) the Republic Secretariat for Public Policies which co-ordinates development of the Action Plan for implementation of the Government Programme, monitors its implementation, and coordinates policy content by scrutinising draft RIAs and the quality of proposals of strategic documents and harmonisation between them 3) the Republic Secretariat for Legislation which ensures legal conformity; 4) the MoF, which ensures the affordability of policy proposals; and 5) the SEIO, which is responsible for co-ordination of EI matters.

The legal basis and the necessary institutions to ensure **coherent policy-making** are in place. The Serbian administration is performing reasonably well on several aspects of policy development and coordination that are laid down in key laws and the Government Rules of Procedure (RoP), notably providing information on its work to the public through reports and public availability of legislation.²⁵⁰

Policy coordination continues to focus more on formal, procedural issues than on substance. The adoption of the Strategy for Regulatory Reform and Public Policy Management represents a positive step forward. However, a consolidated policy planning and monitoring system still needs to be put in place, streamlining the roles and responsibilities of leading institutions in charge of policy making and coordination, linking policy and medium-term fiscal planning, clarifying sources of funding and streamlining overlapping strategies.

As part of the policy-planning system, **coordination structures for European integration** have been established. The National Plan for the Adoption of the *Acquis* (NPAA) is being implemented. Second Revised NPAA was adopted on 17 November 2016.²⁵¹

The administration needs to further strengthen its capacity for **inclusive and evidence-based policy and legislative development**, including on the *acquis*. Public and inter-ministerial consultations on proposals are often conducted formalistically and at too late a stage of the process, not enabling all interested parties to provide qualitative input. Decision-makers are not systematically informed about the outcome of public consultations. More effective monitoring of the implementation of enacted legislation and strategic documents is needed. Regulatory impact assessments are usually carried out, but their quality varies considerably. The Ministry of Finance has started to check the quality of compulsory financial impact assessments for all legislation, but further resources need to be devoted to this to ensure appropriate quality.

The Government publishes **annual monitoring reports on key strategic documents**. This enables public scrutiny of government work. However, the reports do not measure achievements against objectives. Parliamentary scrutiny is conducted by specialist legislative committees, but their assessment of the implementation of laws and strategies remains limited.²⁵²

The Republic Secretariat for Public Policies has prepared a package of new legislation regarding public policy management, which includes the draft Law on the Planning System, a draft Decree on the Methodology for Public Policy Management, Policy and Regulatory Impact Assessment and content of individual Public Policy Documents, and a Methodology for Mid-Term Planning. The draft Law on the Planning System aims to establish a framework for overall planning in the Republic of Serbia and to create the basis for achieving full efficiency in the integration of development planning and the financing of capital investments into the integral national planning-budgetary framework.²⁵³

²⁵⁰ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Serbia, OECD Publishing, Paris, pp. 16-38.

²⁵¹ <http://www.seio.gov.rs/dokumenta/nacionalna-dokumenta.734.html>

²⁵² EC Report Serbia 2016, Brussels, 9 November 2016, p. 9,10.

²⁵³ Programme of Public Finance Management Reform 2016 -2020, 2015, pp.11-12.

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Having in mind the estimations of the **EC from its report 2016**, Serbia is **moderately prepared** with the reform of its public administration. **Good progress** has been achieved with adoption of the Public Financial Management Reform Programme, E-government strategy, a Strategy on Regulatory Reform and Policy-Making, new laws on general administrative procedures, public salaries and civil servants at provincial and local government level. In the coming period Serbia should continue with ongoing reforms, in particular to:

- align the National Plan for the Adoption of *Acquis* (NPAA) with the medium-term budget plan, provide costing for actions, and update it with a view to setting a legislative programme that promotes better regulation based on impact assessments and timely inter-institutional and public consultations;
- amend the Civil Service Law through an inclusive and evidence-based process to guarantee the neutrality and continuity of the public administration and ensure merit-based recruitment, promotion and dismissal procedures, notably by eradicating exceptions and transitional arrangements in appointments;
- ensure systematic coordination and monitoring and regularly report on the implementation of the Public Financial Management Reform Programme 2016-2020.²⁵⁴

6. Kosovo*

On 27 October 2015, the EU signed a Stabilisation and Association Agreement (SAA) with Kosovo. The SAA constitutes the first contractual relationship between the EU and Kosovo. It completes the map of SAAs with all Western Balkan countries. The SAA provides a comprehensive framework for closer political dialogue and economic relations between Kosovo and the EU, including opening EU markets to Kosovo products.²⁵⁵ On 1 April 2016, the EU-Kosovo Stabilisation and Association Agreement (SAA) entered into force. This is the first contractual relationship between the EU and Kosovo, a comprehensive framework for closer political dialogue and economic relations.

Kosovo has faced serious domestic challenges, which have hampered EU-related reforms in some areas. It should now focus on implementing the SAA, guided by the European Reform Agenda, to further strengthen its rule of law and reform its economy.

Kosovo has delivered on wide-ranging rule of law reforms, allowing the Commission to issue a formal proposal in May 2016 to transfer Kosovo to the Schengen visa-free list. This is now in the hands of the European Parliament and Council, pending Kosovo's fulfilment of the remaining two requirements²⁵⁶.

Optimisation process - state of play in relevant areas

a) Budget

The medium-term expenditure framework (MTEF) 2015-2017 complies with the requirements of the EU Directive on Budgetary Frameworks.²⁵⁷ It presents a three-year forward-looking period framed in the context of stated Government priorities and the economic and fiscal outlook, and includes spending estimates for all direct budget organisations. However, basic structure for priority does not yet function as an instrument for resource allocation.

The MTEF 2015-2017 includes all revenues and planned expenditures of all levels of government, but not all donor funds (including funding from the Instrument of Pre-Accession) are part of the MTEF estimates. Planning of IPA funds is not actively co-ordinated with the MTEF preparations, although the Strategic Planning Committee, which includes representatives of the

²⁵⁴ EC Report Serbia 2016, Brussels, 9 November 2016, p. 9.

²⁵⁵ EC Progress Report Kosovo 2015, p.4.

²⁵⁶ EC Report 2016, p. 4.

²⁵⁷ Council Directive 2011/85/EU, 8 November 2011.

Office of the Prime Minister and the Ministry of European Integration, forms a good basis for carrying out this role. The 2015 Economic Reform Programme includes an overview of planned structural economic reforms and is coherent with the fiscal policy presented in the budget plans.

Although the MTEF is a well-presented medium-term outlook for public finances and is adopted by the Government, use of budget ceilings for the preparation of the annual budget is limited. There are considerable differences between the sector ceilings estimated in the MTEF and actual budgetary allocations within the 2015 budget, with variations in both directions.

The budgetary system is set out comprehensively in the **Law on Public Financial Management and Accountability**.²⁵⁸ The annual budgetary cycle is clearly established and was adhered to in 2014. Budget organisations complied with the budget circulars provided by the MF, which include costs of the years beyond the budget year. The process of preparing the draft budget bill is, however, unnecessarily complicated – with three subsequent budget circulars between June and September.

The 2015 annual budget documentation, as submitted to the Assembly, includes all the basic information needed for informed decision making. But still, it does not include the most recent estimate on the current year, information on contingent liabilities, long-term projections or non-financial performance information. In addition, the summary of fiscal risks does not cover the most significant risk to the budget, a very high level of capital spending.

All public funds are channelled through the **treasury** single account. The system of in-year fiscal management has been operational in the last few years. The treasury system provides detailed controls and the MF has been able to limit public spending in the light of shortfalls in planned revenues, although the amount of arrears remains high.

The risk of excessive public debt is low in the medium-term, and the basic conditions for ensuring borrowing from the market are currently in place.

The basic conditions for budget transparency are in place, and scrutiny over public finances is ensured by the operations of the Office of the Auditor General whose reports are published regularly. The main weakness in transparency is related to frequent changes to the budget during the calendar year without disclosure or explanation of these variations during the year.²⁵⁹

b) Human Resources Management

Law 3/149 On the Civil Service (CSL) and the relevant by-laws cover all relevant employment aspects. The horizontal scope of the civil service includes the central and municipal administration, including independent and regulatory agencies, foreign service, police service, correctional service, and customs service, as well as administrations of the Assembly, Office of the President, Office of the Prime Minister (OPM) and the judiciary. Institutions that are regulated by special law are subject to the CSL, unless otherwise provided in the special law. The distinction in the upper levels of the hierarchy is clear: political appointees, public elected officials, senior civil servants and civil servants are differentiated in the legislation. The CSL is lacking a clear distinction between **civil servants and support staff**. The guidelines, adopted in December 2014, undermine the principle of legal certainty as they are not legally binding and do not clarify how to carry out recruitment or the duration of contracts, which are implemented in different ways by different institutions.

The CSL and secondary legislation establish all general provisions relevant to the employment relations of public servants and management of public service, but there is inconsistencies in some **HRM procedures** (e.g. career promotion and performance appraisal). Lack of coherence in the regulation can be illustrated by a double reporting line for the human resource (HR) managers to the Financial Director and the Secretary General of the Ministry, without adding any value to their work.

²⁵⁸ Law No. 03/L-048, 2008.

²⁵⁹ SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Kosovo, OECD Publishing, Paris, pp. 74-84.

The MPA has a clear formal responsibility for the public service for policy design and evaluation, and for monitoring its implementation.²⁶⁰ The OPM provides support to the Council of Senior Management Positions and the MF allocates the budget for the public service payroll. The KIPA co-ordinates the implementation of all trainings.

The legislation for the **Human Resource Management Information System (HRMIS)**²⁶¹ is in place, but in practice the system is not up-to-date and does not perform all mandatory functions as established in the legislation and in the OECD Principles. The disadvantages are as follows: a) available information covers only a few items in relation to what is foreseen; b) a regulation sets the contents of the public servant's personnel file and the exhaustive list of records refers only to individuals; there is no information about the organisations where they work; c) despite regulation requiring it, the HRMIS is not interoperable with the civil service payroll database and the pension database; d) the information and data on the public service is scarce; the most basic statistical information requested for this assessment was lacking; e) existing data is not yet used for the purposes of managing and monitoring HRM processes in the public service.

The Independent Oversight Board (IOB) is charged with overseeing three particular areas of the implementation of the public service legislation: reviewing individual appeals of public servants against employing decisions; determining whether the appointment of senior public servants is done in accordance with relevant rules; and supervising the implementation of rules and principles of the public service.

The legislation sets merit as the principle for filling vacancies.²⁶² The vacancies fill through recruitment processes or from inside the civil service. The following two major concerns remain related to **recruitment**: a) non-career civil servants on a fixed-term appointment (up to two years) can be transferred to indefinite-term positions if performance appraisal is satisfactory within the last two years, i.e. without public competition; b) the majority of institutions have not standardised the job descriptions (including professional qualification) within the legal time limit as provided by secondary legislation,²⁶³ which poses problems regarding the comparability of different positions to be advertised. An important step in this regard is the approval of the Job Catalogue²⁶⁴ so that the MPA can use it and amend it to support institutions in their preparations of the job descriptions. Candidates may appeal recruitment decisions.

The senior public service is included in the scope of the CSL and comprises the highest levels in the ministerial hierarchy. Although the principle of merit is reiterated in the CSL, in practice the selection and appointment procedures for senior managers does not ensure merit-based recruitment of senior public servants.

Remuneration is regulated in the **Law on Salaries of Civil Servants (LSCS)**²⁶⁵ but coherence and fairness are not features of the salary system as required in the OECD Principles. Each ministry chooses, adapts and allocates coefficients to different jobs with no cross-reference to other ministries.²⁶⁶ This process, combined with the absence of a job classification system, means that salaries for similar positions are not necessarily equitable.

The LSCS and relevant by-law²⁶⁷ regulate the salary, different allowances, compensation for shift and overtime work, specific work conditions and market conditions, and the payment of performance bonuses. The legislation sets the payment of bonuses based upon the ratings of performance. In order to avoid the inflation of grades, it also sets the quotas for each value in a given year. However, these quotas are not applied in practice. In this context, the potential for discretion in the granting of bonuses is considerable. Additionally, the process for granting this

²⁶⁰ Regulation On the areas of administrative responsibility of the Office of the Prime Minister and ministries, Article 16 (Office of the Prime Minister), Appendix 2 (Ministry of Finance) and Appendix 11 (Ministry of Public Administration).

²⁶¹ Regulation 03/2011 On the personnel registry, Ministry of Public Administration.

²⁶² Civil Service Law No. 149/2010, Articles 2, 3, 11 and 18.

²⁶³ Regulation 05/2012 On the classification of working positions.

²⁶⁴ Government Decision to approve the Job Catalogue of the Civil Service, 5 February 2015.

²⁶⁵ Law 3/2010 Law on Salaries of Civil Servants.

²⁶⁶ Law on Salaries of Civil Servants, Article 7.

²⁶⁷ Law on Salaries of Civil Servants, Articles 11 and 14; Regulation 19/2012, Article 8.

bonus is not transparent: a ministerial commission receives proposals from all institutions and then makes its own final decisions. Some discretion is also applied when using the Cadre Fund Scheme, an original fund to attract well-educated professionals for positions that involve a need for competitiveness with the private sector.

Public servants have a right to **training** as a support to career advancement. Some very specific duties of mandatory training are linked to probation and redundancy,²⁶⁸ but no specific provisions are given for annual hours for training or granting leave for further development. A methodology exists for assessing training needs, and there is a training plan. The training strategy and plan, however, do not reflect clearly the needs that the public service has.

Performance appraisal for public servants is set by primary and secondary legislation.²⁶⁹ However, some institutions lack a classification of jobs and do not apply performance appraisal. Quotas for different possible appraisal levels in the legislation aim to avoid grade inflation and enable the use of performance appraisal as a tool for other processes, such as career advancement. In practice, the application of quotas in performance appraisal has led to several appeal processes, which have been decided in favour of the appellant.

The principles informing the professional conduct of public servants are contained in the legislation and other strategic documents.²⁷⁰ Most of the elements to promote integrity and prevent corruption are in place, except for financial disclosure, and ethics training and guidelines. The Anti-Corruption Agency (ACA), established in 2005 oversees and manages the declarations of assets and gifts of managerial civil servants, and also monitors conflicts of interest in these cases. One of the main functions of the ACA is the investigation of corruption cases.

The CSL and several pieces of secondary legislation regulate disciplinary procedures and appeal procedures against disciplinary sanctions, although no data is available on the number of disciplinary sanctions. The disciplinary commission is set up on a case-by-case basis, and its members are appointed by the Government upon the proposal of the Prime Minister. As a result, the commission created for the purpose of assessing cases of public servants in managerial positions is actually highly political.²⁷¹

c) Organisation efficiency and effectiveness

The **Law on the State Administration**²⁷² (LSA) sets out the legal framework for state administration bodies²⁷³ and sets out rules for internal organisation of ministries and other institutions. The provisions defining status of autonomous bodies and accountability lines are general, with no clear distinction between central state administration and independent state administration bodies. Besides, there is no coherent and results-oriented accountability scheme for those institutions, and there are no mechanisms to promote greater managerial autonomy or delegation of decision-making competence. Key policy making functions remain in the ministries, but responsibilities for steering and controlling subordinate bodies are not assigned. The efficiency of existing state administration is not monitored in a systematic way. The LSA does not impose any assessment of needs and costs prior to the establishment of administrative bodies. Shortcomings in the legal framework have led to a high number of Government agencies and non-constitutional institutions formally subordinated to the Parliament which lacks the powers and capacity to effectively supervise their activities.

