



Baseline Measurement Report:

The Principles of Public Administration

The former
YUGOSLAV REPUBLIC
of MACEDONIA

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TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS	2
OVERVIEW	4
STRATEGIC FRAMEWORK AND PUBLIC ADMINISTRATION REFORM	7
1. State of play and main developments: 2014-April 2015	7
2. Analysis	8
POLICY DEVELOPMENT AND CO-ORDINATION.....	18
1. State of play and main developments: 2014-April 2015	18
2. Analysis	19
PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT	42
1. State of play and main developments: 2014-April 2015	42
2. Analysis	43
ACCOUNTABILITY	58
1. State of play and main developments: 2014-April 2015	58
2. Analysis	59
SERVICE DELIVERY	69
1. State of play and main developments: 2014-April 2015	69
2. Analysis	70
PUBLIC FINANCIAL MANAGEMENT	79
1. State of play and main developments: 2014-April 2015	79
2. Analysis	81

LIST OF ABBREVIATIONS AND ACRONYMS

AA	Agency of Administration
ACCMIS	Automated Court Case Management Information System
CAF	Common Assessment Framework
CHU	Central Harmonisation Unit
CoG	centre of government
COSO	Committee of Sponsoring Organisations of the Treadway Commission
CSL	Civil Service Law
EC	European Commission
EI	European integration
ESA	European System of National and Regional Accounts
ESPP	e-procurement platform
EU	European Union
FMC	financial management and control
GAWP	Government Annual Work Plan
GDP	gross domestic product
GS	General Secretariat
HLAD	High-Level Accession Dialogue
HR	human resources
HRM	human resource management
IA	internal audit
IMF	International Monetary Fund
IPA	Instrument for Pre-accession Assistance
ISO	International Organization for Standardization
ISPPIA	International Standards for the Professional Practice of Internal Auditing
ISSAI	International Standards for Supreme Audit Institutions
IT	information technology
LAS	Law on Administrative Servants
LGAP	Law on General Administrative Procedure
LOOSAB	Law on the Organisation and Operation of State Administrative Bodies
LPSE	Law on Public Sector Employees
MAFWE	Ministry of Agriculture, Forestry and Water Economy
MEAT	most economically advantageous tender
MISA	Ministry of Information Society and Administration
MKD	Macedonian denar
MoE	Ministry of Economy

The former Yugoslav Republic of Macedonia
List of Abbreviations and Acronyms

MoF	Ministry of Finance
MP	Member of Parliament
MTBF	medium-term budgetary framework
NMC	non-majority community
NPAA	National Programme for Adoption of the <i>Acquis Communautaire</i>
OECD	Organisation for Economic Co-operation and Development
PAR	public administration reform
PFM	public financial management
PIFC	Public Internal Financial Control
PPB	Public Procurement Bureau
PPC	Public Procurement Council
PPL	Public Procurement Law
PPP	public-private partnership(s)
RIA	Regulatory Impact Assessment
RoP	rules of procedure
SAA	Stabilisation and Association Agreement
SAC	State Appeals Commission
SAI	Supreme Audit Institution
SAO	State Audit Office
SEA	Secretariat for European Affairs
SIOFA	Secretariat for Implementation of the Ohrid Framework Agreement
SL	Secretariat for Legislation
SNERR	Single National Electronic Registry of Regulation
SOE	state-owned enterprise
TI	Transparency International

OVERVIEW

The European Commission (EC) has strengthened its focus on public administration reform (PAR) in the “Enlargement Strategy and Main Challenges 2014-2015” by outlining six key issues of reform. Based on the Enlargement Strategy, *The Principles of Public Administration* were developed by SIGMA in co-operation with the EC¹. The Principles cover six areas: strategic framework for public administration reform, policy development and co-ordination, public service and human resource management, accountability, service delivery and public financial management (including public procurement); they define what good governance entails in practice and outline the main requirements to be followed by countries during the European Union (EU) integration process. The Principles also feature a monitoring framework enabling regular analysis of the progress made in applying the Principles and setting country benchmarks.

This Country Report sets the baseline values for the indicators included in the monitoring framework and provides analysis on where the country stands against the Principles. It covers the period from January 2014 to April 2015, which is shortened to April 2014 to April 2015 in areas where a SIGMA assessment was conducted in 2014. The analytical report is complemented by the Methodological Annex, which defines the indicators included in the monitoring framework.

General state of play

The country has been a candidate for accession since 2005 and has strongly advanced in terms of alignment with the *acquis communautaire*. The European Council has not decided the initiation of accession talks yet. The country and the EU monitor periodically the implementation of reforms in the context of the High-Level Accession Dialogue (HLAD).

Presidential and parliamentary elections were held in April 2014, but the opposition did not accept the fairness of the process. An initial boycott of the Parliament by most of the opposition Members of Parliament (MPs) has evolved into a deep political crisis. EU-promoted dialogue is seeking to help to build an acceptable political solution for all concerned parties.

PAR priorities and the progress of implementation are discussed in the Special Group on PAR. Ensuring adequate administrative capacity is essential for properly implementing the *acquis* and strategic frameworks. It is also crucial that appropriate institutional independence is guaranteed, especially in those cases where transparency and accountability are essential. Clear progress has been made by the Government in reforming the public administration; however, many challenges still remain.

PAR is considered formally as a Government priority; reform efforts concentrate on public services and human resource management. However, fiscal sustainability of PAR is not ensured and the Government needs to start the development of a new PAR strategy urgently as the current Strategy expires at the end of 2015.

The scope of the public service has been positively expanded, but initiatives such as the *Law on Transformation into Permanent Contracts* demonstrate that public employment continues to be seen as an instrument for political purposes. The new legal framework remains to be implemented.

The general legal framework for accountability is in place, albeit with some flaws concerning reporting, typology of administrative bodies, access to information and public liability. However, implementation in all areas remains a challenge, in particular in ensuring access to information and public liability.

Service delivery is a priority for the Government, underpinned by strong service quality assurance tools. There are several initiatives for service delivery improvement, in particular regarding services to

¹ See *The Principles of Public Administration* and relevant background information <http://www.sigmaweb.org/publications/principles-public-administration.htm>

The former Yugoslav Republic of Macedonia Overview

businesses. The services provided to citizens through the e-government portal are still limited. The interoperability framework for e-service delivery is not yet completed.

No medium-term budgetary framework (MTBF) according to the EU Directive exists, and no reliable and useful fiscal strategy is produced. The public procurement system has moved away from conformity with the EU *acquis* through the use of black-listing, awards based on price only, the addition of costly procedures and a new institution without any foundation in the EU Directives.

The political situation, and the slow advancement in relations among the different communities in the country, weakens the oversight capacity of the Assembly and does not create a favourable environment to further reform the public administration.

1

Strategic Framework of Public Administration Reform

STRATEGIC FRAMEWORK AND PUBLIC ADMINISTRATION REFORM

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

Most of the central planning documents² of the Government identify PAR as a priority, with an emphasis on human resource management (HRM) and improvement of Government services. PAR-related objectives, however, are not fully aligned in the central planning documents. The PAR Strategy³ and its Action Plan, (revised in 2012)⁴, will expire in 2015. The Ministry of Information Society and Administration (MISA) has asked for external support in developing a new strategic framework.

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 costing of reform actions, but it is incomplete. Sources of finances are not indicated and linkages with national financial planning documents⁵ are weak.

A co-ordination mechanism exists for PAR at the political level both through the Committee for Public Administration Reform⁶ and the Government⁷ sessions. At the administrative level, PAR-related issues are discussed at the meetings of the General Collegium of State Secretaries⁸. The MISA is the main body responsible for the PAR management, co-ordination and monitoring process. However, the staff responsible for PAR management, co-ordination and monitoring are scattered across several units⁹.

1.2. Main developments

The Exposé of the Prime Minister¹⁰ was published in 2014 and the new Programme of the Government 2014-2018¹¹ was adopted. Both acknowledge PAR as a reform area that needs to be continued.

The MISA prepared and submitted to the Government an annual report on the implementation of the PAR Strategy and Action Plan (revised in 2012)¹².

The new strategic plan of the MISA for 2015-2017¹³ was adopted and now includes the medium-term financial estimates for each programme, as well as the number of staff required for carrying out particular identified tasks.

² Exposé of the Prime Minister, 2014; Programme of the Government 2014-2018, Work Programme of the Government for 2014, January 2014; National Programme for Adoption of *Acquis* of the European Union, Revision 2014-2016, December 2013; Fiscal Strategy 2015-2017, October 2014.

³ Public Administration Reform Strategy 2010-2015, December 2010.

⁴ Revised Action Plan of the Public Administration Reform Strategy 2010-2015, Midterm Revision 2012, October 2012.

⁵ Fiscal Strategy 2015-2017, October 2014; and Budget for 2015.

⁶ Decision On Establishment of a Committee for Reforms of the Public Administration, Official Gazette Nos. 112/2011 and 122/2011, August 2011.

⁷ According to information provided by MISA.

⁸ Ibid.

⁹ Rulebook on the internal organisation of the Ministry of Information Society and Administration 2013.

¹⁰ Exposé of the Prime Minister, 2014.

¹¹ Programme of the Government 2014-2018.

¹² Status of Implementation of the Revised Action Plan of the Public Administration Reform Strategy 2010-2015, November 2014.

¹³ Strategic Plan for the period 2015-2017, Ministry of Information Society and Administration, August 2014.

2. ANALYSIS

This analysis covers the five Principles of the strategic framework of the PAR area, grouped under two key requirements¹⁴. For each key requirement, baseline values are provided for each indicator on the monitoring framework of the Principles. The Principles cover analysis of Government central planning, as well as specific PAR planning document(s), including their links to Government financial planning documents. The Principles also assess the set-up and operation of PAR management and co-ordination mechanisms, at both political and administrative levels.

2.1. Key requirement: The leadership of public administration reform is established and the strategic framework provides the basis for implementing prioritised and sequenced reform activities aligned with the Government's financial circumstances.

Baseline values

The leadership and strategic framework of PAR is examined against eight different indicators, which aim to describe the country's general approach towards defining reform objectives and actions, the comprehensiveness of the scope of PAR and links to the financial planning, as well as the implementation rate. The PAR reporting and monitoring system is also assessed. Two out of the eight indicators are qualitative; the rest are quantitative, based on the analysis of data and documents provided by the responsible institutions of the country.

In the country, PAR is formally recognised as a Government priority, although not in a fully coherent way. The PAR planning documents cover almost the full scope of this policy. The overall implementation rate of the PAR Action Plan (revised in 2012) at the end of 2014 was 64.5%, with a one-third annual implementation rate. Approximately half of the actions of the PAR Action Plan (revised in 2012) have been costed without indicating sources of financing.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the scope of PAR central planning document(s) is complete.	2014	4
	2	Extent to which a comprehensive PAR reporting and monitoring system is in place.	2014	3
Quantitative	1	Ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently.	2014	62.5%
	1	Share of public administration development activities and reforms from all activities in PAR planning document(s).	2014	73%
	2	Annual implementation backlog of public administration development activities and reforms.	2014	33%

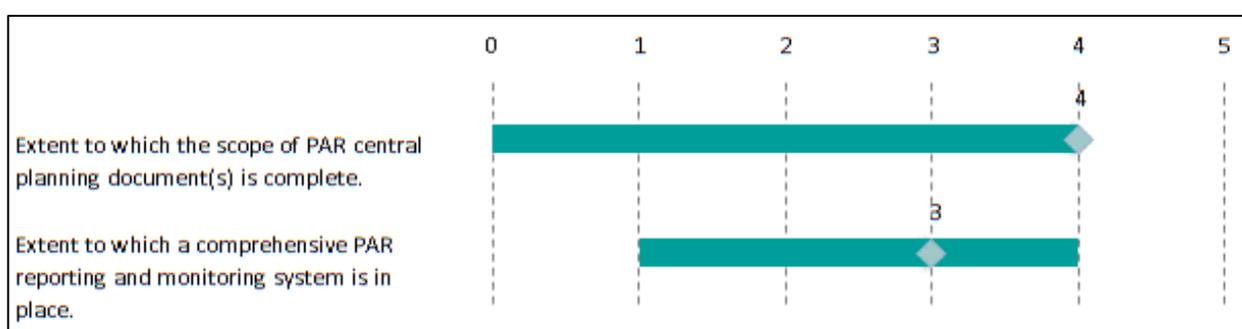
¹⁴ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 8-17.

The former Yugoslav Republic of Macedonia
Strategic Framework of Public Administration Reform

	2	Percentage of fulfilled PAR objectives.	2014	Not available ¹⁵
	3	Share of resourced and costed PAR measures.	2014	40.9% ¹⁶
	3	Ratio between planned PAR Instrument for Pre-accession Assistance (IPA) funding in the IPA sectoral programme and the national planning documents.	2014	0%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: The Government has developed and enacted an effective public administration reform agenda which addresses key challenges.

Most of the Government central planning documents identify PAR as a priority¹⁷ – including the Expose of the Prime Minister¹⁸, the Programme of the Government 2014-2018¹⁹, National Programme for Adoption of *Acquis* of the European Union, Revision 2014-2016²⁰, and the Fiscal Strategy 2015-2017²¹. However, PAR objectives and measures are not always coherently addressed in these documents. For example, the fiscal strategies²² 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). Therefore, after analysis of the Government central

¹⁵ The value of the indicator cannot be established due to lack of outcome-level performance indicators and of targets linked to the set policy objectives in both the PAR Strategy and the PAR Action Plan (revised in 2012).

¹⁶ The value of the indicator represents the share of costed actions in the PAR Action Plan (revised in 2012). It should be noted that the costs of individual actions are not included in the body text of the PAR Action Plan (revised in 2012), but in a separate MS Excel file that was provided to SIGMA and which, according to the MISA, was adopted by the Government together with the PAR Action Plan (revised in 2012).

¹⁷ It should be noted that the Government Work Plan 2015 had not been adopted at the time of analysis.

¹⁸ Exposé of the Prime Minister, 2014.

¹⁹ Programme of the Government 2014-2018.

²⁰ National Programme for Adoption of *Acquis* of the European Union, Revision 2014-2016, December 2013.

²¹ Fiscal Strategy 2015-2017, October 2014.

²² Fiscal Strategy 2014-2016, September 2013; Fiscal Strategy 2015-2017, October 2014.

The former Yugoslav Republic of Macedonia
Strategic Framework of Public Administration Reform

planning documents, the value of the indicator reflecting the ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently is set at 62.5%.

A PAR Strategy and PAR Action Plan (revised in 2012²³) exist, both setting out 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) 2015-2017²⁴ (with Action Plan) and the State Programme for Prevention and Reduction of Conflict of Interests for the period 2011-2015²⁵ (with Action Plan). Overall, the extent to which the scope of PAR central planning document(s) is currently complete has a baseline value of 4, as the problem analysis featured in the PAR Strategy²⁶ is not always detailed enough to pinpoint and substantiate the identified challenges.

The PAR Action Plan (revised in 2012) translates the objectives into measures and actions, and is currently regarded by the MISA as the main document in the area of PAR. Six broad PAR priorities²⁷ are defined in the document, along with 230 associated activities. A review of all the different action plans in the field of PAR shows that 73% of actions can be regarded as reform or development activities; the rest are mainly process-oriented actions.

It should be noted that both the PAR Strategy and the PAR Action Plan (revised in 2012) will expire at the end of 2015. The MISA asked, in December 2014, for Instrument for Pre-accession Assistance (IPA) support in preparation of the PAR Strategy for the period 2016-2021; as yet, no formal working group has been established for this task at the national level²⁸.

Currently, most central planning documents acknowledge PAR as one of the key reforms. The PAR Strategic Framework is in place and covers almost the full extent, but both the PAR Strategy and the PAR Action Plan (revised in 2012) will expire in 2015. The MISA has asked for external support in drafting a new PAR Strategy and Action Plan.

Principle 2: Public administration reform is purposefully implemented; reform outcome targets are set and regularly monitored.

A mechanism for monitoring implementation of the PAR Strategy and Action Plan has been established and has evolved over the years. The MISA prepares annual reports on the implementation of these documents and presents them to the Government. In 2014, there were also monthly progress reports on the implementation of PAR actions under the responsibility of the MISA; since 2015, the MISA has introduced a quarterly reporting approach.

The annual report prepared by the MISA focuses on tracking progress on the implementation of individual actions, with only a very general indication on the achieved outcomes. This is due to the fact that neither the PAR Strategy, nor the PAR Action Plan (revised in 2012), has clear performance indicators or targets linked to the set policy objectives that could be used for a proper outcome-level assessment. For this reason, the indicator value for assessing the extent to which a comprehensive PAR reporting and monitoring system is in place is set at 3.

²³ Revised Action Plan of the Public Administration Reform Strategy 2010-2015, Midterm Revision 2012, October 2012.

²⁴ Strategy for Development of Public Internal Financial Control in 2015-2017, August 2014.

²⁵ 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.

²⁶ PAR Strategy 2010-2015, December 2010.

²⁷ 1) Administrative procedures and services; 2) Strategic planning, co-ordination, policy making and better regulation; 3) System of public service and human resources; 4) System of public finance; 5) e-government and e-administration; and 6) Policy of anti-corruption.

²⁸ A Project Summary Justification for the project "Support in preparation of Public Administration Reform strategy for the period 2016-2021" was submitted to the National IPA Co-ordinator (NIPAC) office in December 2014 by MISA. It should be noted that the MISA Strategic Plan 2015-2017 does not include as a task the development of a new planning document(s) in the PAR area. Also, the Programme of the Government 2014-2018 does not include development of a new planning document(s) as one of the tasks within the PAR area. The Work Programme of the Government for 2015 had not been adopted at the time of this analysis.

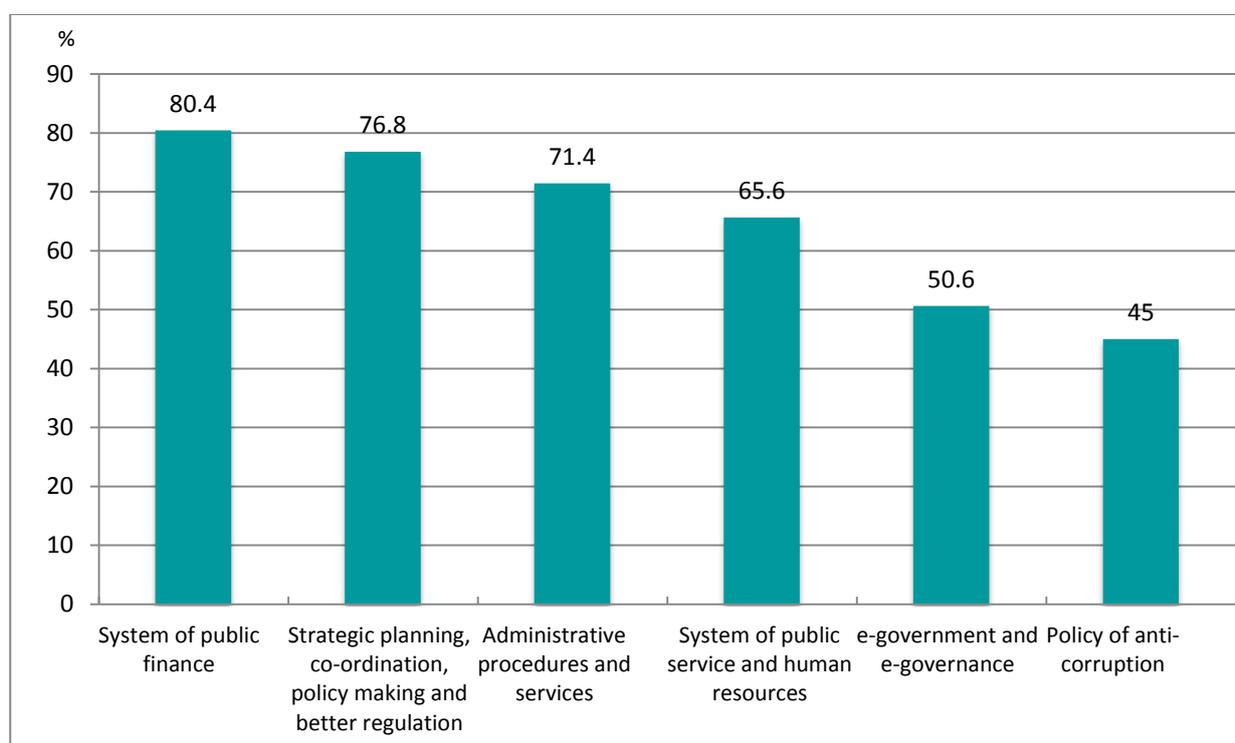
The former Yugoslav Republic of Macedonia
Strategic Framework of Public Administration Reform

Progress in implementing actions is measured using individually assigned weightings for each action; this approach is an effort to go beyond a purely mechanical assessment of the number of implemented actions.