²⁶⁸ Civil Service Law 149/2010, Articles 43, 35, 20 and 32, respectively.

²⁶⁹ Civil Service Law 149/2010, Article 34; Regulation 19/2012 On civil servant's Performance Appraisal results, Article 8.

²⁷⁰ Civil Service Law 149/2010, Chapter VIII; Civil Servant's Code of Conduct 01/2006; Law 34/2004 Against Corruption; Law 04-051/2011 On the Prevention of Conflict of Interest in Discharge of Public Functions; and Law On Anti-Corruption Strategy 2013-2017.

²⁷¹ SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Kosovo, OECD Publishing, Paris, pp. 38-52.

²⁷² Law No.03/L-189.

²⁷³ Highest state administrative authorities (the Government as a whole, the Prime Minister, deputy prime ministers and ministers); highest state administrative bodies (the Office of the Prime Minister and ministers); central state administration bodies; local state administration bodies; and independent state administration bodies.

The Constitution grants everyone the right of **access to public documents** and Law 03/L-215 on Access to Public Documents (LAPD) specifies that applications for access to information may be submitted in any form, including e-mail. The state portal also allows online requests for public information.²⁷⁴ Under the LAPD, access to documents may be refused on numerous grounds. These exceptions are defined to a far greater degree than in the Constitution.²⁷⁵ However, if only one part of the requested document is covered by any of these exceptions, the remaining parts of the document are to be released. Fees for copying documents, set out in the secondary legislation, are at a level that does not create a significant obstacle to access to information.

The Law 03/L-215 also specifies the information that public institutions must make available on their websites, including standard information on mission and tasks, organisational structure, the legislation governing their functioning and a list of services provided. However, there is no legal requirement to monitor compliance with these criteria.

There is no supervisory body with the power to issue binding guidelines and/or impose sanctions on institutions failing to comply with the LAPD. The Office of Public Communication of the Office of the Prime Minister gathers statistical data, but has no power to enforce the right to access to public information.²⁷⁶

All state administration bodies are subject to scrutiny by the **Ombudsman**.²⁷⁷ His/her status is primarily regulated in the Constitution, which provides fundamental guarantees of independence and defines areas of responsibility. The Ombudsman reports only to the Parliament, on an annual basis.²⁷⁸ The share of the Ombudsman's recommendations implemented by state administration bodies is low (as is the total number of recommendations issued, which is further decreasing). Furthermore, most of the institutions to which the Ombudsman has addressed recommendations failed to report on actions carried out in response to those recommendations, as is required under the Law on Ombudsman requires.

Law 02/L-28 on Administrative Procedure guarantees the right of internal administrative appeal and defines accurate deadlines for submitting and resolving appeals. The Law on Courts sets out the general framework of the administrative justice system. The Law on Administrative Conflicts allows the affected parties to challenge final administrative decisions before the administrative court and defines a 30-day deadline for lodging complaints.²⁷⁹

The Constitution does not establish a general principle of public liability in cases of damaging acts or omissions by public authorities. Moreover, there is no coherent and comprehensive statutory regulation on public liability in place. Several provisions scattered across different legislation refer to this topic,²⁸⁰ but they only set out general principles of liability and lack specific procedural provisions that would assist those affected to seek compensation in the case of wrongdoing by a state administrative body.²⁸¹

Comprehensive policy aimed at **citizen-oriented state administration** is not established. Key strategic documents regarding public administration reform and Government programmes include some general references to this area, but they are not translated into specific objectives and action plans.²⁸²

²⁷⁴ Request for Access to Public Documents, www.rks-gov.net/en-us/Appinternet/Pages/QasjaDokuZyrtare.aspx

²⁷⁵ Under the Constitution, access to information can be refused solely on the grounds of privacy, business trade secrets or security classification. The LAPD provides for additional restrictions based on the need for protection of national and public security, privacy, commercial and economic interests, economic and monetary policies, and environmental issues.

²⁷⁶ Law 03/L-215 on Access to Public Documents, Article 20.

²⁷⁷ Law 03/L-195 on Ombudsperson, Official Gazette No. 80/2010, Article 15.

²⁷⁸ Law 03/L-195 on Ombudsperson, Article 27.

²⁷⁹ Law on Administrative Conflicts, Article 27.

²⁸⁰ Law on the State Administration, Article 13; Law on Administrative Procedure, Article 3.4; Law on Inspections, Article 30; Law on Administrative Conflicts, Articles 17, 26, 30 and 46.

²⁸¹ SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Kosovo, OECD Publishing, Paris, pp. 54-62.

²⁸² Programme of the Government of Kosovo 2015-2018, p. 27; Strategy for Electronic Governance 2009-2015; Annual Work Plan of the Government for 2015; Better Regulation Strategy 2014-2020.

The institutional set-up for the development and implementation of policy for **public service delivery** is fragmented. Some initiatives for e-service development are managed by the Ministry of Public Administration (MPA) and the Agency for Information Society operating under the MPA. Plans for improving services for business are developed by the Office of the Prime Minister (OPM), yet business registration and other important services to business are managed by the Ministry of Trade and Industry. There are no mechanisms ensuring the coordination and coherence of activities undertaken by various actors in this area.

There are no mechanisms in place for systematic red-tape reduction, and RIAs are not implemented. The Better Regulation Strategy is aimed at administrative simplification, but planned initiatives have not yet been implemented.

The development of **e-services** is hindered by the lack of an e-authentication and e-payment system. There is no e-government portal offering integrated access to e-services. Besides, the interoperability framework, based on European Interoperability Framework (EIF) standards, is not functional.

The current Law on the Administrative Procedure (LAP)²⁸³ enshrines the **key principles of good administrative behaviour**, including the principles of legality, proportionality, equal treatment, impartiality and objectivity. There is no inventory of special regulations and the above-mentioned general principles are not fully reflected in specific provisions of the LAP.²⁸⁴ The general requirement limiting the scope of discretionary actions is “conformity with the Constitutional Framework and the spirit of the applicable legislation in Kosovo”.²⁸⁵

Regulation No. 06/2015 on the **central registry of types of permits and licences** was adopted in April 2015, determining the procedures for the establishment, management and operation of a central registry of permits and licences. The registry includes a complete list of permits and licences, which means that public institutions cannot require businesses to apply for permits that are not listed in the registry.

Business registration is the only service delivered through one-stop shops. Business registration centres (BRCs) enable applicants to obtain a business registration, a fiscal or VAT number and export-import certificates. The territorial network of BRCs ensures equal access to their services (29 offices).²⁸⁶

There are an increasing number of **online services** offered by the Tax Administration. These include e-services regarding taxation offered to businesses via an EDI system, e.g. online submission of tax declarations, checking history and tax balance, and generating tax certificates. In March 2015, the new version of this system was launched.²⁸⁷

Administrative Instruction No. 03/2011 issued by the MPA sets out several requirements on the format and content of websites maintained by state administrative bodies, although it does not contain any standards of accessibility for people with disabilities, e.g. requirements based on Web Content Accessibility Guidelines (WCAG 2.0).

Instruction No. 03/2011 requires every public institution to publish on its website a detailed list of citizen services, including procedures and conditions of their delivery, cost and time limits for their provision, and information on the right to complain about quality and access to services. However, there is no mechanism for the regular monitoring of compliance with those requirements.²⁸⁸

d) Decision-making process

The institutions fulfilling the functions of the CoG in Kosovo are the **OPM, MF and MEI**. All CoG functions are formally established and proper institutional set-up has been created in the

²⁸³ LAP No. 02/L-28, 22 July 2005.

²⁸⁴ For example, the regulation of administrative discretion is vague and allows public authorities to carry out a wide range of actions without explicit legal authorisation.

²⁸⁵ LAP, Article 139f.

²⁸⁶ List of offices: <http://www.arbk.org/en/Municipal-Centers>.

²⁸⁷ <http://www.atk-ks.org/njoftim-per-tatimpagues-administrata-tatimore-e-kosoves-funksionalizon-sistem-in-e-ri-te-deklarimit-elektronik-edi/?lang=en>

²⁸⁸ SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Kosovo, OECD Publishing, Paris, pp. 64-71.

OPM and the MEI. Policy co-ordination and planning issues are regulated in the RoP.²⁸⁹ Responsibilities and functions of the CoG institutions are stipulated in regulations on internal organisations.²⁹⁰ Generally, the roles of three CoG organisations are well established, responsibilities are clearly divided among them and respected by the ministries.

The Steering Group for Strategic Planning (SGSP)²⁹¹ discussed the problems and possible solutions for reducing the fragmentation of the strategic planning documents system. There is limited informal co-ordination among CoG institutions during policy analysis, however, resulting in several incoherent instructions for ministries (eg. concerning financial impact assessments FIAs).

The EI co-ordination function is institutionalised in the MEI. Overall responsibilities of the EI process are defined within the general legal framework and complemented with separate secondary legislation for EI policy co-ordination structures and responsible units in the ministries.²⁹² Responsibilities are clear, except for quality control and guidance over *acquis* transposition, for which both the MEI and the OPM Legal Department have a role and also authority to issue legal opinions.

The planning and monitoring system exists but the substantial backlog of the Government's commitments and of developing planning documents indicates implementation challenges. Strategic plans do not include systematic information on financing needs, and a link with financial planning does not exist in the majority of cases.

The legislative framework stipulates four **central planning documents**: the Government Annual Work Plan (GAWP); the Action Plan for Stabilisation and Association Agreement 2013 (APSAA); the Medium-term Expenditure Framework (MTEF) and the Medium-term Declaration of Priorities (DP). Three of these (the APSAA, the MTEF and the DP) have a medium-term planning dimension. There is also a clear set of Government priorities, based on the Government Programme and developed under the co-ordination of the SPO of the OPM. In 2014, priorities were transferred by the MoF into the narrative part of the MTEF. However, due to the change of structure, no policy and/or priority objectives-based financial allocations are reflected in the MTEF 2015-2017.

Priorities of the Government are also reflected in a separate table in the GAWP. The coherence of the plan with other strategic documents is ensured by a structure in which references to other planning documents are requested. In line with the RoP of the Government, the SPO and the GCS issue general guidelines to enable better planning and more detailed guidance of the methodology of the GAWP. Annual development plans of legislation and strategies are attached to the GAWP as separate annexes. Therefore, the system enables prioritisation and focused planning through specific tasks within the GAWP. Such tasks are usually formed bottom-up, however, with little scrutiny or prioritisation from the CoG.

The same challenges apply to the **sector strategies planning system**. The RoP and detailed instructions are in place to guide the strategy development process, including financial estimates of the plans,²⁹³ but the consolidation of the strategic planning system remains a challenge. The planning of sectoral policies is still fragmented, with noticeable bottom-up pressure leading to plans being unrealistic and not prioritised.

All central planning documents are annually monitored and reports are made publicly available. Reporting has a technical nature concentrating on taking stock of delivered items. Reporting is not conducted on results achieved and policy outcomes.

The procedures for enabling Government decision making in a transparent manner and for ensuring legal conformity are established and enforced routinely by the OPM, but full

²⁸⁹ Regulation No. 09/2011 of the RoP of the Government.

²⁹⁰ Regulation No. 16/2013 on the Organisational Structure of the OPM; Regulation No. 32/2012 on the Internal Organisation and Systematisation of Jobs in the MEI; Regulation No. 44/2013 on the Internal Organisation and Systematisation of Jobs in the MoF.

²⁹¹ Government Decision No. 05/83 on the Establishment of the SGSP, 11 July 2012.

²⁹² Regulation No. 01/2011 on the Departments for European Integration and Policy Co-ordination in the Ministries.

²⁹³ Administrative Instruction No. 02/2012 on the Procedures, Criteria and Methodology for the Preparation and Approval of Strategy Documents and Plans for their Implementation; Manual for Preparation of Sectoral Strategies, June 2013.

implementation is hindered by a high volume of extraordinary cases, for which procedural requirements do not need to be followed.

The Assembly has procedures in place to ensure scrutiny over the Government. However, application of the procedures is hindered by the planning performance of the Government (in terms of legislative outturn), the low level of attendance of ministers, and the low capacity of the support staff of the Assembly.

According to the RoP of the Government, it is the responsibility of ministries to **develop policies and draft legislation**.²⁹⁴ Regulations establish the responsibilities of ministries for policy development and legislative drafting, and the responsibility of the line departments over policy and legislative development. In practice, however, the internal boundaries of responsibility are indefinite. There are no internal rules for developing policies and drafting legislation.

The RoP of the Government establishes the analytical process expected of line ministries during policy making and legal drafting. A **“Concept document”**²⁹⁵ should be prepared as the first step for policy proposals which involve the adoption of primary legislation or important secondary legislation. The annual list of the concept documents to be developed is compiled by the GCS, in conjunction with the development of the GAWP, and is then adopted by the Government. The OPM produced guidelines on drafting concept papers and explanatory memorandums. The concept document contains the main elements of an impact assessment: a comparison of options based on their cost and benefits, an FIA, and the rationale for choosing the particular option. If the concept document is not fully elaborated, analysis at the same level must be included in the explanatory memorandum, a mandatory accompanying document of any proposal submitted to the Government.²⁹⁶

The RoP establishes procedures for **inter-ministerial and public consultations**. It prescribes the obligation of the competent ministry to carry out public consultation and defines the relevant procedure, including the requirement to provide information on the consequences of the proposal and to allow “sufficient time”²⁹⁷ for the interested parties to submit a considered response. Results of the public consultation should be described in the concept paper or the explanatory memorandum.

Administrative Instruction No. 03/2013 sets the **standards for drafting normative acts**. The OPM’s LO is responsible for co-ordinating the legal drafting work of the ministries, examining consistency with the constitutional and overall legal framework, and ensuring the quality of legislative drafting.

All primary and secondary legislation adopted since 2002 **is available electronically** on the Official Gazette website.²⁹⁸ A separate Office for Publishing the Official Gazette operates within the OPM and maintains a database of normative acts in force. In parallel, the Parliament publishes some but not all adopted laws on their website; the Government’s website contains an overview of adopted secondary legislation. Consolidated texts are not yet available.²⁹⁹

* * *

In the 2016 Report, the European Commission assesses that Kosovo has **some level of preparation** in the reform of its public administration. Accordingly, **some progress** was made with the adoption of a comprehensive public financial management strategy and of the law on general administrative procedures. However, the Report points out that Kosovo did not address the Commission’s recommendations in the area of accountability. Moreover, non-merit-based recruitment continues to adversely affect effectiveness, efficiency and professional independence of public administration. The first monitoring reports on implementation of the

²⁹⁴ RoP, Article 38 and Regulation No. 13/2013 on Government Legal Service.

²⁹⁵ RoP, Article 29.

²⁹⁶ See RoP, Article 30.

²⁹⁷ According to the Guidelines on the Public Consultation Process adopted by the Government in 2011, the time allowed for stakeholders to submit opinions should not be shorter than three weeks.

²⁹⁸ <http://gzk.rks-gov.net/Default.aspx?index=1>

²⁹⁹ SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Kosovo, OECD Publishing, Paris, pp. 18-35.

public administration reform package indicate considerable delays. There are also serious concerns about the financial sustainability of the reforms. Given Kosovo's ambitious reform agenda, continued strong political commitment is essential to ensure its implementation.

The Report notes that **Kosovo should in particular:** review all independent bodies and start implementation of the recommendations of the review in order to enhance accountability, eliminate overlapping competencies and ensure a more streamlined public administration, ensure that the planned legislative package covering civil service, salaries and organization of state administration is prepared in a coordinated way in an inclusive and evidence-based process on the basis of concept notes agreed at the government level, address the issue of the growing backlog of administrative cases in the Basic Court of Pristine, by ensuring funding to increase the number of judges and by improving the working conditions of the Court (e.g. facilitating implementation of the electronic case management system).³⁰⁰

³⁰⁰ EC Progress Report Kosovo Page 10

III. PAR strategic documents and coordination mechanism

A well-functioning public administration is necessary for democratic governance and accountability. The precondition for a well-functioning is **an adequate organization structure** of the public administration bodies. The quality of administration also directly impacts governments' ability to provide public services, to prevent and fight against corruption and to foster competitiveness and growth. Embedding meritocratic principles in the management of the civil service and ensuring adequate administrative procedures are essential. There has been progress over the past year in some countries but much more remains to be done.

1. PAR strategic documents and coordination mechanism in Albania

The central-planning documents of the Government of Albania – the Government Programme 2013-2017,³⁰¹ the Government Priorities (Innovative Governance),³⁰² the Medium-term Budget Programme 2015-2017,³⁰³ the Road Map on Five Key Priorities³⁰⁴ and the National Plan for European Union Integration 2014-2020³⁰⁵ – broadly acknowledge the need for public administration reform.

The Government of Albania has launched a comprehensive Strategic Framework for PAR, which addresses all aspects by adopting **the Cross-cutting PAR Strategy 2015-2020**³⁰⁶ and **Albania Public Finance Management Strategy 2014-2020**,³⁰⁷ as well as the Cross-cutting Strategy “Digital Agenda of Albania 2015-2020”. Besides, the National Crosscutting Strategy for Decentralization and Local Governance (NCSDLG) 2014-2020 was adopted.³⁰⁸

The long term aim of the Cross-cutting PAR Strategy 2015-2020 is to increase the sustainability of public administration through the strict implementation of the procedures as specified in the applicable legal framework, capacity building through in-depth and continuous training of civil servants of the central and local public administration, especially in the field the improvement of managerial and leadership skills. The policy objectives are as follows: improvement of the policymaking system and the quality of legislation; improvement of the way of the organization of public administration; improvement of the Civil Service and Human Resource Management; improvement of the administrative procedures and oversight.³⁰⁹

Vision of the Albania PFM Strategy 2014-2020 is to ensure a public finance system that promotes transparency, accountability, fiscal discipline and efficiency in the management and use of public resources for improved service delivery and economic development. The overall objective of the PFM reform strategy is to achieve a better balanced and sustainable budget with a reduced debt ratio through stronger financial management and control and audit processes and where budget execution is properly linked to Government policies. The purpose of the PFM strategy document is threefold: Identify and address the challenges facing public financial management and suggest the PFM reforms required to support continuous robust growth and the development of the national economy; promote policy coherence, set priorities and assign responsibilities for carrying out public financial management reform; make more transparent to the Parliament, financial sector, business community, international partners and the broader public, the policies pursued and the efforts made by the Government to strengthen the PFM in

³⁰¹ Alliance for European Albania. Government Programme 2013-2017, Government of Albania, 2013.

³⁰² Strategic Planning Committee 22/01/2014. Strategic Planning Committee meeting material provided by the Delivery Unit of the Prime Minister's Office.

³⁰³ Medium-Term Programme Budget 2015-2017, the Ministry of Finance, 2014.

³⁰⁴ Road Map on Five Key Priorities, the Government of Albania, May 2014.

³⁰⁵ National Plan for European Integration, Government of Albania, 2014.

³⁰⁶ Cross-cutting Public Administration Reform Strategy 2015-2020, Decision of the Council of Ministers No. 319, April 2015.

³⁰⁷ Albania Public Finance Management Strategy 2014-2020, Ministry of Finance, December 2014.

³⁰⁸ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Albania, OECD Publishing, Paris, pp. 8,9.

³⁰⁹ Cross-cutting Public Administration Reform Strategy 2015-2020, pp.17,18.

http://www.dap.gov.al/images/DokumentaStrategjik/Crosscutting_Public_Administration_Reform_Strategy.pdf

the country.³¹⁰ PFM Strategy provides for an elaborate implementation and monitoring system. For each Strategy objective and action there are aligned outcome and process-level performance indicators. A comprehensive hierarchical oversight structure is also envisaged within the Strategy. This structure includes a ministerial-level PFM Reform Steering Committee established by the Prime Minister³¹¹, the PFM Reform Secretariat, the PFM Reform Technical Committee, and Pillar Coordinator Committees. The PFM Reform Secretariat produces semi-annual reports summarizing deliverables and outcome results and will submit these to the Steering Committee.

The Cross-cutting “Digital Agenda of Albania 2015-2020” aims toward the more coordinated and efficient direction of investments in the sector of Information technologies and communications, with the emphasis of providing quality services for the citizens and the improvement of livelihood. The vision is to ensure a society based in knowledge and information, through the consolidation of digital infrastructure in the whole territory of the Republic of Albania; improvement of the quality of online public services and increase of governance transparency. The major priorities of this strategy are: the improvement of national infrastructure of information and communication technology; the development of electronic governance and the establishment of a multi-purpose Cadastre.³¹² The Cross-cutting Strategy “Digital Agenda of Albania 2015-2020” foresees that the Strategy will be monitored by the Inter-Institutional Working Group for the Drafting of the Cross-cutting Strategy “Digital Agenda of Albania 2015-2020”.³¹³ The monitoring will be based on a number of performance indicators related to inputs, processes, outputs and outcomes from the Action Plan.³¹⁴

The vision of the National Crosscutting Strategy for Decentralization and Local Governance 2014-2020 (NCSDLG) “Empowerment of the local government and the decentralization process” thereof, in order to ensure a heightened efficiency of local government itself” follows the principles and standards enshrined in the European Charter of Local Self-government and principle of European Administrative Space for local government. The main pillars of the future reform on decentralization and local government and policy priorities are: enhance the overall efficiency of local government structures; Strengthen Local Finances and Increase Fiscal Autonomy; Strengthen Good Governance at the Local Level.³¹⁵ The full coordination of the process of monitoring and evaluation of results of the NCSDLG 2014-2020 as well as the recommendations for potential amendments is ensured by the Minister of Local Government Issues, who is responsible to fulfil the role of crosscutting coordinator of the implementation process and monitoring of the Strategy.³¹⁶

PAR objectives will be implemented through the **Action Plans** of the above mentioned strategies. These action Plans clearly designate the responsible institutions, the financial resources, the sources of funding and implementation deadlines; they also address all areas typically associated with PAR.

The Minister of Innovation and Public Administration (MIPA) has been designated to co-ordinate PAR. Besides, there are the officials in charge of PAR co-ordination, from both the Minister’s cabinet and the Department of Public Administration (DoPA). In 2014, the Inter-Institutional Working Group for the Cross-cutting Public Administration Reform Strategy (IIWG) was established.³¹⁷ The IIWG has been given the mandate to co-ordinate government policy for

³¹⁰ The Public Finance Management Strategy 2014-2020, p. 14.

http://www.financa.gov.al/files/userfiles/Raportimet/Albanian_PFM_strategy_2014-2020.pdf

³¹¹ Albania Public Financial Management Strategy 2014-2020, Ministry of Finance, December 2014, Chapter V.

³¹² Digital Agenda of Albania 2015-2020, p. 23.

http://www.inovacioni.gov.al/files/pages_files/Digital_Agenda_Strategy_2015_-_2020.pdf

³¹³ Cross-cutting Strategy “Digital Agenda of Albania 2015-2020”, Decision of the Council of Ministers No. 284, April 2015, Official Gazette No. 56, p. 42.

³¹⁴ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Albania, OECD Publishing, Paris, pp. 6,9,10.

³¹⁵ National Crosscutting Strategy for Decentralization and Local Governance 2014-2020, pp. 16-18.

http://www.ceshtjetvendore.gov.al/files/pages_files/15-04-20-02-59-36Decentralisation_Strategy_Final_-_Feb_2015_-_English.pdf

³¹⁶ National Crosscutting Strategy for Decentralization and Local Governance 2014-2020, p. 36.

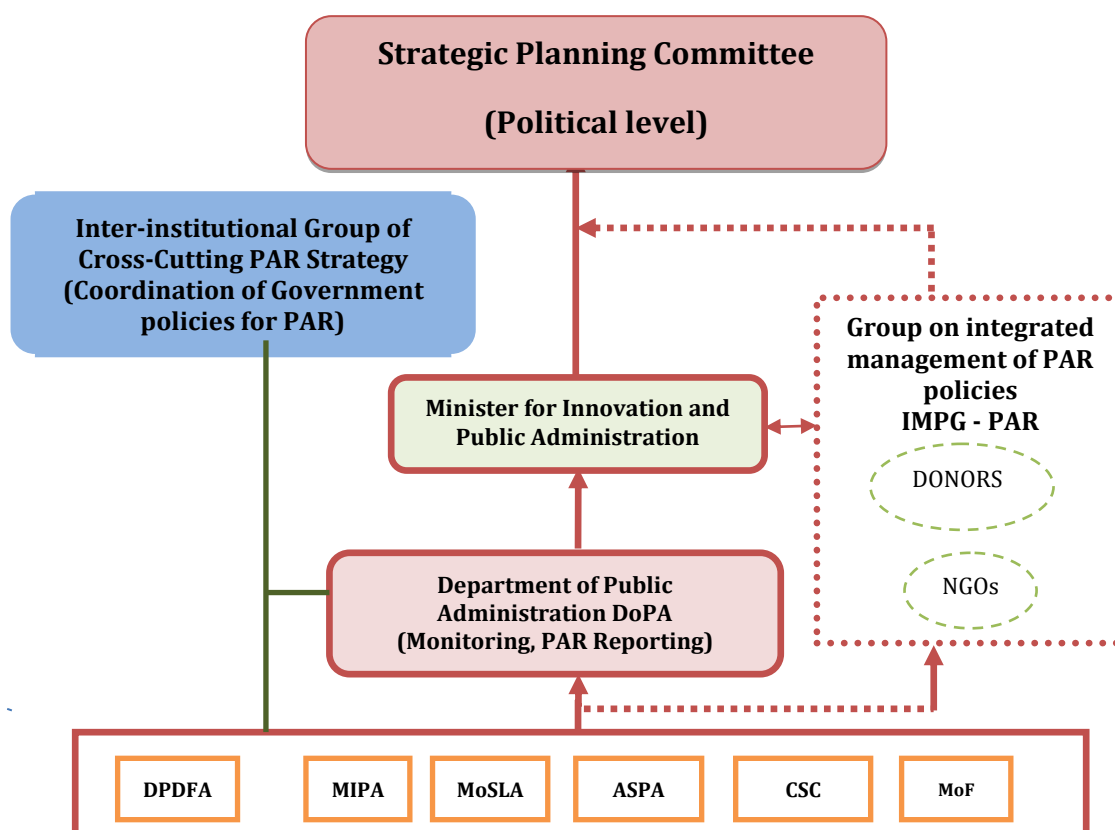
³¹⁷ Prime Minister’s Decree No. 180, dated 19 June 2014.

PAR and to draft and monitor the implementation of PAR strategy. Also, a technical Working Group³¹⁸ was also established to assist the IIWG in achieving PAR progress.

The Cross-cutting PAR Strategy defines **priorities, objectives and performance indicators** linked to objectives and activities. It is envisaged that the implementation of the Strategy will be based on the use of a number of performance indicators related to inputs, processes, outputs and outcomes from the Action Plan. Based on these indicators, the DoPA produces annual reports on the progress of public administration reform.

Structures and stakeholders involved in the Monitoring and Evaluation System of the Cross-cutting PAR Strategy are set in place and are explained in detail in the Strategy. The whole process of monitoring and evaluation is managed at political level by the Minister responsible for Innovation and Public Administration. The Strategy foresees establishment of Inter-Institutional Group for the Cross-Cutting Public Administration Reform Strategy to coordinate the work at high level of government policy for drafting the Strategy. In addition, this body is responsible for permanently monitoring implementation of PAR. In parallel, DoPA is responsible for the monitoring and reporting system, which will provide periodic information on the progress of implementation of activities foreseen in the planning document.

Figure 1 Coordination and Monitoring structure of PAR - Albania



Source: CROSS CUTTING PUBLIC ADMINISTRATION REFORM STRATEGY 2015 - 2020

DoPA is responsible for drafting **6-month and annual reports on the progress of the implementation of the Strategy**. Annual reports will present the progress of the strategy implementation and evaluation based on the of success (outcome) indicators. The Cross-Cutting Public Administration Reform Strategy will undergo a mid-term evaluation process, expected to be completed by late 2017. The evaluation will include the period from 2015 to 2017 and will highlight the achievements of the first two years of the strategy in relation to the expected outcomes and the level of achievement of the objectives of the strategy. Mid-term evaluation will

³¹⁸ the Order of the Minister of Innovation and Public Administration No. 3664, dated 29 September 2014.

serve to define a more precise action plan for the period of 2018-2020, for an assessment of financial needs for the implementation of the strategy for the next three-year period by orienting in this way the programming resources in the frame of the Medium Term Budget Program. DoPA will develop a specific methodology, which will determine how the process of Strategy monitoring will and evaluation will be conducted. Establishing of a monitoring and evaluation system is accompanied by institutional strengthening activities and capacity building of human resources of the structures involved in the implementation of the strategy. Investments are made in information technology to facilitate the system of keeping and reporting the data and to carry out statistical analysis. All other ministries and independent institutions involved will provide information in accordance with the activities and the level of defined indicators.

For the purpose of **reporting**, the responsible institutions will collect the data from other partner structures and institutions and will report to DoPA about their accomplishment. **The Group on the Integrated Management of the PAR Policies** is established in the first year of implementation of Cross-Cutting Public Administration Reform Strategy (2015) in the frame of the process of improving the coordination and policy drafting. The role of the Integrated Management Policy Group of the Public Administration Reform (IMPG- PAR) is significant in terms of process of the management of PAR policies in the frame of periodic reporting to the Strategic Planning Committee on the progress of reform in public administration and *vis-a-vis* the Implementation of the Cross-Cutting Public Administration Reform Strategy 2015 – 2020 (See Figure 1).³¹⁹

* * *

Challenges: Consolidation of the framework of the Integrated Planning System still remains a challenge, because restructuring of institutions leads to confusion and overlapping roles and functions of structures. Thus, it is necessary to consolidate the capacities of new structures in terms of the operation of all the mechanisms system as a whole. In addition, **capacity building of stakeholders** involved in the drafting and monitoring of strategies, but also the legislation, as the main instrument for the implementation of strategies, remains a challenge for the future. Capacity building and functioning of Strategic Management Groups, as the coordinating structures within each ministry, is one of the challenges that require attention in the future. Capacity building of line ministries in regard to drafting and monitoring the policies, strategies, action plans and legislation is necessary.