The annual implementation report for 2014²⁹, presented to the Government, indicated that 64.5% of actions from the PAR Action Plan (revised in 2012) had been implemented by the end of 2014 (i.e. one year prior to the end of the Strategy time frame). In 2014 itself, the implementation rate was 33%, which is set as the value of the indicator the “annual implementation backlog of public administration development activities and reforms”.

The PAR Action Plan (revised in 2012) has six strategic objectives. Data in the annual report of the MISA indicates that the implementation rate is particularly low in two areas: anti-corruption (45%) and e-government/e-administration (51%)³⁰.

Figure 2. Progress on implementation of the PAR Strategy by area



Source: Status of Implementation of the Revised Action Plan of the Public Administration Reform Strategy 2010-2015, November 2014.

Two of these areas – the system of public service and human resources, and e-government and e-governance – fall under the direct responsibility of the MISA. As there are no measurable objectives in either the PAR Strategy or PAR Action Plan (revised in 2012), the indicator value for the percentage of fulfilled PAR objectives is set as “not available”.

While a monitoring and reporting system for PAR is in place, it is mainly output oriented. There are no outcome-level performance targets in either the PAR Strategy or PAR Action Plan (revised in 2012). Reporting on the progress with the implementation actions is regular and based on a well-elaborated methodology. The rate of implementation of PAR actions with deadlines in 2014 is 33%; one year before its end date, the overall implementation rate of the PAR Action Plan (revised in 2012) is 64.5%.

²⁹ Status of Implementation of the Revised Action Plan of the Public Administration Reform Strategy 2010-2015, November 2014.

³⁰ Status of Implementation of the Revised Action Plan of the Public Administration Reform Strategy 2010-2015, November 2014.

Principle 3: Financial sustainability of public administration reform is ensured.

The financial sustainability of PAR policy cannot be clearly assessed through the available evidence. A clear financial impact assessment of the PAR Strategy was done by the European Union (EU) technical assistance project supporting the development of the PAR Strategy³¹. In addition, the revised PAR Action Plan (revised in 2012) had a separate file attached to it with information on necessary funds to implement the envisaged actions. However, fewer than half of the actions envisaged have been costed – only 94 out of the total 230 actions. For this reason, the indicator value for the ratio of resourced and costed actions in PAR planning documents is 40.9%. Other planning documents in the PAR area do not provide information on the costs of their implementation and funding required.

The financial resources allocated to implement PAR actions are not visible in the Government financial planning documents (i.e. fiscal strategies³² or annual budgets³³). Moreover, the link between IPA allocations for PAR and national planning documents is missing and does not allow for financial monitoring. For these reasons, the indicator value for IPA-related planning is 0%.

Furthermore, the previous medium-term Strategic Plan of the MISA 2012-2014³⁴ did not provide any information on costs, despite the fact that the budget programmes of institutions featured priorities and objectives, and also identified performance indicators against which progress could be measured. There has been an improvement during 2014: the new Strategic Plan for the MISA 2015-2017 includes medium-term financial estimates for each programme and indicates the number of staff required to carry out particular identified tasks.

Overall, the PAR Action Plan (revised in 2012) has costed fewer than half of the foreseen actions and does not provide information on the sources of the foreseen funding. The costs for PAR are not provided in the body text of the PAR Strategy and PAR Action Plan (revised in 2012) but in separate files attached to these documents. There are no direct links to medium-term and annual financial planning documents that would clearly set out allocations for PAR-related actions or projects. Therefore, the financial sustainability of the reform is not clearly established.

Key recommendations

Short-term (1-2 years)

- 1) The MISA should prepare a new strategic framework for PAR by the end of 2015 when the current one expires and ensure that:
 - a. The objectives of the new strategic framework are aligned with the priorities set out in the Government central planning documents and address the key challenges identified in the PAR area. The objectives should be set realistically to avoid major delays during implementation, as were seen within current framework;
 - b. The new strategic framework sets clear objectives and targets to be achieved in the medium term, as well as performance indicators. It should also indicate costs (including sources of funding) and identify resources to implement planned objectives and actions.

Medium-term (3-5 years)

- 2) In co-operation with the Ministry of Finance (MoF), the MISA should ensure that the Fiscal Strategy is improved to clearly present information on the medium-term funding allocated for implementation of PAR policy.

³¹ Strengthening the Capacity of the General Secretariat - Sector for Policy Analysis and Co-ordination - Unit for Public Administration Reform and Unit for NGO Co-operation, EuropeAid/127747/C/SER/MK.

³² Fiscal Strategy 2014-2016, September 2013; Fiscal Strategy 2015-2017, October 2014.

³³ Budget for 2015.

³⁴ Strategic Plan of the MISA for the period 2015-2017, January 2012.

2.2. Key requirement: Public administration reform management enables guiding and steering reforms, determines the accountability for implementation and ensures the professional administration needed for reform implementation.

Baseline values

The functioning of the PAR management and co-ordination mechanism is examined through one qualitative and four quantitative indicators. These indicators provide information on the operation of the mechanism and also consider the capacity of the leading PAR unit to support the functioning of the PAR mechanism.

In the country, PAR management and co-ordination structures are formally established at both political and administrative levels. The MISA has been formally designated as the responsible institution for PAR³⁵. Within that Ministry, responsibility for PAR co-ordination is delegated across several units and staff members³⁶. The PAR planning documents clearly define responsibility for implementing PAR-related actions identified in these documents and institutions are aware of their responsibilities.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	5	Extent to which accountability over PAR functions is established.	2014	2
Quantitative	4	Frequency of PAR-related political discussions.	2014	7 ³⁷
	4	Implementation rate of decisions made by political and administrative-level PAR co-ordination forums.	2014	Not available ³⁸
	5	Annual staff turnover in leading PAR unit.	2014	Not available ³⁹
	5	Proportion of leading PAR unit staff that has undertaken at least two PAR-related trainings during the last year.	2014	Not available ⁴⁰

³⁵ Law on Organisation and Operation of State Administrative Bodies, Article 26-a, Official Gazette.

³⁶ Rulebook on the internal organisation of the MISA, 2013.

³⁷ This value shows the total number of the PAR-related discussions held during 2014; as it is a quantitative (not qualitative) indicator, it should not be regarded as an indicator for scale.

³⁸ The MISA provided SIGMA with information on the decisions made by the particular Government meetings and meetings of the General Collegium of State Secretaries; however, it was not possible for SIGMA to trace actual implementation of the particular decisions.

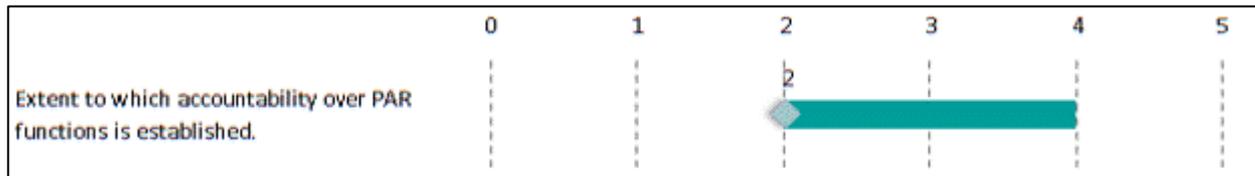
³⁹ No single leading PAR unit is established within the MISA; therefore, the indicator value cannot be established.

⁴⁰ Ibid.

The former Yugoslav Republic of Macedonia
Strategic Framework of Public Administration Reform

The value of the qualitative indicator of the country is displayed below in comparison with the range of values for the same indicator in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 3. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 4: Public administration reform has robust and functioning co-ordination structures at both the political and administrative level to steer and manage the reform design and implementation process.

A co-ordination mechanism for PAR exists at the political level, both through meetings of the Committee for Reforms of the State Administration⁴¹ and regular Government sessions. This system was envisaged by the PAR Strategy⁴² and put into operation in line ministries accordingly. Based on information provided by the MISA, seven meetings of these bodies in 2014 were devoted to PAR-related issues – six of which were Government sessions. The Committee for Reforms of the State Administration – a special political-level discussion forum established for the PAR area – met only once during 2014, which indicates that all major decisions regarding PAR are discussed and taken at Government sessions.

In 2014, according to information provided by the MISA, 134 out of the total of 203 materials it sent to the Government procedure were related to the implementation of envisaged PAR actions. Out of these, six were reports on progress achieved in PAR implementation⁴³.

At the administrative level, PAR-related issues are discussed at meetings of the General Collegium of State Secretaries⁴⁴. 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.

The MISA provided information on the number of decisions taken by the political- and administrative-level PAR co-ordination forums. However, it was not possible for SIGMA to track implementation of the individual tasks assigned to different institutions and verify their implementation. Because of this, the value for the indicator on the implementation rate of decisions made by political- and administrative-level PAR co-ordination forums is “not available”.

Overall, the country has established PAR management and co-ordination structures at both political and administrative levels. The country mainly uses general decision-making forums, specifically the Government sessions and the meetings of the General Collegium of State Secretaries, for this. The specially designated discussion forum for PAR – the Committee for Reforms of the State Administration – met only once during 2014, raising questions about its utility.

⁴¹ Decision On establishment of a Committee for Reforms of the Public Administration, Official Gazette Nos. 112/2011 and 122/2011, August 2011.

⁴² Part “7.1. Administrative Structures Responsible for PAR Strategy Management, Coordination and Implementation” of the Public Administration Reform Strategy 2010-2015, December 2010.

⁴³ According to the agenda printouts of the Government sessions provided to SIGMA by the MISA, reports on progress in implementation of the PAR were discussed on the following dates: 1 April 2014, 1 June 2014, 1 September 2014, 3 November 2014, 3 December 2014 and 16 December 2014.

⁴⁴ According to the information provided by the MISA.

Principle 5: One leading institution has responsibility and capacity to manage the reform process; involved institutions have clear accountability and reform implementation capacity.

The MISA is formally identified in legislation⁴⁵ as the main body responsible for PAR management, co-ordination and monitoring processes.

Within the Ministry, however, no specific unit is responsible for overall PAR management, co-ordination and monitoring⁴⁶. The MISA informed SIGMA that overall PAR management, co-ordination and monitoring functions had been entrusted to several employees in different organisational units. It was acknowledged, however, that the responsibility for carrying out these functions was not included in their job descriptions. There is a General Directorate for Administration within the MISA; according to the latest available organisational chart, two departments (the Department for State Administration and the Department for Public Administration) within this Directorate have some functions relating to the PAR process⁴⁷.

Since no single unit in the MISA could be regarded as the leading PAR unit, it was not possible to calculate the indicators on staff turnover or staff training. In view of this, the value of these indicators is described as “not available”, and it is not possible to assess properly the capacity of the MISA to manage and co-ordinate the PAR process.

A new organisational structure for the MISA is currently under development⁴⁸. This is reflected in the Strategic Plan of the MISA⁴⁹, where implementation of the recommendations from the functional review carried out in 2014 by EU financed technical assistance project⁵⁰ is envisaged.

Accountability for the implementation of PAR-related tasks is formally set out in national planning documents, including the PAR Strategy and PAR Action Plan (revised in 2012). Additional *ad hoc* PAR-related tasks outside the adopted planning documents are assigned to institutions through the decisions of the political and administrative level forums⁵¹. Due to the lack of a clearly documented division of the functions related to PAR co-ordination and monitoring in the MISA, the extent to which the accountability over PAR functions is established has a baseline a value of 2.

Overall, there is a distribution of responsibilities among the institutions involved in the implementation of PAR policy in the country, primarily through the reform actions foreseen in the PAR-related planning documents. The MISA is the lead institution for PAR management, co-ordination and monitoring. Within the Ministry, responsibilities for PAR co-ordination and monitoring are divided among staff members of different departments; no single unit is specially designated for these functions.

⁴⁵ Law on Organisation and Operation of State Administrative Bodies, Article 26-a, Official Gazette: 58/2000, 44/2002, 82/2008, 167/2010 and 51/2011.

⁴⁶ Rulebook on the internal organisation of the Ministry of Information Society and Administration, 2013.

⁴⁷ Article 12, Points 4.1 and 4.2, Rulebook on the internal organisation of the MISA, 2013.

⁴⁸ Functional Analysis of the Ministry of Information Society and Administration, Technical Assistance to the Ministry of Information Society and Administration Strengthening the Implementation of the National System for Training Coordination, EuropeAid/132187/D/SER/MK.

⁴⁹ Strategic Plan of the MISA for the period 2015-2017, January 2012.

⁵⁰ Functional Analysis of the Ministry of Information Society and Administration, Technical Assistance to the Ministry of Information Society and Administration Strengthening the Implementation of the National System for Training Coordination, EuropeAid/132187/D/SER/MK.

⁵¹ According to the information provided by the MISA.

Key recommendations

Short-term (1-2 years)

- 1) The MISA should implement the suggestions made in the functional review of the MISA, particularly with regard to clear distribution of functions for PAR co-ordination and monitoring within the different units of the Ministry.

Medium-term (3-5 years)

- 2) The MISA should engage in regular capacity-building activities of the staff involved in PAR management, co-ordination and monitoring activities.

2

Policy Development and Co-ordination

POLICY DEVELOPMENT AND CO-ORDINATION

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

The legal framework for policy development and co-ordination, including for European integration (EI), is in place. Key laws and the Government Rules of Procedure (RoP) set clear procedures for the functioning of the centre of government (CoG) and policy development in ministries. However, significant challenges remain in implementation at both the level of the CoG and in ministries, hindering delivery of high-quality policy and legislative proposals.

A system of medium-term policy planning is in place that produces prioritised plans with an indication of fiscal impacts at Government and institution levels, but sectoral planning is underdeveloped and sectoral strategies do not provide information about costs of the actions foreseen. Planned initiatives represent only a small proportion of all initiatives sent to the Government in 2014, which indicates that prioritisation and comprehensive planning is not ensured. Transparency in reporting on upcoming policy decisions is not routinely guaranteed.

While tools for evidence-based policy making are developed and there is regular training on Regulatory Impact Assessment (RIA), analysis is not comprehensive. Regulation in place sets clear procedures for consultation, but enforcement is sporadic and inconsistent. Although co-ordination across the Government is ensured by regulation requiring consultation with all levels and bodies, implementation is again inconsistent. Both primary and secondary legislation is available electronically, but official consolidated versions of legal texts are developed by the Legislative Committee of the Assembly only when foreseen for specific legislative amendments. A small proportion of legislation is available in unofficial consolidated form.

1.2. Main developments

In January 2014, a Manual for Strategic Planning⁵² was developed and circulated to institutions to improve the strategic planning process.

The Parliamentary Institute⁵³ became fully operational in May 2014. Its purpose is to provide timely, objective and independent professional analysis to Members of Parliament (MPs) in order to enhance the quality of policy making and the oversight function of the Legislature.

A new electronic government management system was implemented in 2014. This system facilitates registration of all issues, decisions and deadlines assigned to ministries and tracks progress and fulfilment. It also provides for issuing alerts for new tasks and deadlines and serves as the single channel for submitting proposals for deliberation by the Government.

⁵² The [Manual for Strategic Planning](#) (in Macedonian).

⁵³ Law on the Assembly, Article 42, Official Gazette No.104/2009.

2. ANALYSIS

The analysis covers the 12 Principles of the Policy Development and Co-ordination area, grouped under four key requirements⁵⁴. For each key requirement, baseline values are provided for each indicator on the monitoring framework of the Principles. The Principles cover the whole policy cycle and address the functioning of the CoG; policy planning, co-ordination and monitoring; Government decision making; and development of policy and legislation. The Principles also cover the necessary arrangements for EI throughout the policy cycle.

2.1. Key requirement: Centre of government institutions fulfil all functions critical to a well-organised, consistent and competent policy making system.

Baseline values

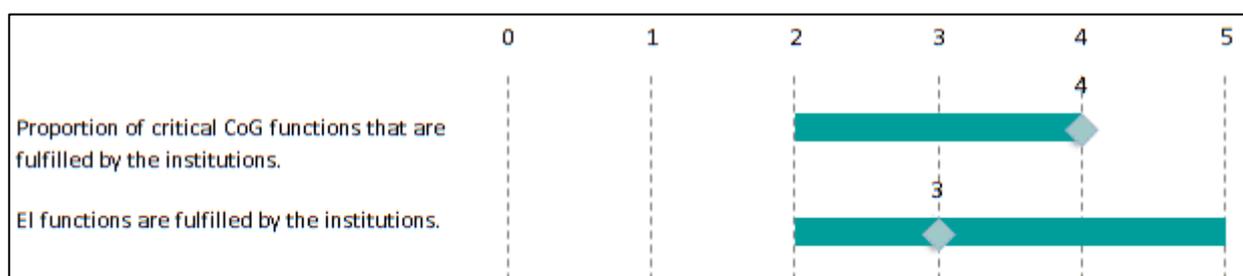
The functioning of the CoG is examined through two qualitative indicators. One covers all nine critical functions as defined in the Principles of Public Administration, while the other is a specific indicator to analyse how key EI functions are implemented by the administration. These qualitative indicators analyse establishment of the functions and how they are implemented.

The country has all critical CoG functions in place, with the exception of co-ordination of policy content of proposals for decisions by the Council of Ministers. Taking into account the stage where the country stands in the EI process as a candidate country (it is not in the process of accession negotiations), it can be stated that an EI co-ordination system is established.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Proportion of critical CoG functions that are fulfilled by the institutions.	2014	4
	2	EI functions are fulfilled by the institutions.	2014	3

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



⁵⁴ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 18-40.

Analysis of Principles

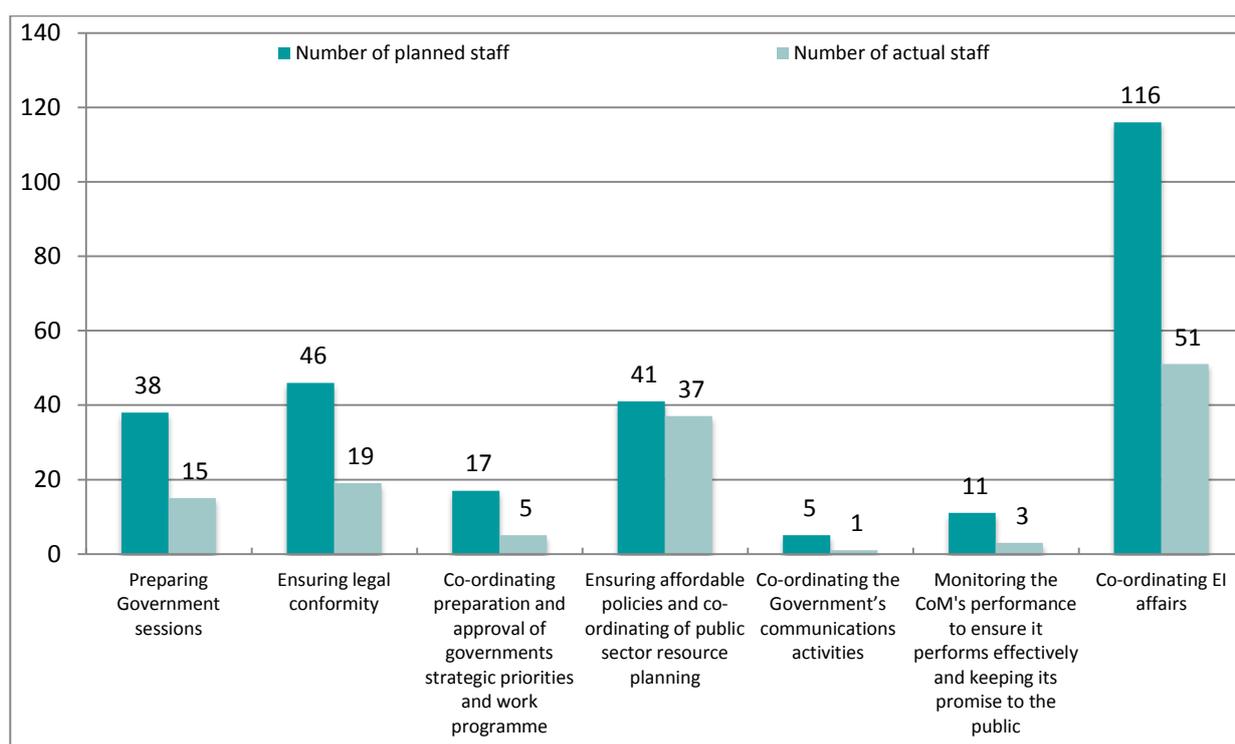
Principle 1: Centre of government institutions fulfil all functions critical to a well-organised, consistent and competent policy making system.