Moreover, the level of Inter-Ministerial coordination (IWGs as an inter-ministerial structure) remains still a challenge to be addressed. Inter-Ministerial Working Groups (IWGs) have faced great difficulties in terms of their operation, collection of contributions, preparation of quality materials and coordination in general. This has led to delays in terms of drafting the cross-cutting strategies, or it has led to drafting of poor documents.

2. PAR strategic documents and coordination mechanism in Bosnia and Herzegovina

There are currently no countrywide PAR central planning documents in BiH. In the absence of these documents, several planning documents adopted by the Council of Ministers of Bosnia and Herzegovina (CoM of BiH), the Government of the Federation of Bosnia and Herzegovina (FBiH), the Government of the Republika Srpska (RS) and the Government of the Brčko District (BD) identify public administration reform (PAR) as a priority.

PAR is one of the few areas where a countrywide strategy has been approved and implemented by all levels of the BiH administration – the State level of BiH, the FBiH, the RS and the BD. However, the two PAR planning documents – **the PAR Strategy**³²⁰ and the **Revised Action Plan 1 (RAP1)**³²¹ - expired at the end of 2014 but continue to be implemented in 2015

³¹⁹ Cross cutting Public Administration Reform Strategy 2015-2020

³²⁰ BiH PAR Strategy, CoM of BiH, Government of RS, Government of FBiH, 2006.

³²¹ RAP1, CoM of BiH, Government of the RS, Government of the FBiH, and Government of BD, 2011.

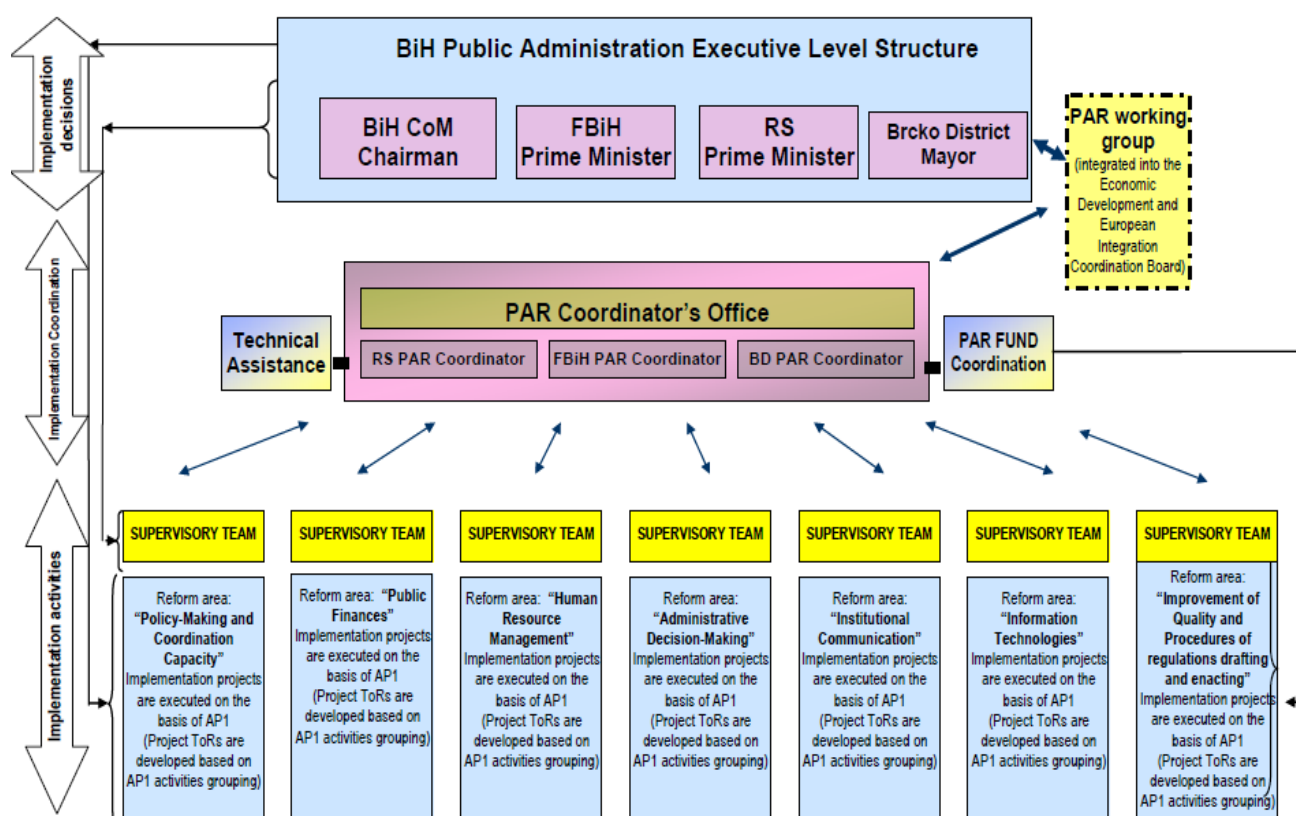
and 2016. The PAR Strategy and RAP1 covered six reform areas: the Strategic Planning, Coordination and Policy Making, Public Finance, Human Resources Management, Administrative Proceeding and Administrative Services, Institutional Communication and e-Government.

PAR documents setting out medium-term and annual priorities for the State level, the FBiH, RS and BD. The Work Programme for 2014 of the CoM of BiH³²² identifies PAR and public finance management as one of its work areas and foresees a regular flow of related information. The Work Programme of the Government of the FBiH for 2011-2014³²³ identifies the need to complete PAR to enable the public administration in the FBiH to operate professionally, transparently and consistently with European standards. The Economic Policy for 2014 of the RS³²⁴ identifies a number of activities designed to reduce costs and establish an efficient and effective public administration. The Development Strategy of BD for 2008-2017³²⁵ also mentions the need to improve the public administration.

Separate PAR reporting and monitoring system produces regular **biannual and annual reports**. However, the weakest part is the use of performance indicators. The indicators are mainly process - and output-level ones; thus, reporting is realised based on the achievement of activities and objectives, not actual impacts achieved. The reports are publicly available.

There is a clear **PAR management and co-ordination structure in BiH**. It is well defined and described in the Common Platform document adopted by the CoM of BiH, the Government of FBiH, the Government of RS and the Government of BD.³²⁶ The CoM of BiH and the Governments of FBiH, RS and BD monitor PAR implementation by reviewing biannual and annual progress reports and other documents submitted to them regarding different PAR-related issues.

Figure 2 Strategy for PAR in BiH Action plan 1 Implementation Chart – Management structure³²⁷



³²² The Work Programme of the CoM of BiH for 2014, the CoM of BiH.

³²³ Work Programme of the FBiH 2011-2014, Government of FBiH, December 2011.

³²⁴ The Economic Policy for 2014, the National Assembly of RS, December 2013.

³²⁵ The Development Strategy of BD for 2008-2017, BD Assembly.

³²⁶ Common Platform on The Principles and Implementation of the Strategy on PAR in BiH Action Plan 1, CoM of BiH, Government of FBiH, Government of RS, Government of BD, April 2007.

³²⁷ <http://rju.parco.gov.ba/wp-content/uploads/2008/03/common-platform-annex-scheme.pdf>

The Economic Development and European Integration Co-ordination Board was envisaged as a political-level co-ordination and supervisory body for the PAR process in BiH, consisting of heads of the CoM of BiH, the Governments of the two Entities and the BD, and other major stakeholders. However, it has never met to discuss any PAR-related issues.³²⁸

At the administrative level, **PAR Co-ordinators** have been appointed in the State, the two Entities and the BD.³²⁹ They are responsible for co-ordinating reform efforts within and among specific administrative levels. According to the PAR Strategy, the PAR Co-ordinators should hold regular meetings (preferably monthly) during which they are to discuss matters relevant to facilitating the coordination of administrative reform across BiH.³³⁰

Supervisory Teams in the **six policy areas** defined in the PAR Strategy supervise the implementation of the activities foreseen by RAP1 and the objectives set out in the PAR Strategy (Strategic Planning, Coordination and Policy Making, Public Finance, Human Resources Management, Administrative Proceeding and Administrative Services, Institutional Communication and e-Government). The Supervisory Teams consist of representatives of relevant public administration bodies from the State level, the two Entities and the BD.

There are two important issues regarding the PAR co-ordination and management structures. The first relates to the effectiveness of the co-ordination mechanism. Despite frequent meetings within a formal co-ordination structure, implementation of the RAP1 experienced significant challenges in reaching the objectives and implementing activities within the set deadlines. The challenges may have been attributable also to the elections but, in general, the activeness of the co-ordination mechanism is not linked to the achieved progress. The second issue is that the Common Platform is directly connected to the AP1/RAP1 and the deadlines for the RAP1 expired. The PAR Coordinators and the CoM of BiH, entity governments and the Brcko District Government formally agreed to continue implementation of uncompleted measures and activities from the RAP1 in the same way - until a new strategic framework for PAR is elaborated and adopted.

One institution, the PARCO at the State level of BiH – **the PAR Coordinator's Office** is assigned to co-ordinate the PAR agenda together with PAR Co-ordinators at the Entity and the BD levels, and its staff regularly participates in capacity building activities. Well-defined PAR management and co-ordination structures at both the political and administrative level, designed for the PAR Strategy and the RAP1, continue to operate informally.

A document called "PAR: The Way Forward" was prepared in September 2014,³³¹ which contains an assessment of the current PAR status and proposed next steps for the future of PAR policy. However, this document was not accepted by all levels of governments and therefore the proposed steps have not been realised.

A new PAR strategic framework has not yet been prepared. The PARCO is currently developing new strategic framework for BiH.³³² At the same time, The CoM of BiH adopted the PFM Strategy for the level of BiH institutions on 29 December 2016 (entities and District strategies are in preparation).

Despite the expiry of the 2014 strategy and its action plan, the **Public Administration Reform Coordinator's Office continued to implement projects financed with the PAR Fund**. The semi-annual report for 2016 declared a 66 % rate of implementation but the current monitoring framework lacks clear performance indicators that would make it possible to determine how far reform objectives have been achieved. The public administration reform sector coordination mechanism under the previous strategy continues to provide an effective structure for cooperation with entity and Brčko District levels. However, the PAR strategy

³²⁸ Common Platform on The Principles and Implementation of the Strategy on PAR in BiH Action Plan 1, CoM of BiH, Government of FBiH, Government of RS, Government of BD, April 2007, Sarajevo.

³²⁹ CoM of BiH Decision on the Establishment of the Co-ordinator for PAR, October 2004, Sarajevo.

³³⁰ BiH PAR Strategy, CoM of BiH, Government of RS, Government of FBiH, Government of BD, 2006, p. 55.

³³¹ Document "PAR: the Way Forward" was prepared with the support of the EU Technical Assistance project "Support to Co-ordination and Implementation of PAR in BiH".

³³² SIGMA (2015) Baseline Measurement Report, the Principles of Public Administration Bosnia and Hercegovina, OECD Publishing, Paris, pp. 8-20. <http://www.sigmaweb.org/publications/Baseline-Measurement-2015-BiH.pdf>

implementation is not **financially sustainable**. Cost estimates for human resource needs and other costs of implementation are not reflected in the annual budgets and the medium-term expenditure frameworks at all levels³³³.

Other strategic documents relevant for PAR are as follows:

- BIH: Policy framework for the development of HRM within structures of public administration in BiH – the document is the result of cooperation between PARCO and SIGMA; Anti-corruption Strategy for 2015 - 2019 and the Action Plan for the Implementation of the Anti-corruption Strategy for 2015 - 2019³³⁴.

- FBIH: Strategy for professional development of local self-government units in the Federation of BiH (2016-2020); Strategy for professional development of employees in the Federation of Bosnia and Herzegovina (2016-2020); Policies of the Government of the Federation of BiH on limiting of public expenditure on salaries and other payments over salaries (Conclusion of the Government of the Federation of BiH Number 1363/2016, 24th June 2016);

- RS: Anti-Corruption Strategy in the Republic of Srpska 2013-2017; Action Plan for the implementation of the Anti-Corruption Strategy in the Republic of Srpska; e-Government Strategy of the Republic of Srpska; The economic policy of the Government of the Republic of Srpska; Framework plan for training of employees in the administrative bodies of the Republic of Srpska for the period 2015-2018; Annual Staff plans of the Government of the Republic of Srpska; BiH Reform Agenda for the period 2015-2018; Republic of Srpska Action plan for Implementation of BiH Reform Agenda.³³⁵

Challenges: to adopt the new PAR document with full political support at all levels of government; Continuous improvement of PAR coordination mechanism; IPA II and donor support for PAR fund and PAR project implementation (financial stability of PAR projects).

3. PAR strategic documents and coordination mechanism Macedonia

Most of the Government central planning documents identify PAR as a priority – including the Expose of the Prime Minister,³³⁶ the Programme of the Government 2014-2018,³³⁷ National Programme for Adoption of *Acquis* of the European Union, Revision 2014-2016,³³⁸ and the Fiscal Strategy 2015-2017.³³⁹ However, PAR objectives and measures are not always coherently addressed in these documents. For example, the fiscal strategies³⁴⁰ do not mention PAR at all, while other central planning documents (e.g. the Expose of the Prime Minister) stress mainly particular aspects of the PAR agenda (e.g. service delivery or HRM, but not strategic planning).

A PAR Strategy and PAR Action Plan (revised in 2012³⁴¹) was defined objectives and actions for the reform. Two other planning documents fall within the scope of PAR: the Strategy for Development of Public Internal Financial Control (PIFC) 2015-2017³⁴² with Action Plan and the State Programme for Prevention and Reduction of Conflict of Interests for the period 2011-2015³⁴³ with Action Plan.

The mechanism for monitoring implementation of the PAR Action Plan (revised in 2012) has been established, and annual implementation reports are provided to the Government. These reports focus mainly on the output; analysis based on clear performance indicators and targets is lacking. The PAR Strategy and Action Plan (revised in 2012) provide information on

³³³ EC Report for BiH, 9 November 2016, p. 12.

³³⁴ <http://www.apik.ba/zakoni-i-drugi-akti/strategije/?id=806>

³³⁵ Questionnaire.

³³⁶ Exposé of the Prime Minister, 2014.

³³⁷ Programme of the Government 2014-2018.

³³⁸ National Programme for Adoption of *Acquis* of the European Union, Revision 2014-2016, December 2013.

³³⁹ Fiscal Strategy 2015-2017, October 2014.

³⁴⁰ Fiscal Strategy 2014-2016, September 2013; Fiscal Strategy 2015-2017, October 2014.