The institutions fulfilling CoG functions are: the General Secretariat (GS), when preparing Government meetings, co-ordinating preparation of strategic priorities and the Government Annual Work Plan (GAWP) and monitoring Government performance; the Secretariat for Legislation (SL), when ensuring legal conformity, including compatibility of the national legislation with the *acquis communautaire* and assessment of the level of harmonisation; the Ministry of Finance (MoF), when preparing the Fiscal Strategy and budget and providing opinions on fiscal impact assessments developed by ministries; the Secretariat for European Affairs (SEA), when co-ordinating EI affairs; and the Ministry for Information Society and Administration (MISA), responsible for promoting the use of RIA and e-government tools.

The major documents comprising the legal framework for functioning of the CoG are the Law on the Government⁵⁵ and the RoP for Operation of the Government⁵⁶. Responsibilities for management of the policy process are clearly assigned to CoG 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 functions defined are all fulfilled at the expected level⁵⁷.

Actual staffing allocated to CoG functions overall is at about 50% of the planned level.

Figure 2. Staff allocation to critical CoG functions as of 1 December 2014



Sources: General Secretariat, Secretariat for Legislation, Secretariat for European Affairs, Ministry of Finance.

⁵⁵ 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.

⁵⁶ 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.

⁵⁷ As foreseen by the methodology of this analysis. For details, see the Methodological Annex.

As a consequence of the lack of an established policy content co-ordination function, the baseline value for the indicator on the extent to which critical CoG functions are fulfilled is 4.

All CoG functions are established and functional, except for co-ordination of policy content.

Principle 2: Clear horizontal procedures for governing national European integration process are established and enforced under the co-ordination of the responsible body.

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 Legislation⁵⁸ has been developed, and the SEA provides consultations on issues regarding EI matters to ministries and other central state bodies.

There are six key functions related to EI: 1) overall daily co-ordination of EI; 2) planning of EI, including costing of reforms; 3) monitoring the country's preparations for the EI process; 4) co-ordinating transposition of the *acquis*⁵⁹; 5) co-ordinating EU assistance; and 6) co-ordinating EI-related negotiations. The SEA is positioned to fulfil all key functions related to EI except co-ordinating EI-related negotiations, since this function is not yet required from the country, given the stage of the integration process. Therefore, the baseline value for the indicator on the extent to which EI functions are fulfilled by the institutions is 3.

Of the maximum of the 116 potential staff of the SEA, only 51 positions (44%) had been filled at the end of 2014. The discrepancy between planned and actual staffing is because there is a stalemate in the EU accession process and the planned staffing level was designed for a full-fledged negotiation process.

Most of the EI co-ordination functions are established. The necessary legal framework is developed and the SEA has the authority to carry out the functions assigned to it.

Key recommendations

Short-term (1-2 years)

- 1) The Government should, nominate and 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. The institution responsible for policy co-ordination should serve as a quality controller and neutral assessor to ensure that all policy proposals are properly scrutinised and take responsibility in the medium-term for developing a comprehensive policy making system.

Medium-term (3-5 years)

- 2) The GS and the MISA should jointly develop a comprehensive system of co-ordination of policy content by developing the necessary guidelines, processes and procedures for development and scrutiny of policy proposals elaborated by ministries.
- 3) The capacities of the SEA should be enhanced in accordance with the pace and actual needs of the accession process.

⁵⁸ [The Manual on Transposing the EU *acquis* into the Legislation](#) (In Macedonian).

⁵⁹ Ministries are not obliged to send proposals that involve transposition of EU law to the SEA for an opinion before submitting them to the Government, because assessing harmonisation matters is the responsibility of the SL. However, the State Secretary of the Secretariat for European Affairs is a member of the General Collegium of State Secretaries, the last-instance administrative co-ordination forum, and can therefore preview materials proposed for Government adoption at this stage (as part of the administrative-level conflict resolution mechanism).

2.2. Key requirement: Policy planning is harmonised, aligned with the Government's financial circumstances and ensures the Government is able to achieve its objectives.

Baseline values

Examining whether policy planning is harmonised is measured through six indicators covering the annual implementation backlog of planned commitments; the annual backlog in developing sector strategies; the link between funds estimated in sector strategies and those taken up in the medium-term budgetary framework (MTBF); the completeness of financial estimates; the annual backlog of EI-related commitments; and the extent to which achieved outcomes are reported. Calculation of values for indicators under this section is based on the analysis of central planning documents, the GAWP, the NPAA, and examples of sectoral strategies and reports on implementation of central planning documents.

While the country has a functioning system of medium-term planning, the values on these indicators show that there are important challenges in the areas of ensuring an overview of financial sustainability of policies, monitoring outcomes of policy actions, and reporting in a transparent manner.

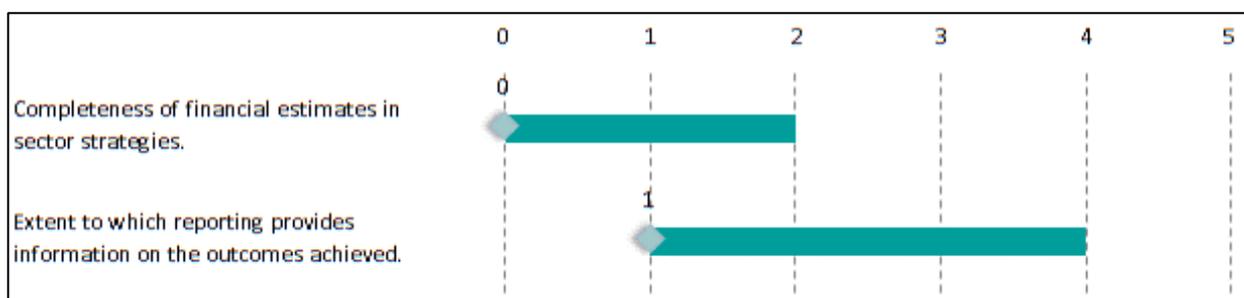
	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	3	Completeness of financial estimates in sector strategies ⁶⁰ .	2014	0
	5	Extent to which reporting provides information on the outcomes achieved.	2014	1
Quantitative	3	Annual implementation backlog of planned commitments in the central planning document(s).	2013	16%
	3	Annual backlog in developing sectoral strategies.	2013	20%
	3	Ratio between total funds estimated in the sectoral strategies and total funding identified for the corresponding sectors within the MTBF ⁶¹ .	2014	0%
	4	Annual implementation backlog of EI-related commitments.	2013	10%

⁶⁰ Based on a sample of the five most recently adopted sector strategies.

⁶¹ The ratio is calculated as a percentage (0% for minimum concurrence and 100% for maximum concurrence), illustrating the difference in planned funding in the last five strategies adopted and the MTBF. The outcome value of the indicator is the average of the five cases. In the event that it is not possible to make the calculation due to a lack of financial data in the MTBF and/or in all or some sector strategies, the ratio is determined as 0%.

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 3. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 3: Harmonised medium-term policy planning, with clear whole-of-government objectives, exists and is aligned with the financial circumstances of the Government; sector policies meet the Government objectives and are consistent with the medium-term budgetary framework (MTBF).

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 2014⁶², and the Law on Budget.

After an election, political priorities are established by the Government for the next four years in the Government Programme, which is approved by the Parliament. On the basis of this document, the GS leads the process and puts together initiatives for the GAWP, based on proposals submitted by the ministries in close co-operation with the MoF and the SEA. The Law on Budget creates a coherent system with the planning methodology. It stipulates that the budget be prepared on the basis of the Government's strategic priorities, the Fiscal Strategy and the strategic plans of budget users. However, there is no unified rule for developing sectoral strategies to set requirements for form, content (including costing of strategic activities) and procedures for implementation and monitoring⁶³.

The GAWP 2014 sets out five priorities including legislative proposals for submission to the Parliament, by-laws and other initiatives under the jurisdiction of the Government (programmes, strategies, reports and informative issues), with indications of priority level and whether initiatives have a fiscal impact. While the document is quite comprehensive (more than 200 pages featuring almost 370 initiatives in 2014), about half of the initiatives do not have any regulatory role and are only of an informative character.

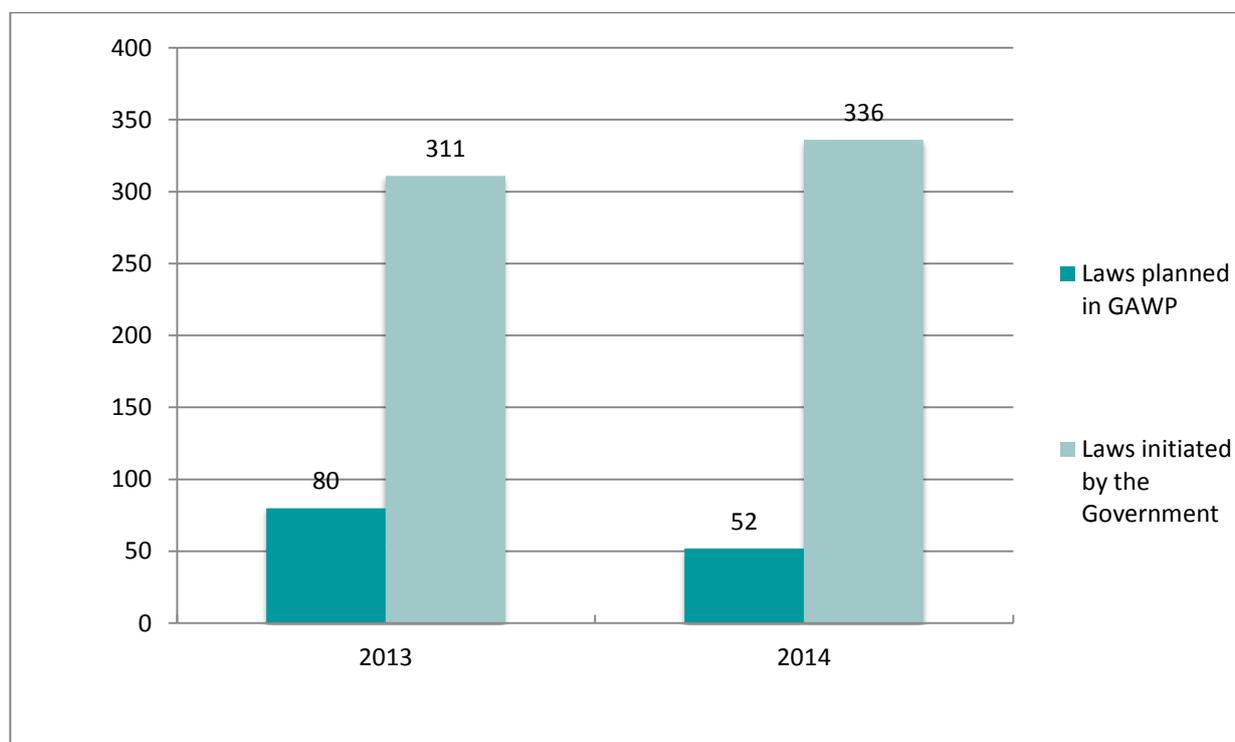
The baseline value of the indicator on the annual implementation backlog of planned commitments in central planning documents was calculated by comparing the legislative programme of the GAWP for 2013 to that of 2014. Out of 80 laws planned for 2013, 13 laws were carried forward to 2014, generating a 16% backlog. One of five sectoral strategies planned in 2013 was carried forward to 2014, a 20% backlog. The initial GAWP contained 52 laws planned for adoption, but in only the last quarter of

⁶² 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.

⁶³ The recently approved Manual on Strategic Planning 2014 includes all necessary elements for elaboration of good-quality policy documents, but lacks information on how to prepare proper costing of reforms (including typical examples such as the costs of training and staff) and on costing of more sophisticated large-scale reforms.

2014, 2 516 items were submitted to the Government and 336 laws were sent to the Assembly⁶⁴. It is clear that, despite the sophisticated prioritised planning system, the GAWP covers only a small portion of all priority items sent to the Government.

Figure 4. Number of laws planned and number of laws initiated by the Government



Source: General Secretariat.

The ratio between total funds estimated in sectoral strategies and total funding identified for corresponding sectors in the MTBF is 0%, because costing was not included in any of the strategies analysed⁶⁵. As none of these strategies contains budget estimates for implementation of actions, the baseline value for the indicator on completeness of financial estimates in sector strategies in 2014 is 0. However, it must be emphasised that the financial estimation of costs of strategic initiatives is ensured at institutional level through the development of institutional strategic plans. The MoF is leading the financial estimation process through the elaboration of the budget circular, preceded by adoption of the Fiscal Strategy, which determines fiscal forecasts for three years.

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.

Principle 4: A harmonised medium-term planning system for all processes relevant to European integration exists and is integrated into domestic policy planning.

The NPAA is prepared and revised each year based on the EU Progress Report. The NPAA includes a description of the current situation, a detailed legislative plan, budget estimates, and planned use of

⁶⁴ Based on a 2013 summary table provided by the GS for the analysis, ministries realised 362 commitments that had been planned, plus an additional 3 661 unplanned initiatives. In the 2013 GAWP, 80 laws were planned for development and adoption, but the Government actually initiated 311 laws in the Assembly.

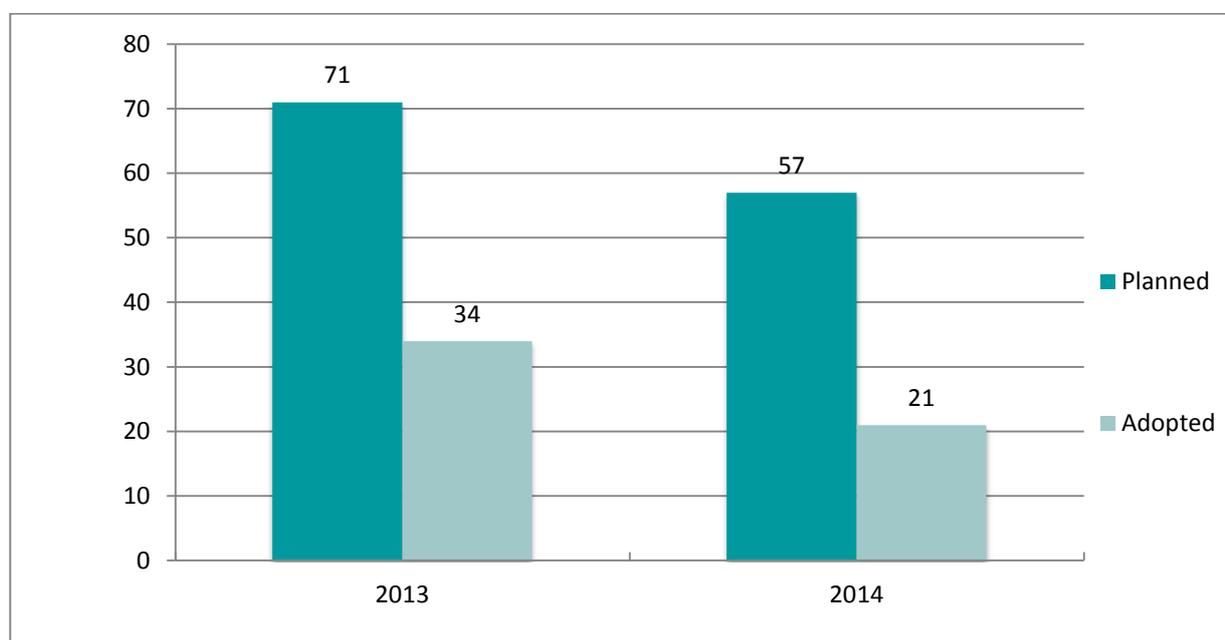
⁶⁵ The five most recently adopted strategies: 1) General Communication Strategy IPA 2013; 2) IT Strategy for Ministry of Education and Science 2014-2017; 3) Entrepreneurial Learning Strategy 2014-2020; 4) Strategy for HR in Ministry of Interior 2014-2018; and 5) MISA Training Strategy 2015-2017.

the Instrument for Pre-accession Assistance (IPA) and other foreign assistance. The NPAA is linked to the GAWP, but it does not prioritise activities. Reports on implementation of the NPAA are prepared on a quarterly basis, but they are not publicly available.

The legislative plan for NPAA 2013-2015 included 182 laws, 103 of which had deadlines in 2013. The legislative plan for NPAA 2014-2016 includes 124 laws, 11 of which were supposed to be adopted in 2013 (under NPAA 2013-2015). Based on this data, the annual implementation backlog for EI-related commitments is 10%⁶⁶.

Based on data provided by the SEA, 85 transpositions of directives were planned in 2013, but the actual number dealt with was 31. In 2014, 77 transpositions were planned and 33 were actually carried out. This represents a minimum 50% annual delay in the number of transposed directives⁶⁷. However, over the past years the country has substantially advanced in terms of harmonising its legislation with the *acquis*, but motivation to keep up the pace of transposition has declined due to the stalemate in the integration process.

Figure 5. Number of planned and adopted laws related to EI matters



Source: Secretariat for European Affairs.

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.

Principle 5: Regular monitoring of the Government's performance enables public scrutiny and ensures that the Government is able to achieve its objectives.

The Law on Government obliges the Government to inform the public of its work and on implementation of the GAWP⁶⁸. 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

⁶⁶ In a recent update to the Assembly (www.sep.gov.mk/en/content/?ID=583#.VU5J6fB5IFs), the Deputy Prime Minister in charge of European Affairs stated that 21 of 57 anticipated laws and 76 of 143 planned bylaws were adopted in 2014. This indicates a more significant delay than was derived for the backlog indicator calculated on the basis of comparison of plans between 2013 and 2014.

⁶⁷ Delays are partially linked to the fact that there were general and presidential elections in 2014.

⁶⁸ Law on the Government (2000), Article 7.

Government⁶⁹. 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 public⁷⁰.

At the level of sectoral strategies, the Government discussed a total of 18 progress reports on implementation of different strategies in 2014. Of these reports, the five most recent cases were analysed⁷¹ to assess whether they provide information on achievement of policy objectives as outcomes apart from monitoring input-level fulfilment. Analysis shows that while the reports focus mainly on outputs, they do provide explanations on achieved impacts as against objectives, albeit without presenting any outcome indicators. However, none of these five most recent reports were public.

The baseline value for the indicator measuring the extent to which reporting provides information on the outcomes achieved is 1. This is because public scrutiny is very limited due to the fact that, apart from the budget, regular reports about implementation of the GAWP, the NPAA or sectoral strategies are not publicly available.

While the legislative framework for monitoring and reporting on Government performance is in place and reports are regularly developed, they are not shared with the public. These reports do not contain information about achievements against objectives. Regular reports on implementation of strategies are developed, but they too generally do not evaluate achievements against policy objectives and are not publicly available.

Key recommendations

Short-term (1-2 years)

- 1) The GS should ensure transparency of Government performance by setting clear rules requiring provision of information on 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.
- 2) The GS should add a chapter to the Manual on Strategic Planning 2014 covering requirements and methodological guidance for developing indicative financial estimates for policies, along with concrete examples of costing.
- 3) The SEA should ensure transparency of the EI planning and monitoring process by publishing quarterly and yearly reports on implementation of the NPAA on the Government and SEA websites.
- 4) The GS should assess the practice of planning against the actual workload of the Government and explore opportunities to develop plans that cover the majority of the work of the Government as a decision making body.

Medium-term (3-5 years)

- 5) The GS, the MoF and the SEA should jointly streamline medium-term planning systems by clearly aligning medium-term policy documents with the fiscal strategy.

⁶⁹ RoP, Articles 87-89, 91 and 120-124.

⁷⁰ The most recent publicly available report on the work of the Government was a press conference by the Prime Minister on 27 September 2014 about the achievements of the Government's first 100 days.

⁷¹ Report on the Implementation of the Action Plan of Rural Development Strategy; Report on Strategy for Co-operation with NGOs, 2013; Report on Strategy for Co-operation with NGOs, 2014; Report on the Implementation of the Strategy on Lifelong Learning; and Report on the Implementation of the Strategy on Gender Equality.

- 6) The GS and the MoF, with the agreement of the MISA, should jointly provide training on strategy development with a focus on full cost estimation and reporting on implementation in order to strengthen the capacity of the CoG and the ministries to develop accurate financial estimates for policies.

2.3. Key requirement: Government decisions and legislation are transparent, legally compliant and accessible to the public; the work of the Government is scrutinised by the Parliament.

Baseline values

Assessing whether Government decisions and legislation are transparent, legally compliant, accessible to the public and scrutinised by the Parliament is measured based on six indicators distributed over two Principles. These indicators cover the ratio of regular agenda items submitted on time for Government sessions; the transparency of Government policy making; the number of laws with court rulings against the Government in a given year; the ratio of laws initiated by the Government and approved by the Parliament within a year; the extent to which a forward-planning mechanism exists between the Government and the Parliament; and the number of law implementation reports discussed in the Parliament.

The Government decision making process generally follows the procedures, but not all regulations are adhered to. There is a formal level of co-operation between the Government and the Assembly, demonstrated by the fact that all Government-sponsored laws were adopted within a year after submission. The Assembly has a limited role in scrutinising the effects of legislation and policy making.

While the country has a functioning system of medium-term planning, the values on these indicators show that there are important challenges in the areas of ensuring an overview of financial sustainability of policies, monitoring outcomes of policy actions, and reporting in a transparent manner.

	Principle no.	Indicator	Baseline year	Baseline value
Quantitative	6	Ratio of regular agenda items submitted on time ⁷² by ministries to the Government session.	2014	95%
	6	Transparency of Government policy making ⁷³ .	2014	4.3
	6	Number of laws with court rulings ⁷⁴ against the Government during the year.	2014	11
	7	Ratio of laws initiated by the Government and approved by the Parliament no later than one year after submission.	2014	100%
	7	Extent to which forward planning mechanisms between the Government and the Parliament exist ⁷⁵ .	2014	2

⁷² "On time" is understood as being within the procedural criteria set by regulation(s).

⁷³ The World Economic Forum, Competitiveness Index, minimum score of 1, maximum score of 7.

⁷⁴ By the Constitutional Court.

⁷⁵ Its value is based on the SEE2020 indicator on "forward-planning mechanisms between Government and national as well as sub-national parliaments".

	7	Number of law implementation reports discussed in the Parliament.	2014	0
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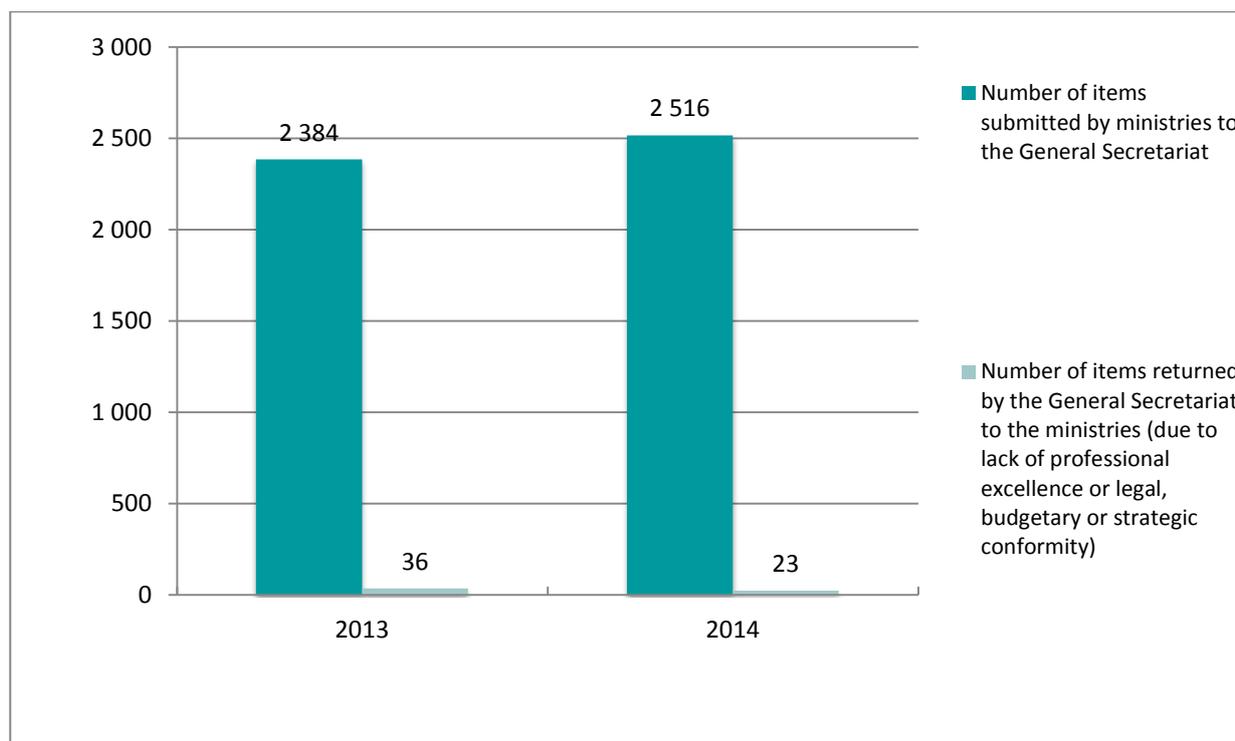
Analysis of Principles

Principle 6: Government decisions are prepared in a transparent manner and based on the administration's professional judgement; the legal conformity of the decisions is ensured.

The RoP set the legal framework for the CoM to manage the legislative process, including preparation of sessions of the Government and requirements for submission of proposals. The RoP set standards for timing of the different stages of document development, including opportunities for public consultation.

The RoP list all institutions that should review materials proposed to the Government⁷⁶, among them the SL (an opinion on all draft laws, regulations and other acts), the MoF (on all materials that have a fiscal impact) and the MISA (for proposed laws subject to RIA). The role of the GS in preparation of documents for Government sessions is restricted to returning documents that fail to meet the formal requirements. Based on the data provided by the country, in the last quarter of both 2013 and 2014, around 2 500 proposals were submitted for inclusion in the agenda for the Government session. Of these, the GS returned 1.5% in 2013 and 0.9% in 2014 (Figure 6).

Figure 6. Number of items submitted to and returned by the General Secretariat in the fourth quarter of 2013 and 2014



Source: General Secretariat.

RIAs have been introduced for legislation. Out of approximately 350 draft laws brought to the Government in 2014, two staff members⁷⁷ of the MISA delivered opinions on the 40 draft RIAs⁷⁸ submitted to the MISA for an opinion.

⁷⁶ RoP, Article 68.

⁷⁷ Since March 2015, this function is supported by one additional staff member.

In 2014, the SL examined approximately 9 000 items, including those prepared for Government decision making and ministry-level by-laws. That means that, on average, each of the 19 staff members would have to produce two opinions per day, which is a heavy workload. Another shortcoming of the current procedure of legislative scrutiny is that the materials can be submitted for opinions simultaneously to relevant ministries and the Secretariat. Under this procedure, it is possible that the initiator would have to amend the content of an initial draft based on ministry comments before submitting it to the Government, leaving the Secretariat unable to provide its opinion on the final version of the draft⁷⁹. The RoP prescribe that all laws must be submitted to the Government along with related draft secondary legislation⁸⁰, but this is not followed in practice. Instead ministries simply provide a list of intended secondary legislation.

The GAWP is the main document which allows the public to follow the planned Government agenda, since neither agendas nor minutes of Government sessions are publicly available.

According to data provided by the GS, 95% of items for Government deliberation arrive on time to the GS, which represents adherence to formal requirements. However, analysis of data about the items submitted by the ministries to the GS for Government deliberation leads to the conclusion that too many routine items are discussed at Government sessions. This creates an excessive workload for the CoG institutions that provide expert opinions, as described in the case of the SL.

In accordance with the Competitiveness Index of the World Economic Forum, the value of the indicator on transparency of Government policy making is 4. This score reflects the ease with which businesses can obtain information about changes in Government policies and regulations which affect their activities. The overall rank of the country is 63 out of 144 countries.

For 2014, the baseline value for the indicator on the number of laws with court rulings against the Government during the year is 11. The figures for this indicator were 11 for 2013 and 20 for 2012⁸¹. An average of 310 laws a year was adopted from 2010 until 2014 (including amendments to laws). In 2014, 173 cases were filed in the Constitutional Court challenging the constitutionality of certain provisions, and 126 cases were transferred from 2013. Ninety-three of these initiatives addressed laws. In 11 of the cases, the Court repealed provisions of laws, while in 63 cases the Court did not find a basis for a proceeding. Thirty-one initiatives were rejected, two proceedings were stopped, and one proceeding was concluded in an administrative procedure⁸².

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.

Principle 7: The Parliament scrutinises government policy making.

The RoP set out fundamental principles for co-operation between the Parliament and the Government, including the power to nominate members of the Government and state secretaries to participate in parliamentary working bodies⁸³.

⁷⁸ Only one-third of all draft laws adopted by the Government followed the rules of preparation in terms of the draft being published on the Single National Electronic Registry of Regulation (SNERR or ENER) and RIAs developed, both of which are required. Of a total of 350 proposed laws adopted by the Government from January to December 2014, 77 proposed laws (22%) were delivered to the Government with a RIA report, 114 proposed laws (32.6%) were published on SNERR and 40 draft RIA reports (11.4%) were delivered to the MISA for an opinion.

⁷⁹ According to the representative of the Secretariat for Legislation, this happens in practice.

⁸⁰ RoP, Article 66 (4).

⁸¹ Numbers on Court rulings against the Government have been provided by the MISA on the basis of Constitutional Court Reports.

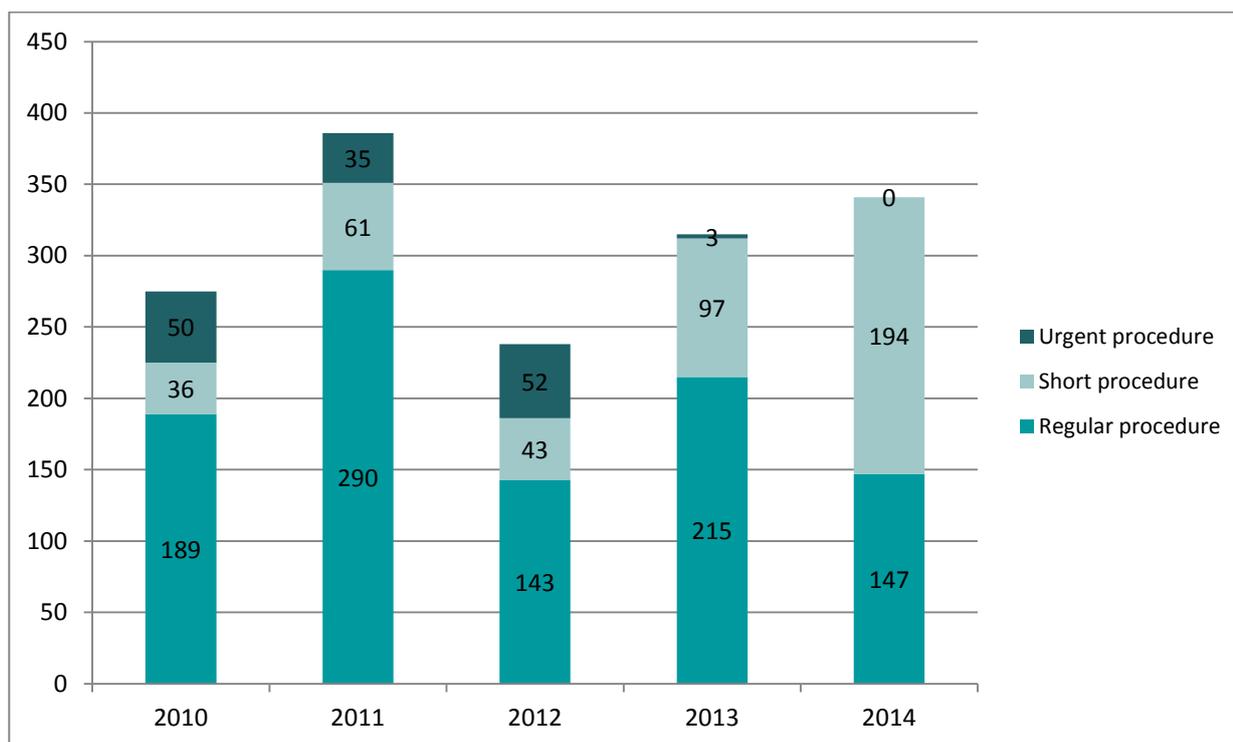
⁸² Numbers taken from the public presentation of the 2014 Report of the Constitutional Court.

⁸³ RoP, Article 107(2).

There were eight sessions in 2013 and four sessions in 2014 where MPs posed questions. A member of the Government is required to be present at these sessions. In addition, a representative of the Government is always present at regular plenary sessions.

All legislation initiated by the Government was passed by the Parliament in 2013 and 2014. Out of 315 legal acts adopted in 2013, 97 were passed under a shortened procedure. In 2014, the shortened procedure was used almost twice as often, with 194 out of 341 legal acts passed this way⁸⁴. This is also due to the political situation, as the Opposition is not taking part in the work of the Parliament as a means of demonstrating against the way the general elections were carried out.

Figure 7. Adopted laws by type of parliamentary procedure 2010-2014



Source: Parliamentary Reports.

While there are requirements for the documents necessary for submission of draft laws in the Parliament⁸⁵, the RoP of the Assembly do not stipulate formal requirements to submit RIAs and information on consultations. All draft laws are scrutinised by the Legislative Committee of the Parliament⁸⁶, which in 2014 held 65 sessions and discussed 540 items⁸⁷.

The baseline value for the indicator on the ratio of laws initiated by the Government and approved by the Parliament no later than one year after submission is 100%.

The baseline value for the indicator on the extent to which forward-planning mechanisms between the Government and the Parliament exist is 2 on a scale from 0 to 5, based on the SEE2020 indicator. The Parliament and the Government interact closely on short-term planning of the Parliamentary agenda and on an annual basis through availability of the GAWP. Current planning between the Government

⁸⁴ The RoP of the Assembly, Articles 170 and 171, allow a shortened procedure, but not for complex or extensive laws or in cases of termination of the validity of a law or particular provisions. Under this shortened procedure, there is no general debate and the second and the third readings are held at a single session. Laws adopted under urgent procedure are also included in this analysis.

⁸⁵ RoP of the Assembly, Article 135.

⁸⁶ Ibid, Article 125.

⁸⁷ Information provided by the administration of the Parliament.

and the Parliament is based on the GAWP and weekly co-ordination meetings organised by the President of the Assembly⁸⁸.

The baseline value for the indicator on the number of law implementation reports discussed in the Parliament is 0, because this tool for scrutinising the work of the Government is not used.

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

Key recommendations

Short-term (1-2 years)

- 1) The GS should analyse the work of the Government with a focus on items discussed, and consider wider use of delegation of power to individual ministers to reduce the workload of Government sessions for decision making and the workload of CoG institutions.
- 2) The GS, together with the SL, the MISA, the SEA and the MoF, should initiate an amendment of Article 68 of the RoP of the Government to specify that not all proposals should be scrutinised in the same depth, in order to allow key scrutiny bodies to prioritise their work. For laws and by-laws, key CoG bodies should be consulted from the early stage of development of drafts.
- 3) The GS should publish Government meeting agendas and minutes of sessions to ensure adequate public information about policy decisions.
- 4) The Assembly should minimise the number of legal acts approved under the shortened procedure to allow sufficient time for analysis and parliamentary debate on initiatives proposed by the Government.

Medium-term (3-5 years)

- 5) The Government should introduce a system of regular reporting on implementation of major laws and should provide the Assembly with detailed information on actual implementation of the most important laws and policies within a specific time frame after their adoption.

2.4. Key requirement: Inclusive, evidence-based policy and legislative development enables the achievement of intended policy objectives.

Baseline values

Assessing whether policy and legislative development are inclusive and evidence-based and thus achieve the intended goals is based on ten indicators. These cover the extent to which ministries are oriented towards policy development; the backlog of transposition; the number of annually transposed directives; the extent to which policy development makes best use of analytical tools; the extent to which public consultation is used; the extent to which the interministerial consultation process occurs; the ratio of staff participating in training on legal drafting; the number of laws annulled due to legal inconsistency or unconstitutionality; the number of laws sent back to the Government by the Parliament; and the extent to which legislation is made publicly available. Precise methodology and scales for these indicators can be found in the Methodological Annex.

The values for the indicators show that the basic foundations for policy development are established. However, significant challenges remain with regard to converting the output from policy development structures and procedures into high-quality policy and legislative proposals. Challenges also remain regarding adherence to regulations on consultation.

⁸⁸ Information provided by the administration of the Assembly.

The former Yugoslav Republic of Macedonia
Policy Development and Co-ordination

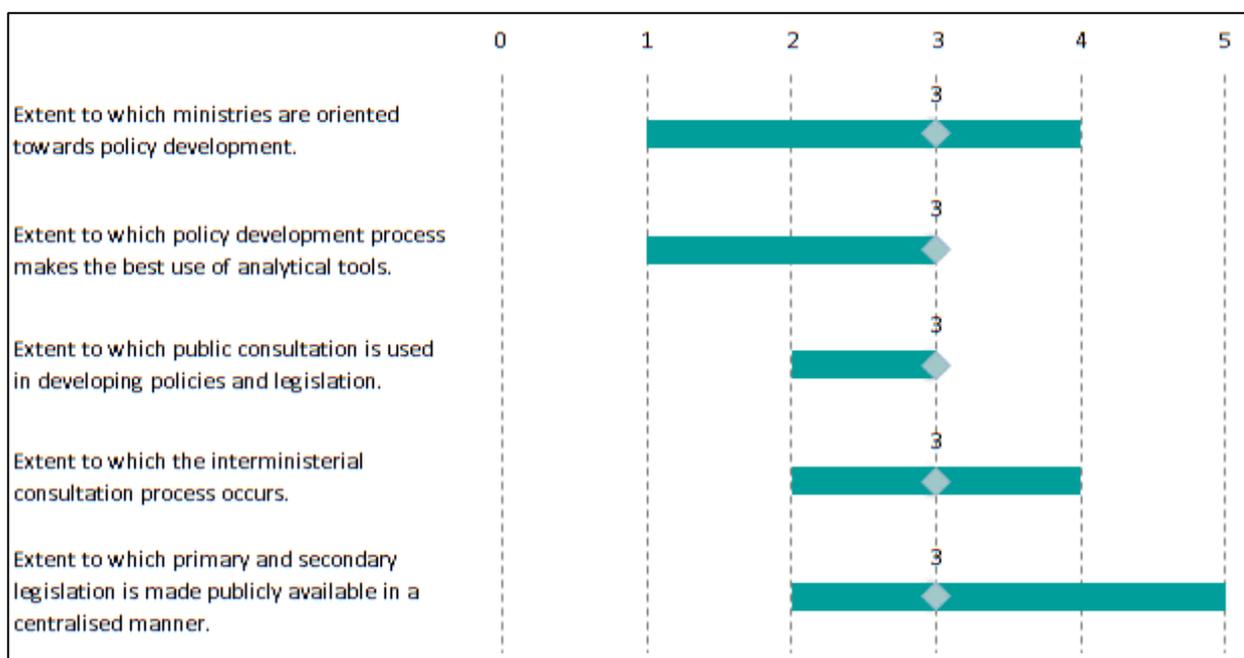
	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	8	Extent to which ministries are oriented towards policy development.	2014	3
	10	Extent to which policy development process makes the best use of analytical tools.	2014	3
	11	Extent to which public consultation is used in developing policies and legislation.	2014	3
	11	Extent to which the interministerial consultation process occurs.	2014	3
	12	Extent to which primary and secondary legislation is made publicly available in a centralised manner.	2014	3
Quantitative	9	Backlog of transposition ⁸⁹ .	2013	62%
	9	Number of annually transposed directives.	2014	33
	12	Ratio ⁹⁰ of staff participating in legal drafting training or mentoring over the past year.	2014	0%
	12	Number of laws annulled on the basis of legal inconsistency or unconstitutionality in a given year.	2014	11
	12	Number of laws sent back to the Government by the Parliament.	2014	5

⁸⁹ Backlog is analysed as comparison of documents consisting of commitments (GAWP and EI plan) of two consecutive years, taking into account items carried forward from one year to the other. The ratio of transposition against planned commitments is calculated based on that analysis.