³⁴¹ Revised Action Plan of the Public Administration Reform Strategy 2010-2015, Midterm Revision 2012, October 2012.

³⁴² Strategy for Development of Public Internal Financial Control in 2015-2017, August 2014.

³⁴³ State Programme for Prevention and Repression of Corruption and State Programme for Prevention and Reduction of Conflict of Interests with Action Plans for the period 2011-2015, December 2011.

costing of reform actions, but it is incomplete. Sources of finances are not indicated and linkages with national financial planning documents are weak.

A co-ordination mechanism for PAR exists at the political level, both through meetings of the Committee for Reforms of the State Administration³⁴⁴ and regular Government sessions. This system was envisaged by the PAR Strategy and put into operation in line ministries accordingly. At the administrative level, PAR-related issues are discussed at meetings of the General Collegium of State Secretaries. This ensure that all materials are discussed and undergo a final screening by the General Collegium of State Secretaries before being placed on the Government meeting agenda, where they are discussed at the political level.³⁴⁵

PAR coordination mechanism consists of following actors and institutions:

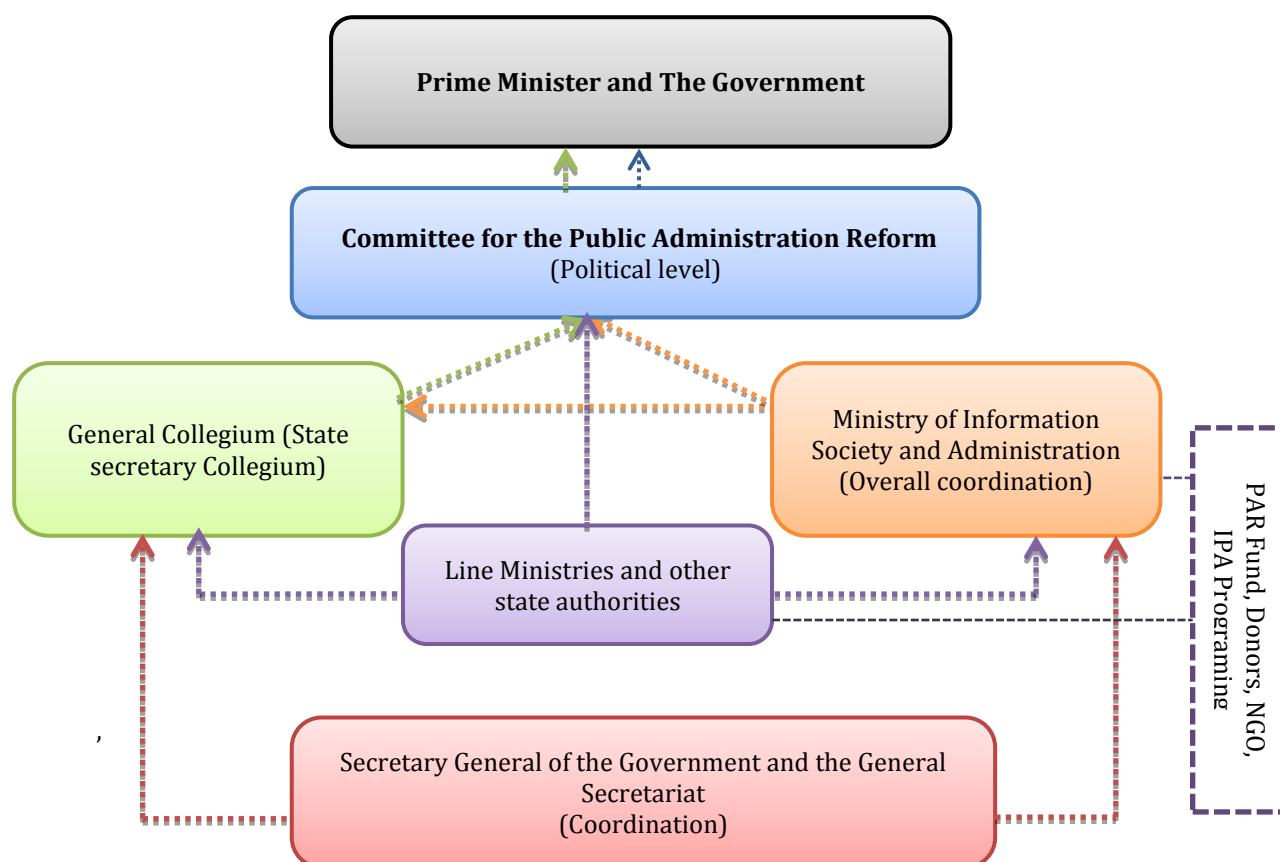
- **Prime Minister and the Government** The Government has the responsibility to discuss at least twice a year implementation of the PAR Strategy in the thematic meetings. In order to resolve political issues, the Prime Minister may ask for consultations with responsible ministries before the beginning of thematic meetings.
- **Committee for State Administration Reform.** Represents an institutional structure for the management of the whole process of the reforms at the governmental level as a special management and coordination body. This Committee is summoned once each month and has the competence to steer the PAR process and to overview the implementation process. As the highest political level for coordination of the reform process, this Committee is also responsible for the political support and political coordination to the implementation of the PAR Strategy.
- **General Collegium (State secretary Collegium)** The General Collegium is given the responsibility to discuss different PAR relevant matters at the extraordinary and the thematic meetings before the Government thematic meetings take place.
- **The Secretary General of the Government and the General Secretariat** The Secretary General was so far responsible for coordination of the whole PAR process, and it is responsible for preparation of the Government and General Collegium's meetings. The General Secretariat of Government retains the competence for the development of strategic planning of the policies that are determined by the Government.
- **The Ministry of Information Society and Administration** The Ministry of Information Society and Administration has a core role in the field of Public Administration Reform and Development during the next period. The Ministry of Information Society and Administration will take over and maintain Public Administration Reform and development, foreign donors coordination in this field, Policy making and preparation of strategic documents in related to PAR will be under direct competence of the Ministry of Information Society and Administration, One of the main functions of the Ministry of Information Society and Administration will be to provide continuity of the process of PAR.
- Most ministries are also involved in the PAR process. Considering the fact that the PAR is a horizontal process – all sectors of Public Administration must be involved in order to enable sustainable progress. Although the Ministry of Information Society and Administration coordinates the reforms, each ministry and other state authority is responsible for implementing reforms within their sector and to inform and coordinate actions with the Ministry of Information Society and Administration **(See the following Figure 3).**³⁴⁶

³⁴⁴ Decision On establishment of a Committee for Reforms of the Public Administration, Official Gazette Nos. 112/2011 and 122/2011, August 2011.

³⁴⁵ SIGMA (2015) Baseline Measurement Report, The Principles of Public Administration Former Yugoslav Republic of Macedonia, OECD Publishing, Paris, pp. 7,8.

³⁴⁶ Public Administration Reform Strategy 2010-2015, Page 62

Figure3 Coordination institutional setting of PAR - Macedonia



The PAR Strategy foresees a monitoring system that consists of two information generating modules, and a reporting module. The Strategy does not dwell in more detail about the monitoring process of the PAR Strategy.

From this time distance, it is evident that implementation of this PAR Strategy (2010-2015) brings into the light the shortcomings in the area of **planning, monitoring and reporting**. There is a need for additional efforts to increase capacities for strategic planning across the overall public administration in the Republic of Macedonia. In parallel, special attention ought to be given data management and data information systems in order to increase interoperability across the spectrum of the public sector institutions as a prerequisite of the planning monitoring and reporting for the successful implementation of the Strategy.

The new PAR Strategy document which will cover the period 2017-2022 is under preparation.

4. PAR strategic documents and coordination mechanism in Montenegro

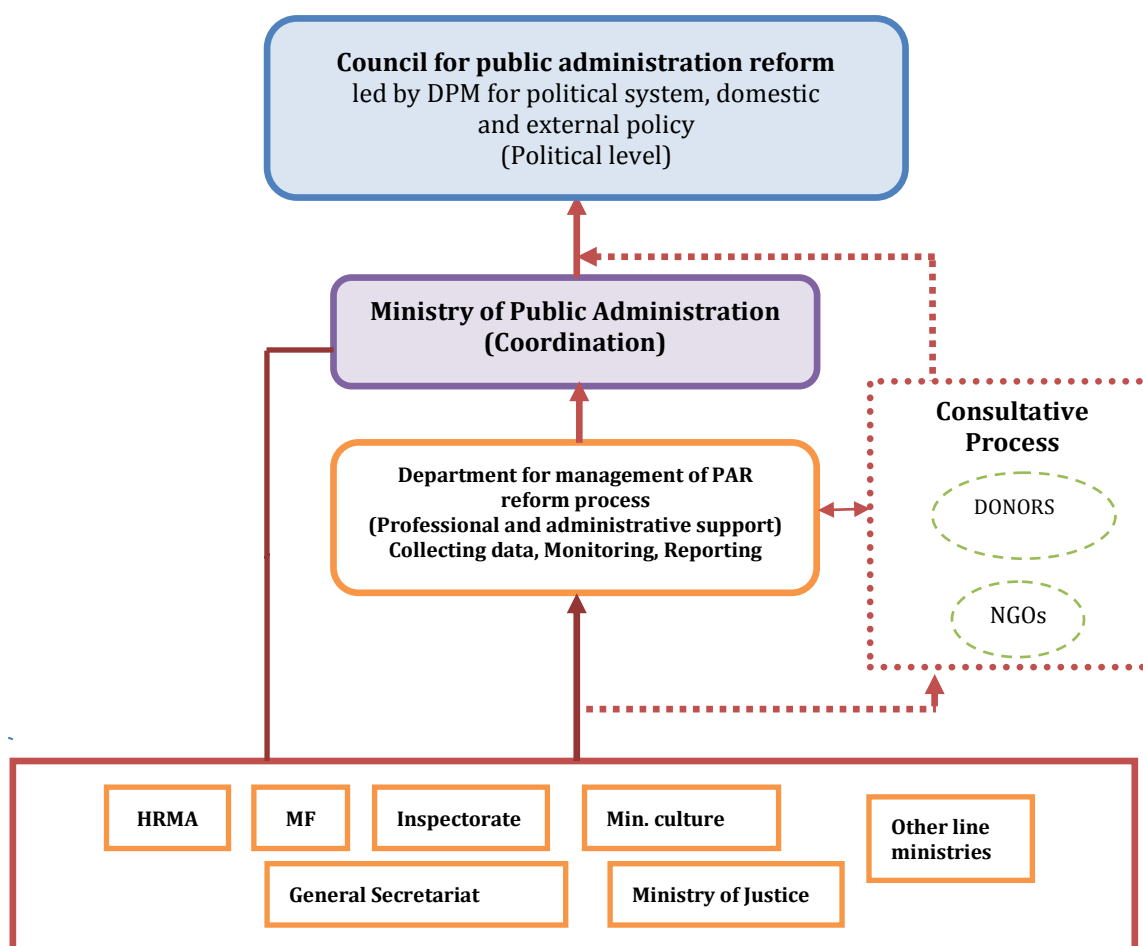
The central strategic document for PAR is **the Strategy of Public Administration Reform in Montenegro 2016-2020**, along with the Action Plan for its implementation.³⁴⁷ This document encompasses the entire public administration system which, in Montenegro, includes state administration, local self-government and organisations with public powers (organisations with their own legal personality which perform specific administrative tasks conferred upon them by the Law or under the Law). The general objective of reform activities by 2020 is a

³⁴⁷ The Public Administration Reform in Montenegro 2016-2020 with the Action Plan.
<http://www.mup.gov.me/rubrike/strategija/>

creation of an efficient and service-oriented public administration, which will be directed towards citizens needs and established on best practices of administrative systems of EU countries. In order to achieve that, the activities of reform process are focused on the following areas: organisation and responsibility in public administration system; public services; civil service system and human resources management; policy development and coordination; public financial management; specific local self-government issues; strategic management of public administration reform process and financial sustainability. An integral part of Strategy 2016-2020 is the Action Plan for its implementation 2016-2017, which contains all necessary elements for successful management of the reform process (objectives, activities, deadlines, indicators, necessary funding). The AP represents a program framework for implementation of the key activities in PAR for these two years, whose revision will be possible in accordance with assessment of progress in achieving individual objectives established by the Strategy. Action Plan also serves as the basis for managing funds provided through various forms of international financial support instruments.³⁴⁸

Other relevant documents include the **PFM Reform Programme 2016 -2020**,³⁴⁹ the Strategy for professional development of local self-government in Montenegro 2015-2018 with the Action plan for its implementation³⁵⁰, the Strategy for Information Society Development till 2020 ³⁵¹ (APs will be adopted annually) and the Strategy for public internal financial control (PIFC) 2013-2017.

Figure 4 Approach to the future PAR coordination structure in Montenegro



³⁴⁸ The Strategy of Public Administration Reform in Montenegro 2016-2020, July 2016, pp. 45-46.

³⁴⁹ The Public Finance Management Reform Programme 2016 -2020, Government of Montenegro, 3 December 2015;

³⁵⁰ The Strategy and AP were adopted in January 2016 by the Government.

³⁵¹ 21 July 2016.

As regards **coordination structure**, following adoption of a new strategic document, the Council for public administration reform will be established on the political level. The work of the Council is managed by the Deputy Prime Minister in charge for political system, domestic and external policy and which is composed of representatives of key institutions for implementation of public administration reform. Professional and administrative support to the Council for PAR is provided by the Ministry of Interior.

The Ministry of Interior is responsible for preparation of annual report on implementation of the Strategy in cooperation with all responsible institutions. The Report should be considered by the Council for public administration reform and adopted by the Government till the end of the first quarter of the current year for the previous year. Annual reports should contain elements which enable not only monitoring of direct outcomes in implementation of the Strategy, but also the actual changes produced by implementation of certain activities.³⁵² Apart from formal reporting to the Government, exchange of information on the progress of the reform with representatives of the EU is provided through the work of the PAR Special Group of the EC and Montenegro.

On 28th November 2016 the Parliament voted on **the new Montenegrin Government** with some changes in organization of line ministries and responsibilities. Just established **Ministry for public administration** will be responsible for PAR instead of the Ministry of Interior³⁵³. With closing of the Ministry for Information Society and Telecommunications, department fore-government should be integrated within the Ministry for Public administration.

Challenge: full political support for PAR implementation; costing of the strategy; donor support including IPA II and potential direct budget support for PAR and PFM.

5. PAR strategic documents and coordination mechanism in Serbia

The key strategic document for PAR, the **Public Administration Reform Strategy** (PAR Strategy)³⁵⁴ outlined the general objective of the reform – to ensure further enhancement of the public administration operations in line with the principles of *European Administrative Space* that is, to create the high quality services for citizens and businesses, and the public administration that will significantly contribute to economic stability and improved living standard of citizens.

The PAR Strategy together with the **Action Plan** for its implementation for period 2015 – 2017³⁵⁵ provides the necessary targets, principles and directions of the overall reform of public administration and conditions for the realisation of respective measures and activities in different areas and issues of general interest for the state and the society as a whole, above all those related to: improvement of organisational and functional subsystems of public administration; establishment of a harmonized merit system of public service and improvement of human resources management; improvement of public finance and public procurement management; upgrading of legal security and improvement of business environment and quality of public service; increasing of transparency, improvement of ethical standards and

³⁵² The fourth meeting of the PAR Special Group of the EC and Montenegro was organized in Podgorica on June 16, 2016.