⁹⁰ The ratio is calculated on the number of staff trained against the total number of ministerial staff dealing with legislative drafting.

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 8. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 8: The organisational structure, procedures and staff allocation of the ministries ensure that developed policies and legislation are implementable and meet Government objectives.

There are 14 ministries and 7 ministers without portfolio. The Government RoP stipulate that it is the responsibility of ministries to develop policies and, more specifically, draft regulations⁹¹. The Law on Organisation and Operation of State Bodies⁹² describes the division of policy areas between ministries. Structures of the ministries clearly define internal allocation of sectoral responsibilities. The internal rulebooks of the ministries set out the functions of all the sectors and departments, but do not regulate the internal policy-development process or the steps of the law-drafting process⁹³. The proportion of staff dealing with policy development is small in some ministries because large departments dealing with enforcement of policies are part of their internal organisation⁹⁴.

The baseline value for the indicator measuring the extent to which ministries are oriented towards policy development is 3, as only three out of five of the required elements are in place⁹⁵: Ministries do

⁹¹ RoP for the Operation of the Government, Articles 8 and 11 (unofficial consolidated text from the end of 2013).

⁹² Articles 15-28.

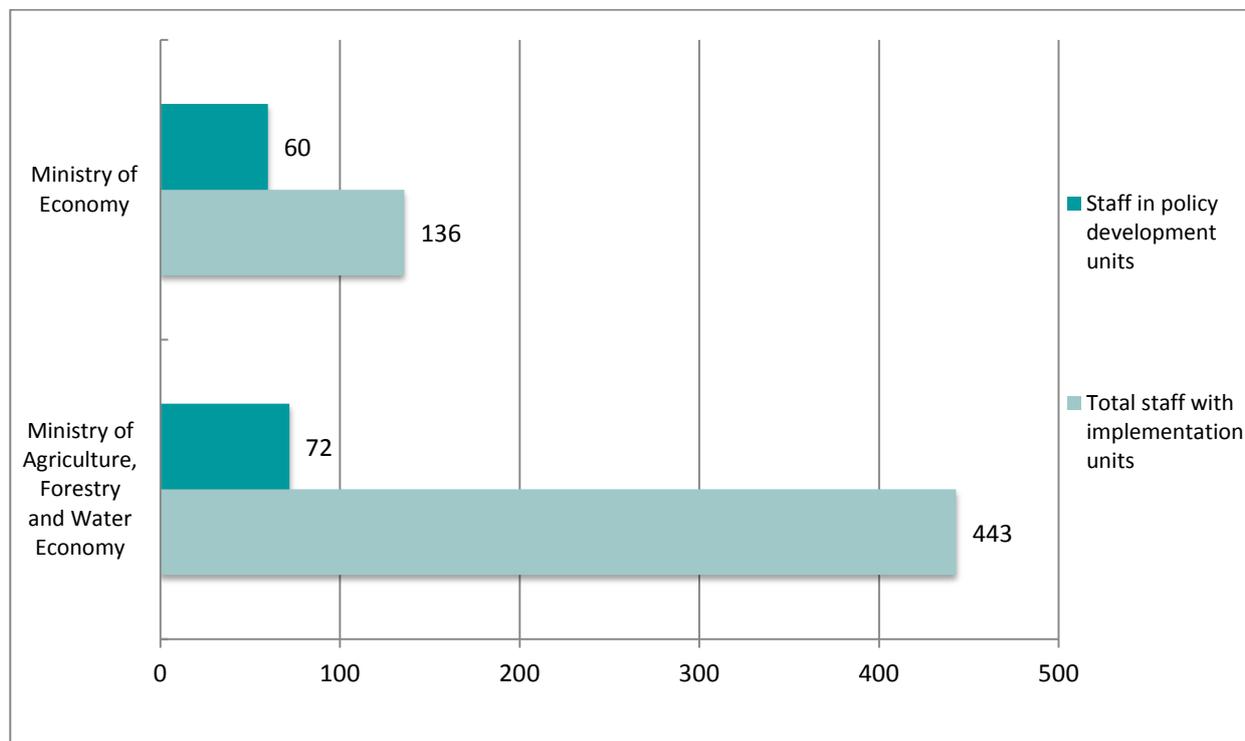
⁹³ See the internal rulebook of the Ministry of Agriculture, Forestry and Water Economy (MAFWE). The rulebook of the Ministry of Economy (MoE), the other sample ministry for analysing the organisation of policy development at ministry level, contains regulation on issues such as the use of official cars and hierarchy of signing documents, but does not describe the internal structure of the Ministry.

⁹⁴ Assessment is based on two sample ministries: the MAFWE and the MoE.

⁹⁵ For the list of required elements see the Methodological Annex.

not have internal rules for developing policies and drafting legislation⁹⁶, and the proportion of staff working on policy development within ministries is less than 30% of all staff⁹⁷.

Figure 9. Staff allocated to policy development in sample ministries



Source: Ministry of Agriculture, Forestry and Water Economy and Ministry of Economy.

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, and the number of staff dealing with policy development is below 30% of total staff. Ministries do not focus solely on policy development. Substantial resources within ministerial structures are allocated to implementation.

Principle 9: The European integration procedures and institutional set-up form an integral part of the policy development process and ensure systematic and timely transposition of the acquis.

The country has been a candidate for EU membership since 2005, but official accession negotiations have not started yet despite the recommendation of the European Commission from 2009. The *acquis* transposition process forms an integral part of the overall Government policy development process. The annual EU Progress Report is used as one of the inputs for the annual legislative plans of the ministries. In addition, at the outset of any regulatory process, ministries check if the proposed legislation interacts with issues mentioned in the Stabilisation and Association Agreement (SAA) or if it is required by the SAA. EU-related legislative initiatives are marked with the EU flag⁹⁸.

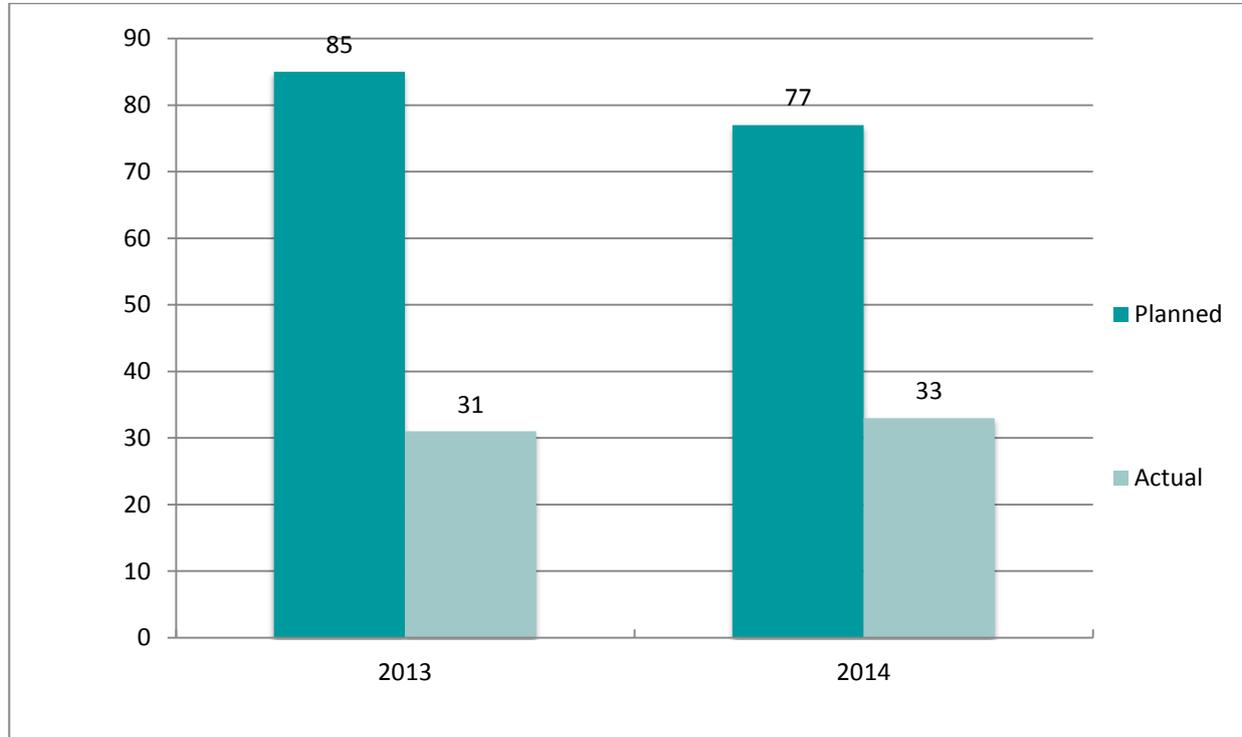
⁹⁶ They rely on central documents like the Government RoP, Government work plans and strategies, and the Rulebook on Nomotechnical Rules prepared by the SL in 2007.

⁹⁷ In the MoE, 56% of staff work on policy matters. In the MAFWE, only 16.2% of staff work in departments involved in policy development. This is because agencies dealing with implementation of policies and enforcement are considered departments of the Ministry. These agencies (such as the forest police and regional units of the MAFWE) have hundreds of staff, almost half the total staff of the Ministry. Using the methodology of the analysis, the worst case was taken into consideration for setting the value of the indicator.

⁹⁸ Government RoP, Article 73 (1).

The baseline value for the indicator on the annual implementation backlog of EI related commitments is 62% for 2013, as 31 directives were transposed and 52 planned transpositions were carried forward to the next year. In 2014, the country planned 77 transpositions and the administration eventually achieved a total of 33 transposed directives.

Figure 10. Number of annually transposed directives



Source: Secretariat for European Affairs.

The RoP⁹⁹ stipulate the use of a Table of Concordance, and this is done on a regular basis¹⁰⁰. The SEA is responsible for co-ordinating the everyday process of preparing the country's version of the *acquis* (including checking for adherence to deadlines of the NPAA)¹⁰¹. The Working Committee for European Integration is a high-level interministerial body¹⁰² with an administrative level sub-committee that meets regularly as a forum for interministerial consultation and conflict resolution.

The SL performs the function of quality control for approximation of legislation¹⁰³. However, a shortcoming of the current procedure, identified by the SEA, is that the ministries do not have an obligation to send proposals that involve transposition of EU law to the SEA for opinions before submitting them to the Government, which they should be required to do. The SEA is translating the *acquis*.

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.

⁹⁹ RoP, Articles 66 and 72.

¹⁰⁰ Based on the assessment of SEA officials and three sample cases of transposition.

¹⁰¹ Law on Government, Article 40-b (2).

¹⁰² The Committee is chaired by the Deputy Prime Minister of the Government in charge of European Affairs, and all State Secretaries of the ministries are members.

¹⁰³ Law on Government, Article 40 (2).

Principle 10: The policy making and legal drafting process is evidence-based and impact assessment is regularly used across ministries.

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 review¹⁰⁴.

According to the RIA Regulations adopted by the Government¹⁰⁵, 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 drafts¹⁰⁶.

From January to December 2014, 350 proposed laws were adopted by the Government. Of these, 77 proposed laws (22%) were delivered to the Government with a RIA report, 114 proposed laws (32.6%) were published on the SNERR, and 40 draft RIA reports (11.4%) were delivered to the MISA for its opinion¹⁰⁷. These figures demonstrate that RIAs were prepared in only a fraction of the cases where they are required by regulations. However, in the first quarter of 2015, the MISA was asked to provide opinions on 50 new draft laws, indicating a growing adherence to the requirements that is also supported by the new e-session system, which does not allow drafts to proceed in the decision-making process without prior publication on the SNERR¹⁰⁸.

One of the three proposals provided for review during the assessment¹⁰⁹ included a very comprehensive RIA with cost-benefit analysis and multi-criteria analysis for three options. In the other two sample proposals, analysis of impacts was not as thorough. Fiscal impacts on the state budget were not identified in either proposal (with no data or analysis to support the conclusion), nor were costs associated with implementation of the law. This is a significant shortcoming. In addition, obvious impacts on businesses were not identified in one case, and in the other, there was no analysis of environmental and economic impacts or identification of alternative solutions. In light of these factors, the baseline value of the indicator on the extent to which the policy development process makes the best use of analytical tools is 3.

The regulation stipulates comprehensive use of tools for evidence-based policy making. Detailed methodology is in place, but requirements are not adhered to. RIA is carried out in 11% of cases where it is required by regulation, and the quality of analysis does not meet the foreseen level. Analyses in proposals do not cover fiscal impacts.

¹⁰⁴ RoP, Article 8. Impact assessment is not obligatory for laws proposed for adoption by means of the urgent procedure, laws on ratification of international agreements, laws on conducting terminology harmonisation with other laws, the proposed Budget, and the Law on the Execution of the Budget.

¹⁰⁵ Regulations Governing Regulatory Impact Assessment, MISA, September 2013.

¹⁰⁶ Assessment based on three sample draft laws provided for review during the assessment and their supporting documents (memorandum and RIA): Law on the Quality and Safety of Fertilisers, Biostimulants and Soil Improvers, Law on Control of Emissions of Volatile Organic Compounds, Draft Law on Craftsmanship. The latter contained detailed analysis, but the first two proposals paid little or no attention to several significant impacts (e.g. administrative cost of businesses, fiscal impacts and costs of state administration bodies associated with implementation, and possible spill-over effects associated with increasing the costs of the petrol industry).

¹⁰⁷ Information provided by the MISA.

¹⁰⁸ The new e-session system has been functional since December 2014.

¹⁰⁹ Draft Law on Craftsmanship, draft Law on Control of Emissions of Volatile Organic Compounds and draft Law on the Quality and Safety of Fertilisers, Biostimulants and Soil Improvers.

Principle 11: Policies and legislation are designed in an inclusive manner that enables the active participation of society and allows for co-ordination perspectives within the Government.

Procedures are in place to facilitate both public and interministerial 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' associations¹¹⁰. In addition, prior to submitting materials to the Government, ministries must present them for review to the responsible, relevant and interested state administration bodies. Regulations oblige proposing institutions to publish their draft proposals in the SNERR as the obligatory tool for consultation.

Guidelines supporting the regulations for public consultation¹¹¹ 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 comment¹¹². 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 SNERR¹¹³. Thanks to the recently introduced e-session system, the Government gets a comprehensive report on the results and outcomes of the interministerial consultation process.

In cases of interministerial conflicts, the GS co-ordinates conflict resolution between involved institutions. The General Collegium of state secretaries, managed by the Secretary General, is the final mechanism for solving possible conflicts before they reach the political level (i.e. ministers at the committees and sessions of the Government).

Under regulations adopted by the Government, the GS is required to monitor implementation of both public and interministerial consultation processes¹¹⁴. However, of the 350 initiatives for adoption of primary legislation in 2014, only 114 (about 33%) were published in the SNERR¹¹⁵. This means that most proposals for amendments to primary legislation appeared on the Government agenda without using the main channel designed for public and interministerial consultation. The three sample proposals for new primary legislation submitted for review¹¹⁶ included a list of bodies consulted, but contained no information on opinions provided during public and interministerial consultations or how they influenced the final version of the proposal. Interviews with representatives of non-governmental organisations confirmed that no feedback on comments is provided and, contrary to the regulation, consultation reports are not published. However, since the beginning of 2015, a re-engineered version of the SNERR provides advanced features, including automated timekeeping for the consultation process as well as automated development of consultation reports, which are also included in documentation attached to draft proposals discussed at Government sessions.

¹¹⁰ Law on Organisation and Operation of State Administrative Bodies, Article 10.

¹¹¹ 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.

¹¹² Allowing a minimum of 10 days from date of publication on the SNERR to submit opinions on drafts.

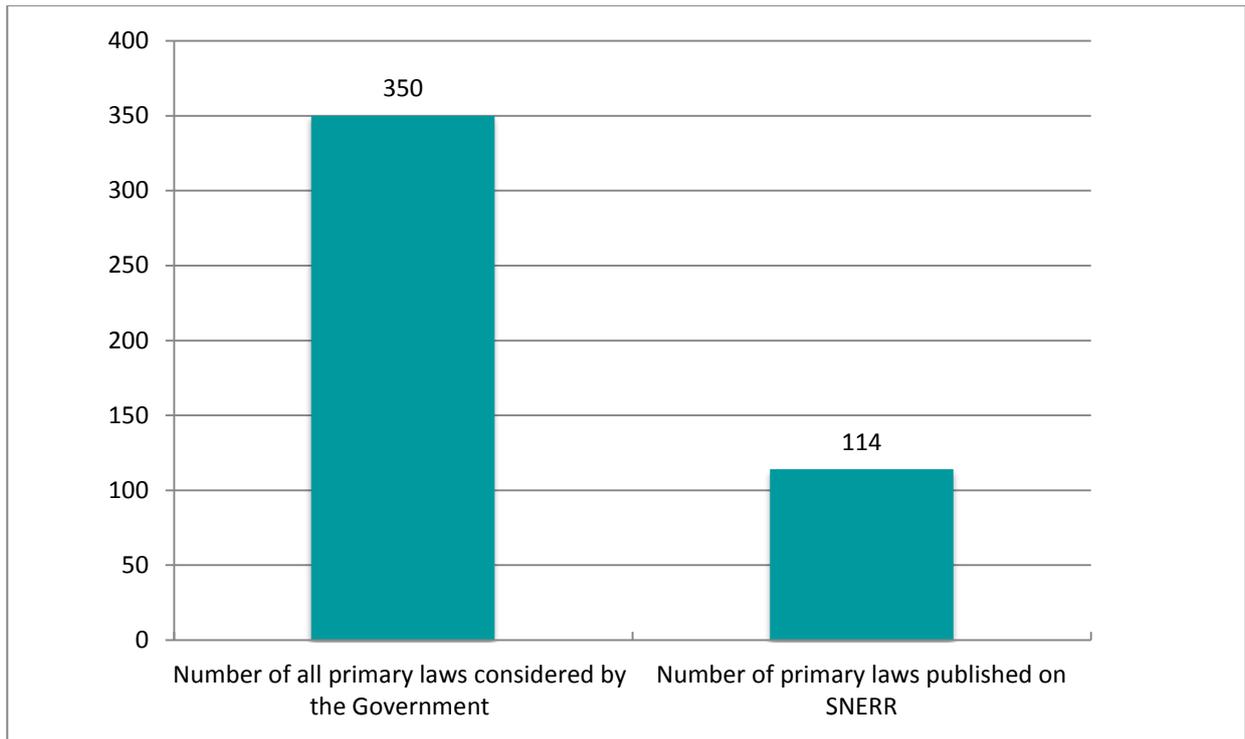
¹¹³ Government RoP, Article 68a (5): "In the Report on Regulatory Impact Assessment, the competent ministry shall give a review of the received opinions specifying the reasons for not accepting the comments and proposals, and it shall publish the review on its website and in the SNERR."

¹¹⁴ Code of Good Practice for the Participation of Civil Society in Policy Making and the Law on Government, Article 40a.

¹¹⁵ According to the MISA.

¹¹⁶ Draft Law on Craftsmanship, draft Law on Control of Emissions of Volatile Organic Compounds and draft Law on the Quality and Safety of Fertilisers, Biostimulants and Soil Improvers.

Figure 11. Number of laws published on the SNERR in 2014



Source: Ministry for Information Society and Administration.

Recently introduced systems allow the Government to deliberate on issues referred to it on the basis of systemic information provided by the outcomes of consultations and on the outcomes themselves, but mechanisms have not been introduced to monitor the quality and outcomes of the public consultation process. Based on the analysed samples and information provided by the MISA and the GS about the practice in 2014, baseline values for the indicators on the extent to which public consultation is used in developing policies and legislation and the extent to which the interministerial consultation process occurs are both set at 3.

Regulation on public consultation is in place which sets clear procedures for consultation, but enforcement is sporadic and inconsistent. Co-ordination across the Government is ensured by regulation requiring consultation with all levels and bodies but, again, implementation is inconsistent.

Principle 12: Legislation is consistent in structure, style, and language; legal drafting requirements are applied consistently across ministries; legislation is made publicly available.