³⁵³ Stressing that the current administration is robust, costly and inert given the market challenges, the new Prime Minister said that it requires the improvement of personnel structure, raising the level of professionalism and handling the surplus of employees in public administration. "In order to achieve the objective of sustainable economic growth and overall progress of society, a better motivated public service is necessary, along with simultaneous strengthening of the system of oversight and accountability for commitments undertaken, starting at the level of management, to every post in the administration," concluded PM Markovic in his inaugural speech in the Parliament of Montenegro (<http://www.gov.me/en/News/167233/Inaugural-speech-by-Prime-Minister-designate-Dusko-Markovic-in-Parliament-of-Montenegro.html>).

³⁵⁴ Public Administration Reform Strategy in the Republic of Serbia, OG RS No. 9/14, 42/14.

³⁵⁵ Action Plan for the Implementation of Public Administration Reform Strategy in the Republic of Serbia, 2015 – 2017, OG RS No. 31/15. <http://www.mduls.gov.rs/english/reforma-javne-uprave.php>

responsibility in the performance of public administration and strengthening of monitoring mechanisms in public administration.

Other strategic documents relevant for PAR process are as follows: the Strategy for Professional Development of Civil Servants,³⁵⁶ the Strategy for Professional Development of Local Self-Government Units in the Republic of Serbia and Action plan for its implementation 2015-2016,³⁵⁷ the Strategy of Development of Electronic Government for the period 2015-2018 and the Action Plan for the implementation for the period 2015-2016,³⁵⁸ the National Anti-Corruption Strategy in the Republic of Serbia 2013-2018,³⁵⁹ the Action Plan for implementation of National Anti-Corruption Strategy,³⁶⁰ Programme of Public Finance Management Reform 2016-2020, November 2015, National Programme for the adoption of the EU acquis, 2016.³⁶¹

PAR Strategy coordination implementation is performed at four levels, out of which the first and second represent expert coordination levels, while the third and fourth are political coordination levels of PAR process:³⁶²

1) **The first level** of coordination and management of the PAR, which primarily consists of performing operational tasks of the PAR process, is under the responsibility of MPALSG. In the previous period the **Group for Improvement of Public Administration Reform** was set up in the MPALSG. This unit performs activities which are primarily related to the following: participation in preparation of development strategy and action plans in the field of public administration reform; participation in the preparation of action plan for Open Government Partnership implementation; professional tasks for the needs of Council for Public Administration Reform; preparation of reports in the European integration process from the aspect of the implementation of the development strategy and action plans in the field of PAR and Open Government Partnership; professional development of the employees in state authorities; participation in the preparation of laws and other regulations regarding professional development in state authorities and state examination; etc.

2) **The second level** of coordination and management of the PAR is the **Inter-ministerial Project Group** (IPG) which was set up under Decision by the Minister for State Administration and Local Self-Government.³⁶³ Specific tasks of the IPG are: participation in the creation of strategies and action plans in the PAR process; involvement of all relevant initiatives and projects in the PAR strategy (within the regular revision of the Strategy, respectively in process of the development of the new PAR Strategy); recommending the inclusion of certain activities in the Annual Work Plan of the Government (in cooperation with MPALSG and GS); harmonization of other national strategic documents with the PAR Strategy (in cooperation with RSJP and GS); adoption of the report on the implementation and evaluation of the results achieved by the PAR Strategy and Action Plan for its implementation, based on the analyses and proposals developed by the Department of PAR in MPALSG; proposing the College of the State Secretaries for discussion and adoption of decisions on which consensus is not reached within the framework of the MPG; participation in the evaluation of the results of the implementation of the PAR Strategy in accordance with the methodology of evaluation (each member within the scope of his authority).

Tasks of the Group members are primarily aimed at professional coordination and determination of reports on the implementation of the PAR Strategy. This mechanism ensures the active participation of all relevant state administration bodies (SAB) in the PAR process. Its members are the general secretaries in all ministries and representatives of a similar rank of the specific organisations and services of the Government, as well as representatives of the Civil

³⁵⁶ Strategy for Professional Development of Civil Servants, OG RS No. 56/11 and 51/13.

³⁵⁷ Strategy for Professional Development of Civil Servants, OG RS No. 56/11 and 51/13.

³⁵⁸ Strategy of Development of Electronic Government for the period 2015-2018 and the Action Plan for the implementation for the period 2015-2016, OG RS No. 107/15.

³⁵⁹ National Anti-Corruption Strategy in the Republic of Serbia 2013-2018, OG RS No. 57/13.

³⁶⁰ Action Plan for implementation of National Anti-Corruption Strategy, OG RS No. 79/13 and 61/16.

³⁶¹ http://www.seio.gov.rs/upload/documents/nacionalna_dokumenta/npaa/npaa_eng_2014_2018.pdf

³⁶² Action Plan for the Implementation of Public Administration Reform Strategy in the Republic of Serbia, pp. 63-67.

³⁶³ No. 119-01-00242/2014-04, 23 February 2015.

Society Organisations, the Sector of Civil Society Organisations (SCSO) in charge of the public administration reform. Furthermore, the Standing Conference of Towns and Municipalities (SCTM) is equally included in the IPG as a connection with the local government. The IPG consists of 34 members and 33 deputy members, of whom 12 are the representatives of the non-governmental sector. IPG's Secretary is the Head of the Unit for the Public Administration Reform and Professional Training from MPALSG in order to ensure the connection between the two levels of professional coordination and reporting. The IPG meets in plenary or in smaller groups (subgroups), which will be formed in accordance with the initial needs assessments in the process of coordination of the PAR. Regular meetings are once a month, on the proposal of MPALSG, while more frequent meetings may be organized if necessary according to the needs of PAR coordination and monitoring process.³⁶⁴

3) **The third level** of coordination and management of the PAR represents the **Collegium of State Secretaries**, which is also the first level of political coordination. The Collegium was established as a working group of the PAR Council at the constitutive meeting held on 28 August 2014.³⁶⁵ In addition to the State secretaries of all ministries, the members are: the Deputy Secretary General of the Government, the Deputy Director of the Office for European Integration, the Deputy Director of the State Secretariat for Legislation, the Deputy Director of the National Secretariat for Public Policy and a representative of the Cabinet of the Minister without portfolio responsible for European integration.

The Collegium was established with a specific objective to monitor: the coordination of the implementation of the PAR Strategy and Action Plan for its implementation; the process of reporting on the effectiveness of the implementation of the PAR Strategy and Action Plan. The Collegium discusses all issues that are important for PAR and the coordination and harmonization between ministries and other SAB, as well as on issues on which consensus is not reached at the professional level. At its meetings, the College will review the reports arising in the process of monitoring and PAR reports on the evaluation of the PAR Strategy or Action Plan. The Collegium also proposes issues for consideration at meetings of the Council for PAR.

4) **The fourth level** of coordination and management of the PAR is the PAR Council established by the Government Decision on forming the Council for the Public Administration Reform.³⁶⁶ The Council has been established as the central strategic body of the Government responsible for the PAR. The main tasks of the PAR Council are: defining the proposals for the strategic development of PA in the Republic of Serbia; initiating and proposing the PAR measures and actions to the Government; discussing and adopting Reports on achieved objectives in connection with the PAR; promoting and monitoring the progress of the PAR Strategy implementation, particularly from the perspective of the incorporation of the PAR principles and objectives into the sectorial development strategies and measures from the plans; discussing and providing of preliminary opinion to the Government, about development strategies, draft laws and other legal documents related to the organization and work of the Government, PA bodies and in particular those proposing the incorporation of new state authorities, organizations, services or bodies of the Government.

The Council is chaired by the Prime Minister, and co-chaired by the Deputy Prime Minister/Minister of Public Administration and Local Self-Governance. The members of the Council are the relevant of line ministers and representatives of other state authorities. If necessary, the Council constitutes a special working group. Also, the Council may engage professional and educational institutions and prominent experts in the form of international projects, in order to study particularly complex issues related to the PAR.

Reporting is a crucial step in the monitoring process and it comprises compiling concise and specific reports based on previously collected information on the progress made in the

³⁶⁴ Semi-annual Report for the First Half of 2016 on Implementation of the Action Plan of the Public Administration Reform Strategy in the Republic of Serbia, 2015-2017, MPALSG, July 2016, p. 24.

<http://www.mduls.gov.rs/english/reforma-javne-uprave.php>

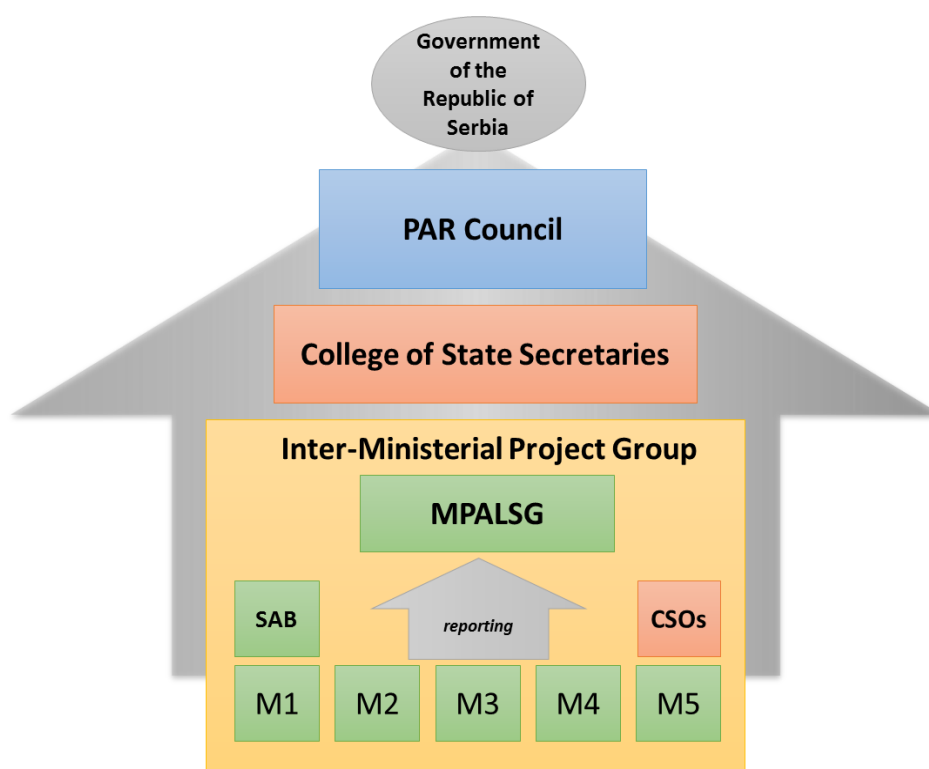
³⁶⁵ No. 23 119-10554/2014, 28 August 2014.

³⁶⁶ Decision of the Council on Education for Public Administration Reform, "Official Gazette of RS", no. 79/2014,86/2014,120/2014, 22/2015.

implementation of public policy outcomes. As regards the frequency of reporting, the PAR Action plan provides for semi-annual and annual reporting. Reporting is coordinated and conducted by an organisational unit of the MPALSG designated to monitor and report on the attainment of PAR Strategy objectives (the Public Administration Reform Management Group), as well as the relevant organisational units of other competent ministries and state administration bodies designated as responsible for achieving the results in the PAR Action Plan through their contact points (deputy members) in the Inter-ministerial Project Group.³⁶⁷

After being processed by the MSALSG, reports should be discussed, endorsed and adopted at all levels of coordination including: the Inter-ministerial Project Group, the Collegium of State Secretaries and PAR Council (once in a year, as a minimum). Also, if it is necessary, the thematic sessions of the Government can be organized, to discuss and make conclusions about particular issues of general importance (while some can be discussed at the regular Government sessions).³⁶⁸

Figure 5 Coordination and reporting structure of PAR - Serbia



Source: Action Plan for the Implementation of PAR Strategy in the Republic of Serbia, pp. 72.
<http://www.mduls.gov.rs/english/reforma-javne-uprave.php>

Semi-annual reports include the following elements in the scope of each result: overall information on fully, partially and non-implemented activities according to planned implementation dates; key problems and challenges identified during implementation of actions; key recommendations on how to overcome these challenges, including drafts of legislative proposals, if necessary; detailed explanation of implementation of individual activities. Semi-

³⁶⁷ Decision of the Minister of Public Administration and Local Self-Government No. 119-01-00242/2014-04 of 23 February 2015 and the Decision amending the Decision setting up an Inter-ministerial Project Group on Technical Tasks in the Coordination and Monitoring of Implementation of the Public Administration Reform Strategy in the Republic of Serbia 2015-2017 No. 119-01-00242/2014-04 of 7 August 2015 due to staff changed in state administration bodies and civil society organisations.

³⁶⁸ PAR Strategy, pp.53,54.

annual reports are more focused on immediate results of performed activities (output level indicators).

Annual reports look at more high-level information (outcome level indicators) and bring results of all implemented activities together to see what has been achieved on a bigger scale. The annual reports include following elements: overall information on the implementation of PAR Strategy and Action Plan with key successes achieved during particular year that would be easily communicated to general public and main stakeholders; assessment of the main things that had not been implemented as planned and information on the impact this might leave towards overall progress of PAR agenda; proposals for necessary capacity building activities that would allow to address current short-comings and other activities for remediation of negative effects from deviations regarding the plans; priority actions for the next year and identification of any amendments or changes needed to planning documents (principally to AP PAR) based on the analysis of the current developments.³⁶⁹

The semi-annual and annual reports are available on the MPALSG webpage: <http://www.mduls.gov.rs/english/reforma-javne-uprave.php>.

Challenges: Although this four-tier system has been used for discussions and decision-making on urgent priorities in the public administration reform, there is a need for more training, capacity building and awareness raising in the coming period to ensure that reports are reviewed in the context of an early warning system, rather than just in the context of completed activities, with the aim of enabling a timely response to ensure compliance with the specified plans.³⁷⁰

6. PAR strategic documents and coordination mechanism in Kosovo

On 27 October 2015, the EU signed a Stabilisation and Association Agreement (SAA) with Kosovo. The SAA constitutes the first contractual relationship between the EU and Kosovo. It completes the map of SAAs with all Western Balkan countries. The SAA provides a comprehensive framework for closer political dialogue and economic relations between Kosovo and the EU, including opening EU markets to Kosovo products.³⁷¹

The central planning the Government Program 2015-2018 and the Government Annual Work Plan for 2015,³⁷² set priorities in the field of PAR in the part the “Principles of Public Administration”.