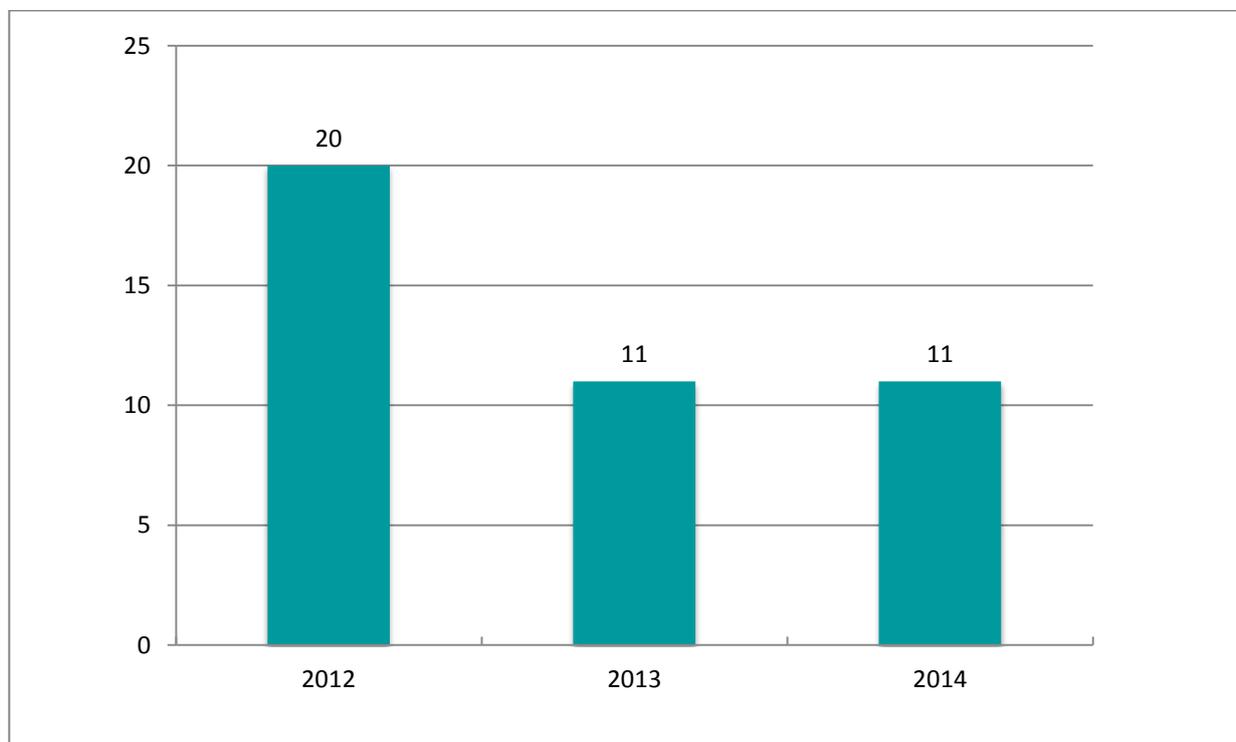
The Rulebook on Nomotechnical Rules (2007) and the Handbook on Transposition of the *Acquis Communautaire* into the Legislation of the Country (2010) provide guidance on drafting formalities. The guidelines are comprehensive and help drafters develop primary and subordinate legislation.

The SL is the body responsible for ensuring coherence and quality of legislative drafting and all proposals for passing of laws, draft laws and proposed laws, as well as other regulations. Acts must be submitted to the SL for its opinion before presenting them to the Government for adoption or approval¹¹⁷. This requirement is followed in practice.

¹¹⁷ Government RoP, Articles 68 (1) and 69.

Neither the SL nor the MISA organised any training on legal drafting for civil servants in 2014¹¹⁸. In 2014, the Constitutional Court annulled provisions of 11 laws on the basis of legal inconsistency or unconstitutionality, and the Assembly sent 5 draft laws back to the Government.

Figure 12. Number of decisions by the Constitutional Court to annul/revoke certain legal provisions



Source: Constitutional Court

All primary and secondary legislation is available electronically through the Official Gazette¹¹⁹. Legislation of the current year is available for a fee. Only legislation adopted during previous years is available free of charge. Some laws are available to the public in unofficial consolidated versions as some ministries are publishing unofficial consolidated versions of legislation on their websites and also in the SNERR. Official consolidated versions of legal texts are developed by the Legislative Committee of the Parliament only when foreseen in a given legislative amendment. Official consolidations are published in the Official Gazette. In light of all these factors, the baseline value for the indicator on the extent to which primary and secondary legislation is made publicly available in a centralised manner is 3.

Processes and guidance are in place and applied to ensure that coherence and quality of legislation are constantly scrutinised. Training on legislative drafting is not regularly ensured. Both primary and secondary legislation are available electronically, but official consolidated versions of legal texts are developed by the Legislative Committee of the Parliament only if explicitly foreseen by a legislative amendment, although some of the legislation is available in unofficial consolidated form.

Key recommendations

Short-term (1-2 years)

- 1) Ministries should develop internal rules for policy development and legislation that stipulate the steps, roles and responsibilities in the process.

¹¹⁸ According to the website of the MISA (www.mio.gov.mk/?q=node/3589), the last training on drafting for civil servants took place at the end of 2013.

¹¹⁹ Available at: <http://www.slvesnik.com.mk/>.

The former Yugoslav Republic of Macedonia
Policy Development and Co-ordination

- 2) The MISA and the SL should co-operate in providing regular training on legislative drafting to civil servants (with the SL providing input on the most common shortcomings of legal drafting).
- 3) The SEA, in co-operation with the SL and GS, should initiate an amendment of the RoP to add provisions obliging ministries and other state administration bodies to distribute materials connected with transposition of EU legislation to obtain opinions from the SEA.
- 4) The GS should start fulfilling its role to ensure that all provisions regarding development of legislative proposals are consistently followed (regarding preparation of RIAs and carrying out interministerial and public consultation).

Medium-term (3-5 years)

- 5) The MISA should 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.
- 6) The MISA should continue implementing the Regulations Governing Regulatory Impact Assessment, including adopting annual plans for RIA, organising training on existing methodology for civil servants responsible for carrying out RIAs and promoting the SNERR as the central platform for interministerial and public consultation.
- 7) The Assembly and the Government should look for a legal and practical solution to ensure that regular preparation of official consolidated versions of at least all primary legislation becomes standard practice and should provide access to them from a single source.

3

Public Service and Human Resource Management

PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

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, provides principles and criteria for an overall personnel policy, and helps the Ministry of Information Society and Administration (MISA) to play a relevant role in public sector planning and monitoring.

The new public service legislation is an improvement in that it ensures the recruitment of expert-level public servants based on merit and equal treatment, but it still allows the use of non-objective criteria in the recruitment and termination of senior public servants. Persons holding senior managerial positions have the status of civil servants since they have to be appointed from among managerial-level civil servants, but they are not competitively selected.

The merit principle is also ignored by the Law on Transformation into Permanent Contracts, adopted on 11 February 2015, only two days before the entry into force of the LPSE and the LAS. The purpose of this law is to convert temporarily contracted staff into civil servants or public employees with a permanent contract.

The remuneration system of public servants builds upon clear criteria established in the primary legislation. The Government has yet to adopt a method for the allocation of allowances and to ensure coherent implementation of the new salary system. The professional development of public servants is supported by a competency framework which still has to be implemented.

1.2. Main developments

The main developments are the approval (February 2014) and enforcement (February 2015) of the LPSE¹²⁰ and the LAS¹²¹. Both laws were amended in December 2014 and April 2015 to solve problems identified when preparing for their implementation.

Five by-laws to implement the LPSE and 16 by-laws to implement the LAS have been adopted¹²². From the secondary legislation related to the new public service legislation, the only pending by-law is the Methodology for Equitable Representation, including the Annex on the Annual Employment Plan and the Annex on Reports to the Annual Employment Plan.

¹²⁰ The LPSE was adopted in February 2014 and published in the Official Gazette No. 27/2014. The LPSE entered into force on 13 February 2015.

¹²¹ The LAS was adopted in February 2014 and published in the Official Gazette No. 27/2014. The LAS entered into force on 13 February 2015.

¹²² MISA, www.mioa.gov.mk/?q=node/217.

2. ANALYSIS

The analysis covers the seven Principles of the public service and HRM area, grouped under two key requirements¹²³. For each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover all relevant elements related to public service: the scope and legal framework of the public service; professionalism in recruitment, training and performance appraisal; fairness and transparency of the salary system; and the promotion of integrity, as well as the prevention of corruption.

This report will focus mainly on the LPSE and the LAS for issues regarding the legislative framework, and on the Civil Service Law (CSL) and its implementation in 2014¹²⁴.

2.1. Key requirement: The scope of public service is clearly defined and applied in practice so that the policy and legal framework and institutional set-up for professional public service is in place.

Baseline values

The scope of the public service is examined through three qualitative indicators that refer to the scope covered by legislation, the coherence and the professionalism of the policy and legal framework, and the institutional set-up enabling consistent HRM practices across organisations.

The LAS, building upon previous legislation, expands the scope of public service to areas for which there was public employment status or status regulated by the labour legislation in the past. However, the merit criteria for senior managerial positions are not fully established. Policies for public service development are defined and in line with most administrative law principles¹²⁵. However, the decision to convert some thousands of temporary employees into permanent ones in all public service institutions¹²⁶ raises questions concerning human resources (HR) planning and the principles of merit and legal certainty. The institutional set-up for managing public service has been improved by the new legislation but some inconsistencies remain.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the scope of public service is adequate, clearly defined and applied in practice.	2014	3
	2	Extent to which the policy and legal framework for professional and coherent public service is established and implemented.	2014	3
	2	Extent to which the institutional set-up enables consistent HRM practices across the public service.	2014	3

¹²³ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 40-56.

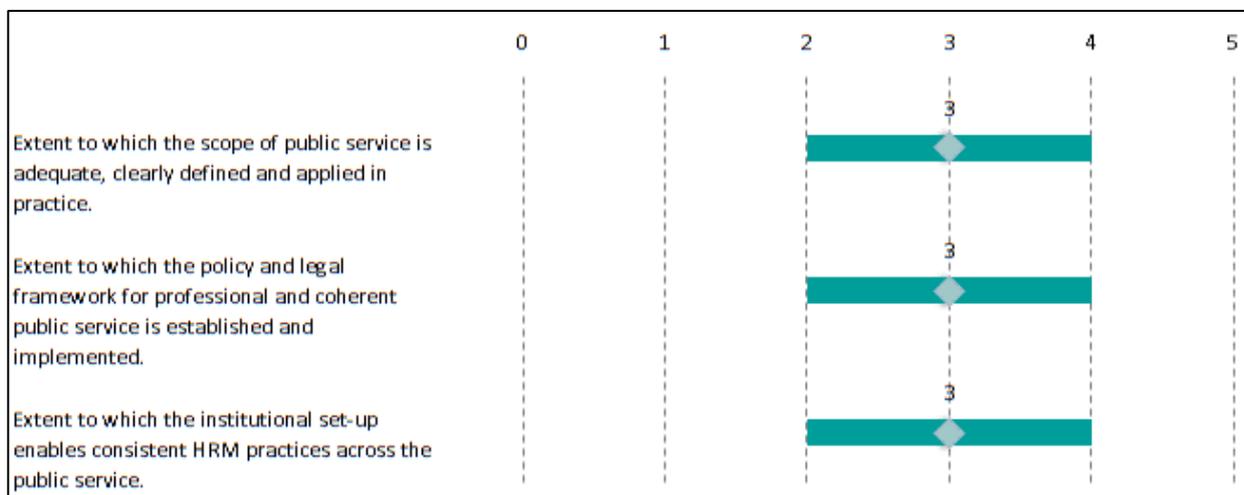
¹²⁴ The CSL was adopted in July 2000 and published in the Official Gazette No. 59/2000.

¹²⁵ Openness and transparency, accountability, efficiency and effectiveness; from [The Principles of Public Administration](#), OECD Publishing, Paris, p. 45.

¹²⁶ Law No. 20/2015 on Transformation into Permanent Labour Contracts, entered into force 11 February 2015.

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: The scope of public service is adequate, clearly defined and applied in practice.

The LAS and the LPSE constitute the new legislative framework for the public service. These two laws were adopted in February 2014 and entered into force in February 2015. The LPSE is a framework law that covers four groups of public employees¹²⁷: 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.

The enforcement of the LPSE and the LAS has enlarged the horizontal scope¹²⁸ of the public service. The number of administrative bodies covered by the new legislation will expand from 376¹²⁹ to 1 340¹³⁰, and 58 sectoral laws have been amended to align with the LPSE and the LAS¹³¹. 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

¹²⁷ LPSE, No. 27/2014, Article 14.

¹²⁸ In *The Principles of Public Administration*, and in the Baseline Measurement, the narrow **horizontal scope of public service** is applied, covering: i) ministries and administrative bodies reporting directly to the Government, Prime Minister or ministers, i.e. the civil service, strictly speaking; ii) administrations of the Parliament, the President and the Prime Minister; iii) other administrative bodies at the level of the central administration if they are included in the scope of the public service in terms of the public/civil service law and they exercise public authority conferred by public law and are responsible for safeguarding the general interests of the state or other public bodies; iv) independent constitutional bodies reporting directly to the Parliament.

¹²⁹ MISA, Data on state and public institution employees, 27 May 2014.

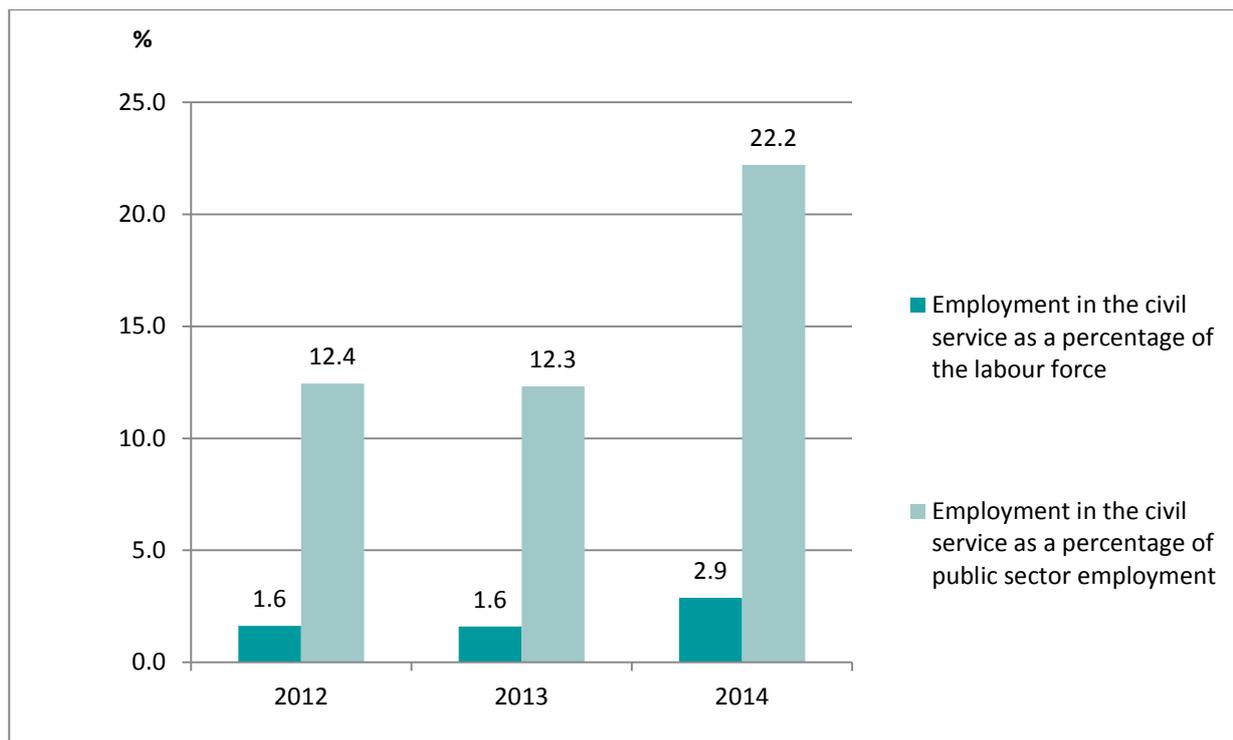
¹³⁰ Interview with MISA, 11 March 2015.

¹³¹ The affected laws appeared in the Official Gazette Nos. 39, 41-44, 130, 144, 158 and 167, 2014. These laws affect up to 58 services, including Customs Administration, Culture, Protection of Children, the National Bank, Forests, Securities, Financial Police, Financial Inspection, Housing, Public Roads and the Postal Service.

and inspection, and state audit officers, among others¹³². Other HR functions and processes in these institutions are still regulated by their own special legislation.

The current number of 27 754 administrative servants (civil and public) will increase, once the conversion is finished, to include an additional up to 8 000¹³³ employees previously regulated by sectoral laws and/or labour legislation. Administrative servants currently represent 22.4% of public sector employment¹³⁴ (the public sector workforce is estimated at 125 000 for 2014) and 2.9% of the labour force¹³⁵ (961 416 in the fourth quarter of 2014)¹³⁶. The public sector has formed 13.0% of the total labour force in the past three years.

Figure 2. Employment in the public service as a percentage of the labour force and of public sector employment, 2012-2014¹³⁷



Source: State Statistical Office, Ministry of Information Society and Administration.

The expansion of the horizontal scope is a complex process. First, expansion depends on what has been called the job systematisation of each public authority, which facilitates the conversion from the old to the new system. Second, the conversion process to the new civil service positions is based on the Catalogue of Jobs in the Public Sector¹³⁸ and the Acts on Internal Organisation for each administrative body, adopted upon prior consent from MISA. One concern regarding the transition to the new system is the “automatic conversion” into administrative service status of a limited number of labour employees occupying clerical positions in health, education and cultural institutions – positions

¹³² LAS No. 27/2014, Article 4.

¹³³ MISA cannot yet estimate the exact number of administrative servants under the new scope.

¹³⁴ Public sector employment includes persons employed in the following sectors: public administration, defence, compulsory social security, education, human health and social work.

¹³⁵ The labour force includes the country's working-age population that engages actively in the labour market, either by being employed or unemployed.

¹³⁶ State Statistical Office, www.stat.gov.mk/.

¹³⁷ Labour force figures for 2014 are for the fourth quarter; public sector employment for 2014 is an estimate.

¹³⁸ Rulebook on the content, form and manner of keeping of the Catalogue of job positions in the public sector institutions, the method of preparation of the job position codes, and how to insert and delete job positions from the Catalogue (Official Gazette No. 132/2014).

The former Yugoslav Republic of Macedonia
Public Service and Human Resource Management

now considered to be part of the administrative service. These employees will be converted without passing the standardised test for administrative servants in the Agency of Administration (AA) or any other certification procedure. The automatic conversion of these employees to administrative service status breaches the general merit and competitive procedure.

The administrative servant positions within category A (secretaries, including the state secretary, the secretary general and the secretary of the municipality), which form the upper level of the vertical scope¹³⁹ of the public service, are included in the scope because these positions are to be filled from among managerial civil servants within category B (head administrative servants)¹⁴⁰. Their appointment is at the discretion of the minister, head of the institution or mayor, without regard for open competition and merit criteria. Their terms of office (as secretaries, but not as civil servants) expire with the term of the official who appointed them. In practice, a hybrid system has been configured, combining merit at the entrance and political discretion in the final appointment as secretary, which does not comply with the merit-based recruitment principles. This is, however, a step forward from the previous system in which secretaries were purely political appointees.

The material scope¹⁴¹ of the public service is covered by the new legislation and is developed in detail in 21 pieces of secondary legislation. The Methodology for HR recruitment plans has not yet been adopted because consent by the Secretariat for Implementation of the Ohrid Framework Agreement (SIOFA) is pending; this hampers the recruitment of new personnel in the public sector.

All of these factors influence the baseline value of the qualitative indicator on the scope of the public service, which for 2014 is 3.

The horizontal scope of the public service has expanded considerably. The upper level of the public service includes civil servants discretionarily appointed to top positions who do not meet the criteria of merit. The implementation of the new public service scope started only in February 2015 and cannot yet be assessed.

Principle 2: The policy and legal framework for a professional and coherent public service is established and applied in practice; the institutional set-up enables consistent and effective human resource management practices across the public service.

The Public Administration Reform (PAR) Strategy 2010-2015, which includes the public service¹⁴², has not been fully implemented in all areas. For example, performance appraisal has not been properly implemented, resulting in a meaningless process in which 97% of employees are assessed as top performers. The new framework law – the LPSE – sets out several administrative law principles¹⁴³ in chapter 2¹⁴⁴. However, the principles of reliability and predictability (legal certainty) are not explicit in

¹³⁹ In [The Principles of Public Administration](#), and in the Baseline Measurement, the **vertical scope of public service** means that the law on public/civil service clearly determines the upper and lower division line between political appointees, public servants and support staff.

¹⁴⁰ LAS No. 27/2014, Articles 23 and 24.

¹⁴¹ In [The Principles of Public Administration](#), and in the Baseline Measurement, the **material scope of public service** means that the law on public/civil service establishes all general provisions relevant to the employment relations of public servants and management of public service, such as scope and principles of the civil service; classification; recruitment and selection, including civil servants in senior managerial positions; rights and obligations of civil servants, including the integrity system; remuneration (main principles and components of salary system); professional development, including performance appraisal, training, mobility and promotion; disciplinary procedures, including suspension of the civil service relationship; termination of employment, including demotion and redundancy; management and central co-ordination of the civil service.

¹⁴² PAR Strategy 2010-2015, 21 December 2010, pp. 39-45.

¹⁴³ Although the wording is different, the administrative law principles of openness and transparency, accountability, efficiency and effectiveness are included in the legislation.

¹⁴⁴ The legality of actions of civil servants; equal access to jobs and equitable representation; professionalism (adequate competencies); performance and service orientation; ethical, impartial and objective behaviour; transparency and confidentiality; liability; prevention of conflict of interest; and economical use of assets.

The former Yugoslav Republic of Macedonia
Public Service and Human Resource Management

either the LPSE or LAS. Public employment legislation has been subject to continuous and numerous amendments; in fact, the CSL had 26 amendments during the 14-year period since its adoption in 2000¹⁴⁵. These changes have undermined the stability of the legal environment. The new LAS was amended twice in the year after its adoption to streamline certain articles for their effective implementation¹⁴⁶.

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 certificates¹⁴⁷.

The political responsibility for the public service is assigned to MISA. This Ministry has gained authority in public service and HRM with the new legislation. In HR planning, the responsibilities are shared; according to the LPSE: MISA shall decide whether the annual plan is prepared in compliance with the Methodology¹⁴⁸; the Ministry of Finance (MoF) or the authority for the institution's budget shall also give consent, and the SIOFA shall give consent on the community affiliations foreseen in the annual plans of the state bodies.

Unfortunately, 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 force¹⁴⁹.

Reinforced capacities will be required from MISA to carry out some new or enlarged functions entrusted to it by the new legislation. First, the approval of the systematisation of jobs¹⁵⁰, previously managed by the AA, is now assigned to MISA. As the number of bodies subject to this approval has increased significantly, this new task is a challenge for the limited MISA resources. The Ministry has therefore established four teams of four to five employees each to work exclusively on systematisations, co-ordinated by the State Secretary of MISA and two state advisors.

Second, the newly mandated training requirements of five compulsory training courses per year for each employee overstretches the capacity of MISA¹⁵¹, which has developed 15 e-learning and 24 micro-learning courses to be delivered online¹⁵². It is questionable whether MISA has the capacity to deliver classroom courses to all administrative servants as required by the LAS.

The co-ordinative function of MISA has been carried out through direct guidelines to the institutions. MISA has also established the co-ordinative body for HRM, comprised of state secretaries of ministries and headed by the MISA State Secretary, for consultation purposes. The Ministry maintains a network of HR managers but holds only annual meetings not directly connected to the implementation of the new system¹⁵³.

¹⁴⁵ Changes to the CSL No. 59/2000: Amendment Nos. 106/13, 82/13, 15/13, 24/12, 6/12, 36/11, 167/10, 35/10, 114/09, 6/09, 161/08, 36/07, 61/06, 81/05, 69/04, 17/04, 85/03, 40/03, 17/03, 98/02, 42/02, 103/01, 34/01 and 112/00.

¹⁴⁶ There were two amendments of the LAS, one before and one after its enforcement. The first amendment was intended to implement the European Commission recommendations on the improvement of Article 44, and to harmonise the law with the by-laws which were prepared in the meantime. The second amendment was to postpone the language condition only.

¹⁴⁷ LAS No. 27/2014, Articles 35, 36 and 39.

¹⁴⁸ LPSE No. 27/2014, Article 20-b.

¹⁴⁹ According to MISA, the Minister was consulted by the MoF regarding this law.

¹⁵⁰ Rules No. 27/2014 and No. 199/2014 for the content and method of preparation of the Acts on Internal Organisation and the systematisation of jobs.

¹⁵¹ LAS No. 27/2014, Article 56.

¹⁵² Publication of the catalogue listing these e-courses and registration instructions was set for the week of 27 April 2015.

¹⁵³ In 2014 there was only one meeting, focused on functional analysis; see Report of the Fifth Conference of the Network of Sectors/Departments HRM on "Functional Analysis".

The former Yugoslav Republic of Macedonia
Public Service and Human Resource Management

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 limited¹⁵⁴. MISA has designed a new, comprehensive system¹⁵⁵, not operational at the time of writing this report. According to legislation, the new information system, covering all employees under the LPSE, will be in operation from February 2016¹⁵⁶.

The Administrative Inspectorate, accountable to MISA, is responsible for overseeing the implementation of public employment legislation. However, its performance raises concerns. For example between January and July 2014, in 53% of the cases handled by the Inspectorate, the legal deadline had passed without a decision having been reached¹⁵⁷.

Considering the factors analysed above, the baseline values for the qualitative indicators on the policy and legal framework, and on the institutional set-up for 2014 are both 3.

The new legal framework for a professional public service is established and is in line with the administrative law principles. The new legislation remains to be fully implemented and its consistent implementation adequately monitored.

Key recommendations

Short-term (1-2 years)

- 1) MISA and the relevant stakeholders should ensure the full implementation of the new public employment legal framework.
- 2) MISA should support and supervise the HR capacities of all administrative bodies included in the new public service scope and strengthen them through guidelines, regular networking and training programmes.

Medium-term (3-5 years)

- 3) MISA should conduct a mid-term comprehensive assessment of the implementation of the new public service legislation and improve the legislation, institutional set-up and implementation practices accordingly.

2.2. Key requirement: Professionalism of public service is ensured by good managerial standards and human resource management practices.

Baseline values

Professionalism is examined through 8 qualitative and 16 quantitative indicators that refer to the merit-based recruitment and termination of employment in the public service, including senior public servants, a fair and transparent salary system, professional development and appraisal of public servants, and measures for promoting integrity and preventing corruption in the public service.

¹⁵⁴ In some cases, aggregate data on training days per category is available only in hard copy. For other areas like education, qualification and tenure of public servants, the registry possesses only limited information. Finally, information on disciplinary sanctions, termination of employment and appeals is only partially considered in the registries.

¹⁵⁵ 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).

¹⁵⁶ To prepare for implementation, 2 000 administrators will be trained in the coming months.

¹⁵⁷ Between January and July 2014, the Administrative Inspectorate carried out 1 153 supervisions. In 53% of the cases, the legal deadline had passed without a decision having been reached; this percentage is slightly higher than that of 2013, when it was 45% (State Administrative Inspectorate [2015], supervisions conducted in 2013 and for the period January-July 2014).

The former Yugoslav Republic of Macedonia
Public Service and Human Resource Management

Analysis of the legislation is on the basis of the new legal framework, adopted in February 2014, but analysis of implementation is based on the old public service legal framework, in force up to February 2015, as it is too early to assess implementation of the new legal framework, in force from February.

The baseline values of the qualitative indicators on recruitment and termination of employment of public servants indicate that, first, neither the regulation nor the practices of recruitment under the previous legislation have ensured commitment to merit criteria; second, there have been many appeals against dismissals, which puts into question the objectivity of the process. The new system improves but does not eliminate political influence in the recruitment and dismissal of the top managerial positions. The strategies and plans for training exist, but training does not reach all civil servants, who are entitled to it by law, and performance appraisal still needs to realise its potential. Finally, there are many anti-corruption measures in place but the perception of corruption is still high in the country. The disciplinary procedure is well regulated, but there is no data about its application.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	3	Extent to which recruitment of public servants is based on the merit principle in all its phases.	2014	3
	3	Extent to which the termination of employment of public servants is based on merit.	2014	3
	4	Extent to which political influence on the recruitment and dismissal of senior managerial positions in the public service is prevented.	2014	2
	5	Extent to which the remuneration system of public servants is fair and transparent and applied in practice.	2014	3
	6	Extent to which the training system of public servants is in place and applied in practice.	2014	4
	6	Extent to which the performance appraisal system of public servants is in place and applied in practice.	2014	3
	7	Extent to which the integrity and anti-corruption system of the public service is in place and applied in practice.	2014	3
	7	Extent to which the disciplinary procedures against public servants are established to promote individual accountability and avoid arbitrary decisions.	2014	3
Quantitative	3	Annual turnover of civil servants at the level of central administration.	2014	Not available ¹⁵⁸
	3	Turnover of civil servants at the level of central administration within six months of a change of	2014	Not

¹⁵⁸ "Not available", and hereafter, means that the administration did not provide the respective data to SIGMA's during the 2015 Baseline Measurement.

The former Yugoslav Republic of Macedonia
Public Service and Human Resource Management

	Principle no.	Indicator	Baseline year	Baseline value
		Government.		available
	3	Percentage of vacant positions filled by external competition in the civil service at the level of central administration.	2014	83.3%
	3	Percentage of vacant positions filled by internal competition in the civil service at the level of central administration.	2014	16.7%
	3	Percentage of women in the civil service at the level of central administration.	2014	48.6%
	3	Percentage of women in senior managerial positions in the civil service at the level of the central administration.	2013	37.9%
	3	Percentage of civil servants at the level of the central administration by different ethnic origin in relation to the general ethnic division in the country based on the latest census.	2013	1.4% ¹⁵⁹
	4	Annual turnover of senior managerial civil servants at the level of the central administration.	2014	Not available
	4	Turnover of senior managerial civil servants at the level of central administration within six months of a change of government.	2014	Not available
	4	Percentage of vacant senior managerial positions at the level of central administration filled by external competition.	2014	86.7%
	4	Percentage of vacant senior managerial positions at the level of central administration filled by internal competition.	2014	13.3%
	5	Ratio of average annual compensation of central government senior and junior professionals to compensation of tertiary-educated workers.	2014	Not available
	5	Ratio of average annual compensation of central government senior public servants to compensation of tertiary-educated workers.	2014	Not available
	7	Transparency International Corruption	2014	45

¹⁵⁹

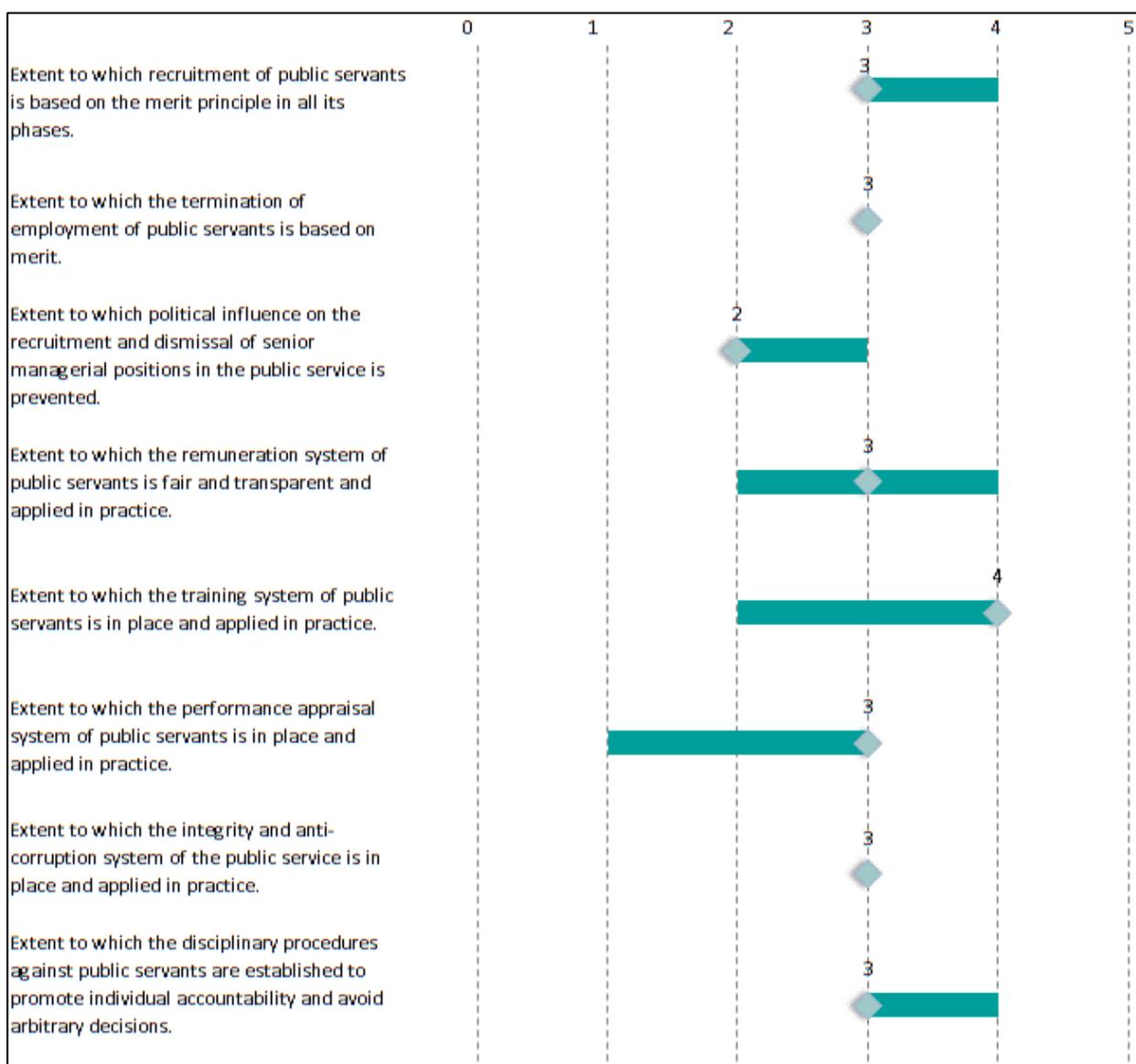
The calculation is based on the following data: last official Population Census (2002), Civil Servants' Register (2013, including 15 321 civil servants); general population: 64.2% Macedonians, 35.8% Others; civil servants: 65.6% Macedonians, 34.4% Others. Non-Macedonian communities are represented in the civil service at 1.4% above their share of total population. The civil servants figure includes all SIOFA-recruited civil servants. Smaller communities, such as Turks, Serbians, Roma and others are underrepresented compared to their share in the total population.

The former Yugoslav Republic of Macedonia
Public Service and Human Resource Management

	Principle no.	Indicator	Baseline year	Baseline value
		Perception Index – the country score.		
	7	Citizens' perception of the integrity and trustworthiness of the public service.	2014	Not available
	7	Number of public servants who have been criminally convicted of corruption crimes.	2014	Not available

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 3. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 3: The recruitment of public servants is based on merit and equal treatment in all its phases; the criteria for demotion and termination of public servants are explicit.

During 2014, under the old legislation, the appointing authority was able to choose any of the three short-listed candidates without giving any explanation¹⁶⁰. This decision has triggered appeals to the AA. Out of 514 appeals, 42% were related to the selection process of civil servants and to this issue in particular.

In 2014, there were 384 external competitions (80% of the total number of competitions) and 77 internal competitions (20%). The 2 190 vacancies for civil servant jobs announced in external competitions received 109 183 applications, or 49.9 candidates per vacancy. As for public servant jobs, 181 vacancies were announced in external competitions and 3 376 candidates applied (18.6 candidates per vacancy). The average number of candidates should allow for an open merit competition. There is no data available on the number of candidates for internal competitions.

The recruitment regulations in the LAS, in force as of February 2015, establish the principle of merit for filling civil servant positions¹⁶¹, a clear improvement on the previous 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 criteria¹⁶².

Just days before the new legislation came into force on 13 February 2015, a law was adopted to convert existing temporary employee contracts into permanent contracts (some of them with administrative servant status) without any competition¹⁶³. There have been repeated accusations from the main opposition party of strong political influence in the selection process at all levels¹⁶⁴.

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 communities¹⁶⁵, according to annual recruitment plans. Details on how this new system will be implemented are subject to secondary legislation not approved at the time of writing. When targets for recruitment from NMCs cannot be met in a given competition, no candidate will be selected and the procedure will need to be repeated for a second and last time¹⁶⁶.

Gender representativeness is promoted according to the Law for Equal Opportunities for Women and Men. All public institutions have a co-ordinator for equal opportunities. The percentage of women in the civil service is 48.5%¹⁶⁷.

According to the new LAS, termination of employment could take place after one “insufficient” performance appraisal rating or two partially satisfactory appraisals¹⁶⁸. 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. In 2014, 13% of the 514 appeals received by the Agency were against decisions on terminating employment¹⁶⁹, which reflects considerable problems in implementing the

¹⁶⁰ CSL No. 59/2000, Article 17.

¹⁶¹ LAS No. 27/2014, Article 30.

¹⁶² LAS No. 27/2014, Articles 37-44.

¹⁶³ Law No. 20/2015 on Transformation into Permanent Labour Contracts, entered into force on 11 February 2015.

¹⁶⁴ Press conference of the Social Democratic Union of Macedonia (SDSM), 15 April 2015.

¹⁶⁵ To be calculated through BalancER software, comparing the ethnic balance in each institution with the desired situation, mirroring the ethnic composition of the society.

¹⁶⁶ LAS No. 27/2014, Article 44.

¹⁶⁷ MISA; there is no category in the registry for senior civil servants.

¹⁶⁸ LAS No. 27/2014, Article 68.

¹⁶⁹ Agency of Administration.

termination procedures under the previous legislation. Considering the factors analysed above, the baseline value for the qualitative indicators on both recruitment for 2014 and the termination of employment is 3.

The direct conversion of temporary employee contracts into permanent contracts contravenes the merit principle of recruitment in the public service. The new legislation, when properly implemented and monitored, enables recruitments based on merit and equal treatment in all its phases.

Principle 4: Direct or indirect political influence on senior managerial positions in the public service is prevented.

According to the old civil service registry there were 628 senior civil servants. Forty-five of these were appointed during 2014¹⁷⁰. In the new LAS, senior civil servants, although not explicitly established as such, may be considered category A civil servants¹⁷¹.

The old CSL provided for secretaries to be appointed by the minister, mayor or head of institution, without clear indications about requisites and selection procedures¹⁷², which led to a fully politicised top civil service. In the new system, the positions of secretaries (including the state secretary, the secretary general and the secretary of the municipality) are included in the scope of the civil service, as these positions are to be filled from within the managerial civil servants (category B, head administrative servants). However, they are discretionarily appointed by the minister, head of the institution or mayor, without open competition and merit criteria. Their terms of office (as secretaries, but not as civil servants) expire with the term of the official who appointed them.

In practice, a hybrid system for hiring senior managerial positions has been configured, combining merit at the entry level and political discretion in the appointment and termination of secretaries.

Given that political influence in the recruitment and dismissal of senior managerial positions is not prevented, the baseline value for 2014 is 2.

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.

Principle 5: The remuneration system of public servants is based on the job classification; it is fair and transparent.

All the principles of remuneration were established in the former CSL¹⁷³ and are now covered in the new LAS¹⁷⁴. Under the new legal framework, basic salary components are clearly established in the LAS¹⁷⁵. 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 compensated¹⁷⁶. The Government has not yet adopted the detailed method for allocation of these

¹⁷⁰ MISA.

¹⁷¹ LAS No. 27/2014, Articles 22 and 23.

¹⁷² CSL No. 59/2000, Articles 10 and 11.

¹⁷³ CSL No. 59/2000, Chapter IV.

¹⁷⁴ LAS No. 27/2014, Chapter XIV.

¹⁷⁵ LAS No. 27/2014, Articles 86-92.

¹⁷⁶ LAS No. 27/2014, Article 93.