The Strategy for Modernization of Public Administration 2015-2020³⁷³ defines strategic objectives and policies that Government of the Republic of Kosovo intends to achieve in the next medium term period in order to improve functioning and modernization of public administration, meet the legal requirements and improve service delivery. Areas in which this strategy aims to direct resources and capacities in the next medium-term plan are: management and development of the civil service; administrative procedures and provision of administrative services; organization of public administration and accountability. Besides, there is Action Plan for Implementation of the Strategy for Modernization of Public Administration for period 2015-2017. The policies related to public administration reform are incorporated in government documents which determine the Government priorities, such as: National Economic and Fiscal Reform Program 2015; Declaration of Medium Term Policy Priorities 2014-2016; Public Administration Reform in Kosovo is expected to be one of priority policies of National Development Strategy which is being developed; National Strategy for European Integration adopted by the Council for European Integration chaired by the President; Medium Term

³⁶⁹ Action Plan for the Implementation of Public Administration Reform Strategy in the Republic of Serbia, pp. 3, 72-74.

³⁷⁰ Semi-annual Report for the First Half of 2016 on Implementation of the Action Plan of the Public Administration Reform Strategy in the Republic of Serbia, 2015-2017, MPALSG, July 2016, p. 24.

³⁷¹ EC Progress Report Kosovo 2015, p.4.

³⁷² Work Plan of the Government for 2015, Office of the Prime Minister.

³⁷³ <http://www.kryeministri-ks.net/repository/docs/Strategy-for-Modernisation-of-PA-2015-2020.pdf>

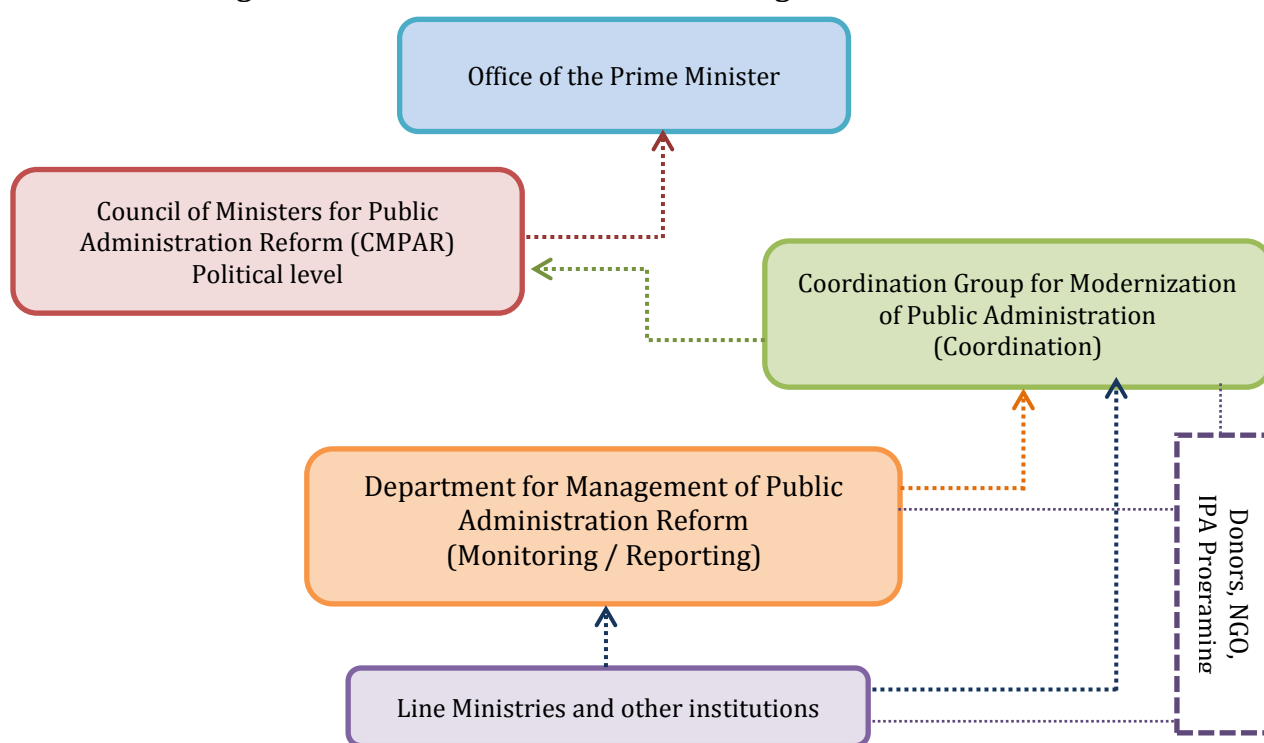
Expenditure Framework as an instrument for budgeting planned policies and National Development Strategy 2016-2021.

The Government has adopted some other strategic documents for specific areas which are either directly or indirectly linked with public administration: E-Governance Strategy 2009-2015; Interoperability Framework of Republic of Kosovo; Anti-Corruption Strategy and Action Plan 2013-2017; Strategy of Local-Self Government 2016-2026; Better Regulation Strategy 2014-2020; National Strategy for Cooperation with Civil Society 2013-2017; Draft Strategy for Training of Civil Servants 2015-2017.

Government has established/and will continue to establish structures that have an appropriate positioning in the Government, appropriate institutional representation and necessary composition in terms of human resources.

Management of reforms in this area falls under the direct responsibility of the **Office of Prime Minister**. In addition, Council of Ministers for Public Administration Reform (CMPAR) is the main structure at political/ministerial level responsible for strategic management of reform, monitoring its implementation and serves as a forum for discussing and analysing the progress, and proposes necessary changes for future reforms.

Figure 6 Coordination- institutional setting of PAR - Kosovo



Coordination Group for Modernization of Public Administration will be an inter-institutional administrative structure lead by the General Secretary of MPA that will supervise and coordinate the process in accordance with objectives of this Strategy and the Implementation Plan. The Group will report on the progress every six months and every year to the PAR Council, whereas the Council of Public Administration Reform will report on the progress to the Government on yearly basis. The annual report on reform implementation shall be made public after its approval by the Government. The General Secretary of MPA, as the chair of the group on reform progress for its area of responsibility, will report to the Council of General Secretaries on quarterly basis.

Department for Management of Public Administration Reform will be responsible for monitoring and reporting on the implementation of Strategy, which, in addition to this, also

serves as a key institution in advising and conducting professional and technical work related to management and reporting on the Reform process according to this Strategy.

DMPAR will establish a **system of data collection** for all identified indicators which will be used to provide timely and accurate data to the Coordination Group, the Council and the Government.³⁷⁴

Challenges: Lack of capacities and to implement comprehensive planning, monitoring and reporting. Especially, it ought to be noted the lack of formal assessment of the progress by the institutions which implies no ownership and institutional memory on assessment process. In parallel, another issue that undermines PAR is the fact measures activities in the Strategy will not be implemented due to the fact that they are not aligned with the budgets.

There is need for more focus on improving planning and coordination policies to draft government strategic documents, which turn priorities into concrete actions. In terms of coordination, more focus to be given improving the effectiveness and efficiency of mechanisms for coordinating implementation of PAR activities as well as working on methodology for monitoring and reporting.

³⁷⁴ The Strategy for Modernization of Public Administration 2015-2020, pp. 6,9,39.

IV. Conclusions and recommendations regarding the various models of managing the PAR strategies in ReSPA Members and potential future role of ReSPA

1. PAR managing: an overview

Following the lessons learned from the EU Member States experiences, Western Balkans' countries also need to find an appropriate balance between central, regional and local government that best supports overall democratic and economic reforms and managing of the PAR strategies implementation.

Established model for managing the PAR strategies, as well as developed coordination mechanism for monitoring and reporting on the strategies' action plans, differs between countries in the region (Table 3).

Table 3 Overview of coordination mechanisms for implementation of PAR strategies and related action plans in ReSPA Countries

	Albania AL	Bosnia and Herzegovina, BA	Macedonia MK	Montenegro ME	Serbia RS	Kosovo KS
PAR strategic documents	Cross cutting PAR strategy 2015-2020 and its AP.	Working on new strategic framework on PAR 2016-2020	Working on the new PAR Strategy 2017 - 2022	PAR 2016-2020 and AP for 2016-2017	PAR strategy and AP for 2015-2017	PAR Strategy and AP 2015-2020
Responsible Institution or PAR AP managing (Monitoring, Reporting)	Ministry for Innovation and Public Administration (MIPA), DoPA	PAR Coordinator's Office of BiH/PARCO, and PAR coord. for FBiH, RS and BD	Ministry of Information Society and Administration	Ministry of Interior / Department for Public Administration	The Ministry of Public Administration and Local self-Government (MPALSG)	Department for Management of PAR
Political level of coordination	Strategic Planning Committee	CoM BiH, Government of FBiH, RS and BD	Committee for Public Administration Reform	Council for PAR	Council of Ministers for PAR, the Collegium of State Secretaries	Office of PM / Council of Ministers for PAR
Established technical level of coordination	DoPA and Integrated Management Policy Group of PAR	PARCO, with PAR coordinators from FBiH, RS and BD	Two Levels Ministry of Information Society and Administration and General Secretariat	Working group in not planned by recently adopted Strategy	Group for Improvement of Public Administration Reform (unit in MPALSG), Inter-ministerial Project Group	Coordination Group for Modernization of the public administration
Dynamic of Reporting	Annually	Semi-annual and Annual	Semi-Annually on the thematic government sessions	Annually	Semi-annual and Annual	Annually
IT support for collecting data for reporting	No	No	No	No	No	No

Responsible institutions for PAR and PAR coordination mechanism are different, in line with respective government organisation, levels of government, division of labour and delegated responsibilities:

- **In Albania**, line ministry is **the Ministry of Innovation and Public Administration (MIPA)**, in charge of the design and coordination of policies in the field of information technology and electronic communications, as well as for the reform and modernization of public administration (**PAR coordination**). The Minister of Innovation and Public Administration (MIPA) has been designated to co-ordinate PAR. Besides this position, there are officials in charge of PAR co-ordination from both the Minister's office and **the Department of Public Administration (DoPA)** - relevant institution responsible for civil service reform³⁷⁵. The Ministry of finance is responsible for managing of PFM strategies. Other public administration authorities/services/bodies are included in the PAR coordination mechanism in line with their competences;
- **In Bosnia and Herzegovina**³⁷⁶ - **Public Administration Reform Coordinator's Office (PARCO)** is the coordinating institution for PAR and is responsible for implementation of the measures arising from the PAR action plans. Political responsibility for implementation of mentioned measures lie with: the chairman of the Council of Ministers of BH, the prime minister of Federation of BH, the prime minister of the Republika Srpska and the mayor of the District of Brčko. **The key actors for PARCO and PAR process:** the Coordination Board for Economic Development and European Integration; the CoM of BH; the Office of the Chairman of the CoM of BH; the Directorate for European Integration; the General Secretariat of the CoM of BH; the Legislative Office of BH; the Ministry of Finance and Treasury of BH; the Ministry of Justice of BH; the Parliamentary Assembly of BH, the Institution of the Human Rights Ombudsman of BH; the Public Procurement Agency of BH; Procurement Review Body; as well as the Government of the Federation of BH; the Government of the Republika Srpska; the Government of the District of Brčko; and the Federation of BH PAR Coordinator; the Republika Srpska PAR Coordinator; the Brčko District PAR Coordinator; and the Civil Service Agency of BH, Civil Service Agency of FBiH, Civil Service Agency of RS. Other public administration authorities/services/bodies are included in the PAR coordination mechanism in line with their competences; In actual model of coordination, the key actors that are directly involved in implementation of the PAR measures arising from action plans are the following: supervisory teams (seven teams for six reform areas) and teams for implementation (formed for each project financed from the PAR Fund). Other public administration authorities/services/bodies are included in the PAR coordination mechanism in line with their competences;
- **In Macedonia** - **The Ministry of Information Society and Administration (MISA)** – plays a core role in the field of Public Administration Reform and Development. MISA has competences regarding public administration reform and development including preparation of strategic documents related to PAR, coordination of foreign donors in this field, human resource management and development, oversight of administrative decision-making, and various other horizontal administrative functions; **The Agency for Administration** has responsibility for consistent implementation of the legislative framework for administrative officials in accordance with agreed reform developments in this area in the country; Other relevant bodies and institutions are: **The General Collegium (State Secretary's Collegium)** responsible to discuss different matters relevant to PAR before the Government's semi annual PAR thematic sessions, **The General Secretariat**, responsible for strategic planning and coordination for the

³⁷⁵ The DoPA is the public institution responsible for civil service reform: (i) the management and implementation of the civil service in all the institutions of the central administration; (ii) the design and implementation of policies in the area of salaries and building institutions of public administration; and (iii) the design and implementation of policies and training programmes applicable to public administration in general (<http://www.dap.gov.al/dap/misioni>).

³⁷⁶ Presented PAR managing model is developed for previous PAR document and its Action plans.

government and for the development of strategic planning of the policies that are determined by the government, **the Ministry of Finance (PFM)** and **the Secretariat for European Affairs**; Other public administration authorities/services/bodies are included in the PAR coordination mechanism in line with their competences;

- **In Montenegro** - The Ministry of Interior, the Directorate for Public Administration and Local Self-Government was in charge of overall PAR process and the role of coordinating entity in the sphere of implementation of the 2016–2020 Strategy; Since 28 November 2016 that role is delegated to the new **Ministry for Public Administration; Human Resources Management Authority, HRMA** (or HR Administration) – in charge of civil service reform and support for implementation of PAR and its AP; **Ministry of Finance** – in charge of PFM strategy (as integral part of the PAR strategy); As regards the coordination structure, **the Council for Public Administration Reform** will be established at the political level. Its work will be managed by the deputy prime minister in charge of the political system and domestic and external policy, and will be made up of the representatives of key institutions for the implementation of public administration reform, as well as NGO representatives. Other public administration authorities/services/bodies are included in the PAR coordination mechanism in line with their competences; According to the new PAR strategy, with the establishment of the Council, the bodies which have been coordinating public administration reform at the administrative level so far will cease to exist (Coordination Body for Monitoring Implementation of Public Administration Reform Strategy and Public Sector Internal Reorganization Plan and Coordination Committee for Local Self-Government Reform).
- **In Serbia** - **The Ministry for Public Administration and Local Self-Government (MPALSG)** is in charge of coordination of the process of optimization. The first level of coordination and management of the PAR, which primarily consists of performing operational tasks of the PAR process, is under the responsibility of MPALSG. In the previous period the Group for Improvement of Public Administration Reform was set up in the MPALSG. The second level of coordination and management of the PAR is the **Inter-ministerial Project Group (IPG)**. The third level of coordination and management of the PAR represents the **Collegium of State Secretaries**, which is also the first level of political coordination. The fourth level of coordination and management of the PAR is **the PAR Council** established as the central strategic body of the Government responsible for the PAR. The Ministry of finance is in charge of PFM strategy. Other relevant institutions related to PAR: the General Secretariat of Government, the Republic Secretariat for Legislation, the Secretariat for Public Policies of the Republic of Serbia and the Serbian European Integration Office; Other public administration authorities/services/bodies are included in the PAR coordination mechanism in line with their competences;
- **In Kosovo** - **The Ministry of Public Administration (MPA)** – the lead institution assigned to co-ordinate and manage PAR policy; Department for Management of Public Administration Reform is responsible for monitoring and reporting on the implementation of Strategy; The Office of the Prime Minister is in charge of policy development and co-ordination, and legislation. Other public administration authorities/services/bodies are included in the PAR coordination mechanism in line with their competences (The Ministry of Finance (PFM); The Information Society Agency (e-governance), Ministry of European Integration, The Kosovo Institute for Public Administration (KIPA), etc.); Coordination mechanism for PAR – the **Council of Ministers for Public Administration Reform (CMPAR)** is the main structure at the political/ministerial level responsible for strategic management of reform, monitoring its implementation, it serves as a forum for discussing and analysing the progress, and proposes necessary changes for future reforms; the **Coordination Group for**

Modernization of Public Administration is an inter-institutional administrative structure led by the General Secretary of the MPA which is tasked with supervising and coordinating the process in accordance with the objectives of this Strategy and the Implementation Plan.

- **Dynamic of reporting** is organized on semi-annual or annual basis, but **IT support** for collecting data for monitoring, evaluation and reporting is not developed.

In the WB countries problem of coordination entails the issues such as: the capacity/legitimacy/power of coordinating body to push for the reform process, issues related of insufficiency of inter-ministry (agency) collaboration in the field of policy implementation and overlapping and contra dictionary functions of the institutions responsible for PAR. In terms of PAR process it is evident that there is a lack of consistency in the PAR processes. Moreover, analysis of previous PAR exemplifies that consistency and continuation and ex ante and ex post analysis of the effect of PAR strategies is not satisfactory. In addition, it seems that one of the most prevalent barriers to the PAR implementation is the non-alignment of sectorial planning and the medium-term financial planning and a lack of relevant methodology for this process.

2. Managing PAR and the role of ReSPA

The synergy between the European integration process and reforms in area of public administration provokes specific needs for deeper ReSPA engagement in improvement of regional cooperation of responsible institutions and officials from its Member states. Within broad framework of European Integration and PAR processes a number of specific ongoing activities deserve important additional attention.

The **interconnections of PAR and EU integration processes** require, *inter alia*, the enlightening the following activities:

- The first activity is related to a full political support for PAR process presented through precisely defined **decision-making hierarchy for key actors of the PAR structures** within the Government.
- **IPA II support for PAR process** as horizontal cross-cutting issue for administrative capacities in all areas of policies;
- Another one is connected with the **PAR coordination mechanism** itself which should be developed, equipped with IT support and with trained personnel to fully manage the implementation of the PAR strategies;
- Closely connected with these activities is an issue related to the **level of development of monitoring and implementation mechanism for the PAR strategies and action plans for their implementation**.

All these issues open a new space for further regional initiatives and potential ReSPA engagement and supporting activities through the PAR Network and other cooperation mechanism.

We can start from the countries' needs regarding managing and reporting on PAR strategies, as it is presented in the table 4.

ALBANIA
<ul style="list-style-type: none"> • Establishment of clear PAR monitoring and reporting mechanism (through development of instructions, guidance or similar means) as envisaged by the Cross-cutting PAR Strategy, with appropriate resources allocated for its functioning • Alignment of medium-term budget decisions with set policy priorities (e.g. PAR, PFM) to guarantee financial sustainability for their implementation. • Improve policy development practices by developing the tools for comprehensive ex-

<p><i>ante</i> analysis and by providing guidance on costing, consultation and policy analysis to the line ministries</p> <ul style="list-style-type: none"> • Documentation and publication of IIWG discussions on regular basis • Introduce performance indicators when reporting on PAR • Needs analysis of the staff tasked with PAR co-ordination and monitoring in order to strengthen PAR-related capacities • Utilizing national and regional organizations (ReSPA) design and deliver tailor-made training programs to increase the capacity of the staff
BOSNIA AND HERZEGOVINA
<ul style="list-style-type: none"> • The main challenge for BiH is to adopt the new PAR document (PAR Strategic Framework) with full political support at all levels of government; • BiH needs technical support in order to achieve further improvement of PAR coordination mechanism and linked their activities to the achieved progress; • Well-defined PAR management and co-ordination structures at both the political and administrative level, designed for the PAR Strategy and the RAP1, continue to operate formally. It is necessary to fine tune/revise it through the new strategy; • IPA II and donor support for PAR fund and PAR project implementation (in order to achieve financial stability of PAR projects); • Support frequent meetings within a co-ordination structure and sharing experiences with the other in the Region;
MACEDONIA
<ul style="list-style-type: none"> • Defining clear rules requiring the provision of information on the monitoring of and reporting on outcomes achieved by the government as a whole, and setting coherent requirements for reporting on policy implementation of sectoral strategies • Streamline medium-term planning systems by clearly aligning medium-term policy documents with the fiscal strategy • Initiate and carry out functional analysis of the internal structures of ministries, aiming to strengthen their policy development functions and to gradually transfer policy enforcement functions to existing ministerial bodies and other public bodies • Ensure implementation of RIA, including adopting annual plans for RIA, organizing training on the existing methodology for civil servants responsible for carrying out RIAs and promoting the SNERR (Single National Electronic Registry of Regulation) as the central platform for inter-ministerial and public consultations • Introduce performance indicators when reporting on PAR • Strengthen the capacity of the institution responsible for co-ordinating the policy content of proposals within the CoG, by establishing and defining a clear division of roles and responsibilities between the GS and the MISA • Capacity building on strategy development with special focus on reporting and implementation
MONTENEGRO
<ul style="list-style-type: none"> • The main challenge for Montenegro is to achieve full political support for PAR implementation; in that context, it is important to further develop rules and procedures for PAR coordination mechanism, to establish the PAR council with full participation of all line ministries; • Improve the methodology for preparation, monitoring, reporting and evaluation of PAR action plans; Strengthening of IT support for the PAR strategies and AP monitoring; • The PAR strategy need further development in its costing, regarding concrete activities and project planned in the action plan; donor support including IPA II and potential direct budget support for PAR and PFM; • According to the new PAR strategy, with the establishment of the Council, the bodies which have been coordinating public administration reform at the administrative level so far will cease to exist (Coordination Body for Monitoring Implementation of Public Administration Reform Strategy and Public Sector Internal Reorganization Plan and

<p>Coordination Committee for Local Self-Government Reform). Having in mind above mentioned, the new Ministry of Public administration need additional support to strengthen administrative capacities and available resources (including ICT) to collect data and regularly monitor the implementation of the PAR action plan;</p> <ul style="list-style-type: none"> • Support for functional and financial analysis of the new Government structure; • IPA II and donor support for PAR project implementation;
SERBIA
<ul style="list-style-type: none"> • Ensure alignment of medium term strategic frameworks • Improve the methodology for preparation, monitoring, reporting and evaluation of PAR action plans • Strengthening of IT support for the PAR strategies and AP monitoring • Implement public consultation at the beginning of and during the development process for both policies and legislation • Evaluate approach to RIAs and assess <i>inter alia</i>, how by-laws might be integrated into the practice of policy analysis, how consultation of external stakeholders could be strengthened and how the overall quality of the analysis could be improved • Strengthening capacities for implementation of comprehensive PAR planning, monitoring and reporting in PA bodies • Strengthening capacities in order to ensure that reports are reviewed in the context of an early warning system, rather than just in the context of completed activities, with the aim of enabling a timely response to ensure compliance with the specified plans
KOSOVO
<ul style="list-style-type: none"> • Ensure co-operation among key actors regarding PAR • Strengthen the function of scrutiny of PAR content by better defining responsibilities among key departments and increasing human capacities • Introduce performance indicators when reporting on PAR • Launch a government reporting system on the implementation of sectoral strategies • Improve inter-ministerial and public consultation by training and a capacity-building programme • Launch an extensive capacity-building programme for ministries, supported by quality control and more active guidance to ensure that policy and legislative proposals include extensive comparisons of policy options, and assessments of all their impacts (costs and benefits), before regulations are drafted • Strengthen the Strategic Planning Office (SPO) – primarily by increasing the number of available positions and provide relevant training

Recommendations for the ReSPA role in the process of strengthening models for managing the PAR strategies are the following:

- **Exchange of information, know-how and experience** through PAR network, working meetings on different levels, conferences/events
- Organization of **regional and national trainings, seminars and workshops** regarding specific issues in process of preparation, monitoring, reporting and evaluation of PAR action plans and coordination mechanisms/instruments
- **Development of specific manuals for different rightsizing initiatives:**
 - Standards/minimum criteria for establishment of an public administration institution (based on functional analysis which includes organization and scope of work without any overlap) and cost-effectiveness analysis in line with the MTBF
 - Costing of sector strategies
 - Instruments for strengthening HR plans (to make them obligatory, with incentives for efficient implementation and sanctions for not doing so)

- Outsourcing criteria for PAR AP measures
- Standards/minimum criteria for strategies and AP with regional impact
- Standards/minimum criteria for strategies and AP with impact on both national and local budgets and development
- Methodologies for preparation, monitoring, reporting and evaluating of PAR action plans
- Strengthening of **IT support for the PAR strategies and AP monitoring** – development of software for data collection for regular reporting to the government, i.e. improve reform monitoring, evaluation and reporting
 - Technical discussions (including **development of IT solutions for reform monitoring**, evaluation and reporting as a regional model in line with the specific ReSPA countries' needs)

Annexe: SWOT analysis of the models of managing the PAR strategies in ReSPA Members

WB Countries: Regional SWOT analysis	
<p>Strengths:</p> <ul style="list-style-type: none"> - Medium-term strategic frameworks (MTSF) of PAR are developed through PAR strategies, other relevant strategic documents and action plans (or are in the final phase of preparation of revised strategic documents) - Institutional frameworks for PAR are established - Co-ordination systems for PAR are established (include political and administrative level) - Systems for monitoring, reporting and evaluation of the implementation of PAR strategies are defined and established - MTSF for specific areas of optimization of public administrations are developed (e.g. public finance management, professional development of civil servants, e-government) through strategic documents and action plans - The budget processes are established and generally include medium-term budgetary frameworks (MBTF) - Generally, the annual budget timetable is well-defined - The basic conditions for budget transparency are in place - The policies, legal frameworks and institutional guidelines regarding HRM are established - The professionalization of public servants by merit-based recruitment and promotion is protected under the laws on civil servants and the relevant by-laws - The HR information systems and the central civil service registries are in place - Salaries and remuneration systems are established by laws and relevant by-laws - The general rules and protocols regarding professional development are in place - Performance appraisals are provided for by the law and by-laws - The ethical legal frameworks are established - The legal frameworks for organization and work of PA are established - The legal frameworks regarding access to public information is in place - Mechanisms for internal and external oversight with regard to state administration bodies are established - A policy on improving public services is included in strategic documents, and governments are committed to a user-oriented administration - The legislation on general administrative procedure generally meets the standards of good administration 	<p>Weaknesses:</p> <ul style="list-style-type: none"> - Delays in the adoption of medium-term PAR strategies and action plans and a lack of consistency in the processes of adoption - A lack of content consistency in PAR strategies - Methodologies for preparation, monitoring, reporting and evaluation of action plans are not sufficiently developed (e.g. indicators, financial resources) - Co-ordination mechanisms for PAR are not sufficiently developed at administrative level - A lack of capacities and relevant knowledge and skills for implementation of comprehensive planning, monitoring and reporting - A lack of IT support for collecting data for reporting - A lack of required dynamic of reporting (annual reporting is not enough) and full transparency of reporting on implementation of the PAR APs - A lack of harmonized timeframes of PAR strategies/action plans on the one hand, and specific strategies for areas related to the optimization of public administration on the other - A lack of consistency in sectoral planning and medium-term financial planning and a lack of relevant methodology for this process - A lack of an efficient mechanism for monitoring the budgetary impacts, i.e. Lack of capacities to implement comprehensive RIA - Budget transparency is not ensured as comprehensive, timely and reliable - The annual budget proposals do not contain all the necessary information - The planning of IPA funds is not uniform at the regional level regarding co-ordination with the MTEF preparations - A lack of standards and procedures for selection of candidates (competencies) - A lack of policy and legal frame of strategic HRM - A lack of measurable criteria for the assessment of performance appraisal - A lack of tools for the evaluation of jobs in order to have a fairer salary and remuneration system - A lack of strategic planning of professional development and training of public servants - A lack of systematic analysis regarding the organization and functioning of public administration authorities - Simplification and acceleration of administrative procedures are not implemented

<ul style="list-style-type: none"> - The legal basis and institutional structures, including those for European integration, are largely in place to ensure consistent policy-making systems - The legal basis and institutional structures for effective implementation of consultation with the public and for cooperation with the NGO sector are established - Modern legislative techniques are introduced - National legislation is available electronically through the official gazettes 	<p>on a satisfactory level</p> <ul style="list-style-type: none"> - Co-ordination of medium-term planning is not regulated and regular reporting on implementation of developed strategies is not ensured and transparency is at a low level - Public consultation is not developed to a satisfactory level in all the WB countries (e.g. not implemented on time, timelines, exceptions) - A lack of formal requirements and a mechanism for planning the implementation of regulations
<p>Opportunities:</p> <ul style="list-style-type: none"> - Ensure political support and consistency of MTSF of PAR through strategic documents and action plans - Ensure costing of the strategy, donor support including IPA II and potential direct budget support for PAR and PFM - Improve methodologies for preparation, monitoring, reporting and evaluation of PAR APs - Improve co-ordination mechanisms for PAR administrative level - Strengthening capacities for implementation of comprehensive planning, monitoring and reporting in PA bodies - Improve data management and ensure IT support for collecting data for reporting - In the monitoring and reporting system, reports should be used as an early warning mechanism to ensure timely response in order to achieve plans - Ensure an adequate dynamics of reporting systems and full transparency of results of implementation of the PAR action plans - Strengthening of IT support for the PAR strategies and AP monitoring - Further development/development of the medium-term budgetary frameworks - Strengthen the preparation of Annual budget - Improve capital projects planning - Development of standards and procedures for selection of candidates (competencies) - Develop standards and procedures for improvement of HR planning - Establish policy and legal frame of strategic HRM and develop instruments for strategic HRM - Further develop professional development and training system in PA - Develop measurable criteria for the assessment of performance appraisal - Improve the system of salaries and other income of public servants - Development of standard methodology for conducting analysis regarding functional and financial effects of PA institutions - Ensure further simplification and acceleration of administrative procedures - Establish a comprehensive and rational system of 	<p>Threats:</p> <ul style="list-style-type: none"> - General low level of trust in the public administration among citizens and other subjects - Political instability, frequent changing of governments and ministers - Influence of politics on the work of public administrations - A limited financial resources for PAR process - A lack of competent civil servants required for further development - A lack of consensus with social partners regarding changes - A lack of coordination between institutions in practice - Slow adoption of regulation changes in the relevant PAR areas - Slow implementation of changes in the administration systems - Lack of application of regular reporting on the implementation of developed strategies - Low level of transparency and accountability to the general public - Lack of overall capacities of institutions to generate and distribute data in accurate and timely manner

<p>mid-term policy planning and improve the quality and implementation rate of sector strategies;</p> <ul style="list-style-type: none"> - Increase transparency of public policies management system; - Increase use and of analytical tools for drafting of legislation - Strengthening capacities for all areas of optimization of PA 	
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