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. With the previous legislation, nearly all employees were evaluated as top performers¹⁷⁷, invalidating the purpose of the performance-related bonus. Now, 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 months¹⁷⁸. These regulations create a serious risk of unfair dismissals and, if not carefully applied, could have a very negative effect on employee satisfaction. The implementation of these provisions will start in 2015.

The average monthly wage for public sector employees in 2014 was MKD 38 062 (EUR 618)¹⁷⁹, which represents MKD 6 510 (EUR 106) more than the average of all sectors of the economy. Data on the average salary of administrative servants is not available.

Considering the factors analysed above, the baseline value for the qualitative indicator on remuneration for 2014 is 3.

The remuneration system of public servants builds upon clear criteria established in the primary legislation. The Government has yet to adopt a method for allocation of allowances and to implement the new regulation.

Principle 6: The professional development of public servants is ensured; this includes regular training, fair performance appraisal, and mobility and promotion based on objective and transparent criteria and merit.

The right and duty of training was established in the former CSL¹⁸⁰ and in the new LAS¹⁸¹. Training needs assessments are part of the methodology for drafting annual training plans. In the past, MISA collected training needs data from the state bodies and produced a priority list with a catalogue of courses. In the assessment of training needs from 2015 onwards, MISA is using a competency framework¹⁸² and is focusing on general competencies¹⁸³.

In 2014, according to the annual training report, 69% of the planned events were conducted by MISA, with 25% of the planned number of attendees¹⁸⁴. In total, 3 127 civil servants benefitted from traditional training provided by MISA, the Regional School of Public Administration, EU assistance or bilateral co-operation projects¹⁸⁵, representing 11% of all civil servants. In addition, 30 e-learning and 15 micro-learning courses were developed, and 3 591 civil servants were trained on the KnowledgePulse® MicroLearning platform in 2014. From this starting point, the requirement in the new LAS of five generic trainings per person per year¹⁸⁶ is unrealistic.

¹⁷⁷ MISA; latest available data from 2012, 97% of civil servants received very good or good appraisal results.

¹⁷⁸ LAS No. 27/2014, Articles 65 and 68.

¹⁷⁹ State Statistical Office (2015), average monthly gross salary per employee in November 2014, pp. 2 and 7.

¹⁸⁰ CSL No. 59/2000, Article 24.

¹⁸¹ LAS No. 27/2014, Articles 54 and 56.

¹⁸² MISA (2014), Training strategy – 2015-2017 (draft document), p. 9 and the Rulebook on the Administrative Servant's General Competence Framework (Official Gazette, No. 142/14).

¹⁸³ The Training Catalogue from MISA (December 2014) does not focus so much on competencies as on topics of training.

¹⁸⁴ Annual training programme for CS for 2015 with report on 2014.

¹⁸⁵ MISA, Data on training events for public administration employees in 2014, April 2015.

¹⁸⁶ LAS No. 27/2014, Article 56.

Performance appraisal is established in the former CSL and in the new LAS¹⁸⁷. The CSL allowed for performance appraisal results to be used as a prerequisite to promotion, although this provision did not materialise in 2014 and there were no other clear uses of the performance appraisal results. In practical terms, it is difficult to know the scope and results of the performance appraisal since there is a two-year backlog in the central registry because MISA has not updated the individual records. Although performance appraisal was carried out every six months in 2014 (a considerable burden in itself), there is no evidence of use of the results. The right to appeal against performance appraisals is established¹⁸⁸ but there is no data on its use.

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 promotion¹⁸⁹.

Given that the training system functions under the limitations analysed above, the baseline value of the qualitative indicator for 2014 is 4. One consequence of the new regulation of performance appraisal is reduction of salary, which is contrary to the principle of legal certainty. Additionally, there is a lack of data on implementation. The value of the qualitative indicator for 2014 is therefore 3.

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. The ambitious performance appraisal system will not be easy to manage and could create risks of unfair use.

Principle 7: Measures for promoting integrity, and preventing corruption and ensuring discipline in the public service are in place.

There are several pieces of recent secondary legislation to support the ethical infrastructure of the civil service¹⁹⁰, 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.

According to a recent citizen perception survey¹⁹¹, 61.8% of the interviewees consider that corruption is a very big problem compared to the other problems of the country, and 60.1% consider that corruption is widespread (the comparative distribution among those who visit institutions to complete a service and those who do not is similar). The public employment areas where corruption is more noticeable are health, courts, education and police. In 2014, 9.1% of respondents reported having given money to a civil servant for a service; 11.3% gave gifts or other material resources, and 13.3% delivered counter-favours¹⁹². Furthermore, the country score of 45/100 (0 being “highly corrupt” and 100 “very clean”) in the Corruption Perception Index of Transparency International (TI) is relatively low, occupying position 64/174 in the ranking of the TI¹⁹³.

¹⁸⁷ CSL No. 59/2000, Chapter VI; LAS 27/2014, Chapter X.

¹⁸⁸ LAS No. 27/2014, Article 65.

¹⁸⁹ LAS No. 27/2014, Articles 68 and 48.

¹⁹⁰ 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.

¹⁹¹ Telephone survey with 1 080 citizens conducted in December 2014; State Commission for Preventing Corruption (2015), “Assessment of the level and nature of corruption and of the visibility and perception of the anti-corruption policy”.

¹⁹² State Commission for Prevention of Corruption, “Interim quarterly report for the Twinning Project: Support to efficient prevention and fight against corruption”, p. 80 (of a sample of 745 citizens).

¹⁹³ <https://www.transparency.org/cpi2014>.

The former Yugoslav Republic of Macedonia
Public Service and Human Resource Management

Disciplinary sanctions and procedures are regulated in primary and secondary legislation¹⁹⁴, but information on their implementation is lacking.

The general ethical infrastructure for public servants is in place; however, the perception of corruption is high.

Key recommendations

Short-term (1-2 years)

- 1) The AA should develop and implement its capacities in the management of a merit-based recruitment process within the new scope of public employment.
- 2) MISA should ensure that it has adequate resources to meet its responsibilities for the professional training and development of public servants, and develop all the tools required for meeting the requirements of the new legislative framework.

Medium-term (3-5 years)

- 3) MISA should analyse the feasibility of further advancing merit-based recruitment and termination of senior managerial positions and prepare legal amendments accordingly.

¹⁹⁴ 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.



ACCOUNTABILITY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

The legislative framework for the organisation of public administration exists, but the distinction between different types of organisations is not fully clear, and administrative authority is divided between too many bodies. The accountability of public bodies is sometimes obscured by double reporting practices. There is no reason for certain institutions to be independent and accountable only to the Parliament.

Legal guarantees for the access to public information are in place. The practical implementation of the right to access information is hindered by an excessively broad scope of exceptions and a lack of independent monitoring. The pro-active disclosure of data was recently authorised in the Law on the Use of the Public Sector Data, but it is too early to assess its effectiveness as it has only recently taken effect.

The Law on the Ombudsman generally meets international standards. The vast majority of Ombudsman recommendations in individual cases are implemented by state administration bodies. A recent boycott by most opposition Members of Parliament has undermined parliamentary oversight.

A system of internal administrative appeals and of judicial review of administrative acts is in place. The administrative courts are efficient in terms of reducing backlog. However, the right to administrative justice is diminished by the limited extent of decisions on merit and delays in the enforcement of court rulings.

The general principle of public liability is set out in the legislation. Data on compensation for damages is not available, which makes it impossible to assess its functioning in practice.

1.2. Main developments

The Law on Free Access to Information of Public Character was amended¹⁹⁵, concerning the procedure and criteria for appointing members of the Commission for Protection of the Right to Free Access to Information. The amendment introduced detailed criteria related to the appointment of the members of the Commission, and made the procedure of their appointment more competitive.

In February 2014, the Law on the Use of Public Sector Data was adopted¹⁹⁶.

¹⁹⁵ Law on Amendments to the Law on Free Access to Information of Public Character, Official Gazette, No. 42/2014 of 3 March 2014.

¹⁹⁶ Official Gazette No. 27 of 5 February 2014.

2. ANALYSIS

This analysis covers the five Principles of Public Administration that serve as indicators of the key requirement for accountability¹⁹⁷. For this key requirement baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles refer to various dimensions of public accountability, including overall organisation of the government; arrangements regarding internal administrative appeal and administrative justice; and the functioning of independent oversight bodies. The Principles also cover the legislative framework for and practice of access to public information.

2.1. Key requirement: Proper mechanisms are in place to ensure accountability of state administration bodies, including liability and transparency.

Baseline values

The system of accountability for state administration bodies is examined using a mixed set of indicators, both quantitative and qualitative. They cover all areas of accountability, including the internal organisation of state administration; oversight of administrative appeals and access to public information; status and activities of independent oversight institutions and administrative courts; parliamentary scrutiny; and public liability. The indicators developed for each Principle relating to accountability aim to assess not only the legislative framework, but also its practical implementation.

The legislative framework for the organisation of public administration exists, but the distinction between different types of organisations is blurred and the administrative structure is divided between too many bodies. Legal guarantees for access to public information exist, nevertheless citizens encounter problems in acquiring public information. The Ombudsman institution plays an active role in protecting against maladministration. The administrative courts are efficient in terms of reducing the backlog of administrative court cases; however, public trust in the court system is low. The general principle of public liability is set out in the legislation, but no comprehensive mechanism for public liability exists and, because no data is available concerning its implementation, it is not possible to evaluate its effectiveness.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which the overall structure of ministries and other bodies subordinated to central government is rational and coherent.	2014	2
	2	Extent to which the right to access public information is enacted in legislation and applied in practice.	2014	3
	3	Extent to which the mechanisms are in place to provide effective checks and balances, and controls over public organisations.	2014	4
	5	Extent to which public authorities assume liabilities and guarantee redress.	2014	1
Quantitative	1	Number of bodies reporting to the Council of Ministers, to the Prime Minister or to the	2014	28 ¹⁹⁸

¹⁹⁷ SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 58-66.

¹⁹⁸ 23 institutions are accountable to the Assembly and 5 to the Prime Minister.

The former Yugoslav Republic of Macedonia
Accountability

		Parliament.		
	1	Average number of hierarchical layers in a typical ministry.	2014	4 ¹⁹⁹
	2	Share of public information requests refused in a given year by the public authorities.	2014	7% ²⁰⁰
	2	Share of public information requests refused in a given year by the supervisory authority.	2013	39% ²⁰¹
	2	Share of public information requests upheld by the courts.	2014	Not available ²⁰²
	2	Share of public authorities maintaining websites in line with regulatory requirements.	2014	Not available ²⁰³
	2	Share of public authorities maintaining a document registry and database.	2014	Not available ²⁰⁴
	3	Percentage of citizens who have trust in the ombudsman institution(s).	2014	Not available ²⁰⁵
	3	Share of oversight institutions' recommendations to state administrative bodies implemented within two years.	2014	87% ²⁰⁶
	4	Number of administrative court cases ruled per year per judge.	2014	552 ²⁰⁷
	4	Number of complaints submitted to the administrative court in a given year.	2014	13 753 ²⁰⁸
	4	Percentage of cases changed or returned for verification by the higher court.	2014	21.2 ²⁰⁹
	4	Percentage of citizens who have trust in the court system.	2013	28.4% ²¹⁰

¹⁹⁹ Minister, Secretary General, Department, Division.

²⁰⁰ Of 4 551 requests submitted, 309 were refused, according to information provided by the Commission for Protection of the Right to Public Information.

²⁰¹ Of 543 appeals submitted to the Commission, 330 appeals were accepted, according to information provided by the Commission for Protection of the Right to Public Information.

²⁰² Information was not provided by the administration.

²⁰³ Ibid.

²⁰⁴ Ibid.

²⁰⁵ No reliable survey was found.

²⁰⁶ Relates only to the Ombudsman; of 1 278 recommendations issued, 1 114 were implemented, according to the Ombudsman's report for 2014.

²⁰⁷ Twenty-eight judges resolved 15 469 cases, according to the Administrative Court.

²⁰⁸ Data provided by the Administrative Court.

²⁰⁹ According to the Administrative Court, 16.61% cases were changed and 4.56% cases returned.

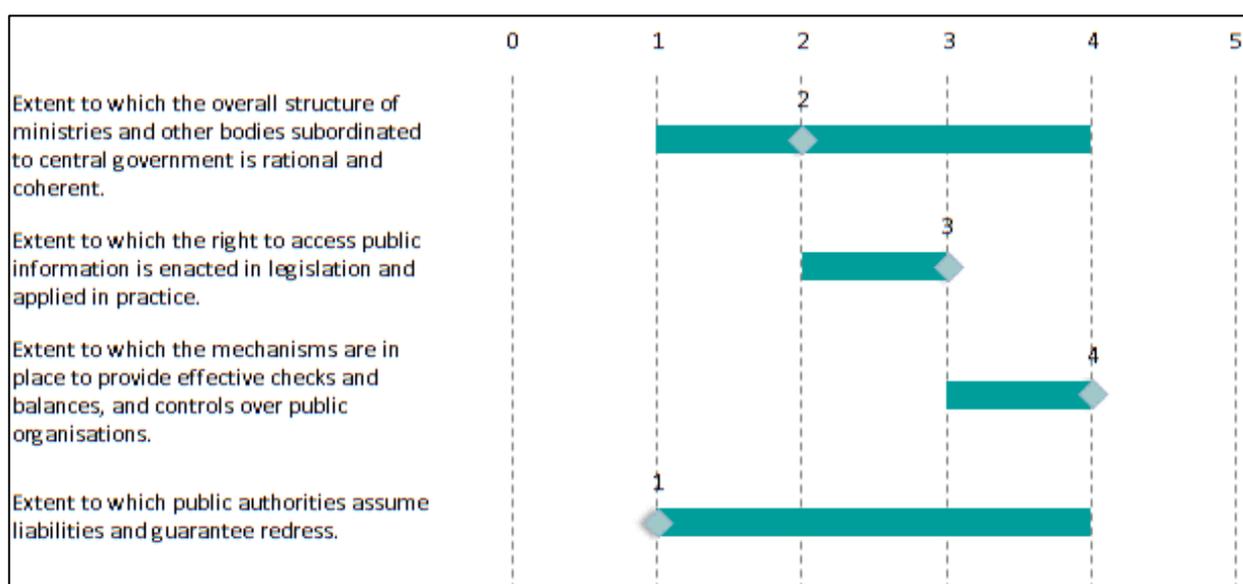
²¹⁰ Centre for Research and Policy Making, Open Government Partnership, "Open Government Mapping Report", 2013.

The former Yugoslav Republic of Macedonia
Accountability

	4	Backlog of administrative cases.	2014	10 743 ²¹¹
	5	Share of complaints resulting in payment of compensation.	2014	Not available ²¹²

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: The overall organisation of central government is rational, follows adequate policies and regulations and provides for appropriate internal, political, judicial, social and independent accountability.

The Law on Government and the Law on the Organisation and Operation of State Administrative Bodies (LOOSAB) specify the detailed structure of the state administrative apparatus. 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. Both categories may have their own budget and the status of a legal entity if so defined by law. The independent bodies are denominated as “independent bodies of state administration” if established in policy areas not covered by any ministry (some of them, such as the Agency of Youth and Sport, were created to replace previously existing ministries). The independent bodies are denominated as “administrative organisations” if they do not have administrative competences and are set up to conduct scientific and expert work. Autonomous bodies have been created in both categories, and the legal status of both is the same. In practice, the special law creating a particular body defines its status²¹³. The LOOSAB directly created 5 independent bodies, 4 administrative organisations and 35 bodies within ministries, some of them with

²¹¹ Data provided by the Administrative Court; number of cases pending at the end of the year.

²¹² Information was not provided by the administration.

²¹³ The Public Revenue Office, for instance, with more than 1,000 employees, is a body within the Ministry of Finance, created by law, with the status of a legal entity. Law on Public Revenue Administration, Official Gazette No. 80/93-1963.

The former Yugoslav Republic of Macedonia Accountability

legal personality. Others have been created through special laws. Many of the bodies created by the LOOSAB are further regulated under special laws. This means that ultimately, the LOOSAB does not play a significant role in setting general criteria for the organisation of state bodies.

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 ministry²¹⁴. 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 Government²¹⁵. The LOOSAB does not contain any instrument to enhance results-oriented management through specific performance indicators.

The baseline value for the indicator on the overall organisation of state administration and the system of accountability is thus set at 2.

Twenty-nine institutions are accountable to the Parliament, most of them constitutional bodies and regulatory agencies. A few have unwarranted independence from the executive (for example, the Regulatory Commission on Housing²¹⁶). These bodies present annual reports to the Parliament, and the Parliament sends these reports to the Government, which prepares a consolidated opinion of the relevant ministries. These opinions are taken into consideration while the reports are being scrutinised in the Parliamentary bodies.

A legislative framework for the organisation of public administration exists, but the distinction between different governmental bodies is not clear and the administrative structure is fragmented. Accountability is blurred due to double reporting practices and the fact that no results-oriented management is provided for. There is no reason for certain institutions to be independent and accountable to the Parliament.

Principle 2: The right to access public information is enacted in legislation and consistently applied in practice.

Access to public information is a constitutional right, specified in further detail in the Law on Free Access to Information of Public Character²¹⁷. 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. 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”. Public information requests may also be rejected if they relate to documents that are still under preparation²¹⁸.

²¹⁴ The Agency of Youth and Sport, for instance, has its own budget and responsibilities. Although it is no longer considered to be a ministry, it is an independent body that does not report to any other ministry, but reports directly to the Prime Minister. See the [Country Sheet on Youth Policy](#).

²¹⁵ This is usually regulated in their material laws (e.g. Law on Administrative Inspection, Article 7a, paragraph 4: the State Administrative Inspectorate is considered an administrative body within the Ministry of Information Society and Administration).

²¹⁶ The Regulatory Commission on Housing is a public body that manages the implementation of the legislation on housing and takes care of the quality assessment of the housing needs of the population.

²¹⁷ Law on Free Access to Information of Public Character, Official Gazette, Nos. 13/2006; 86/2008; 6/2010 and 42/2014.

²¹⁸ Law on Free Access to Information of Public Character, Article 6.

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 cost²¹⁹, 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. The mandate of the Commission also includes providing training to civil servants and promoting pro-active disclosure of public information²²⁰. However, the Commission has no capacity to monitor whether the requirements regarding pro-active 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.

As a result of the first Action Plan for Open Government Partnership, enacted in February 2014, the Law on the Use of Public Sector Data was adopted. 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 services²²¹. However, quite a large number of institutions still do not provide any files or databases²²². The Ministry of Information Society and Administration (MISA) supervises the implementation of the provisions of this Law²²³.

Despite legal guarantees, the practical implementation of the right to public information is criticised by civil society organisations. Official data shows that about 7% of all requests are rejected. However, according to an in-depth survey conducted by the foundation Open Society, only half of the citizens who requested access to public information ultimately received it²²⁴.

Practical implementation of the right to access information is complicated by a number of problems, including an unnecessarily broad scope of exceptions and the supervisory authority's inability to adequately monitor the pro-active provision of public information. This is reflected in a baseline value of 3 for the indicator on access to public information.

Archives are regulated through the Law on Archive Material²²⁵, dealing with the protection, storage, processing and usage of the archive material, the inspection supervision and the competences of the State Archive.

Legal guarantees for access to public information are in place. The practical implementation of the right to access information is complicated by a number of problems, including an excessively broad scope of exceptions and insufficient independent monitoring. Legislation on the pro-active disclosure of data has been enacted recently, but it is too early to assess its effectiveness as implementation of the Law on the Use of Public Sector Data has only recently begun.

²¹⁹ Law on Free Access to Information of Public Character, Article 29.

²²⁰ Law on Free Access to Information of Public Character, Article 32.

²²¹ Law on the Use of Public Sector Data, Article 1.

²²² www.otvorenipodatoci.gov.mk/Templates/Pages/BarometerPage.aspx?page=54 As of 22.06.2015, 24 institutions provided some sort of information, 14 of these provided files and databases – the rest provided only links.

²²³ Law on the Use of Public Sector Data, Article 12.

²²⁴ Foundation Open Society, "Overcoming the Principles of Secrecy in the Public Administration's Operation", November 2013. The survey was conducted on a representative sample of the overall country population, comprised of 1 228 interviewees.

²²⁵ Official Gazette No. 95, 26 July 2012.

Principle 3: Functioning mechanisms are in place to protect both the rights of the individual to good administration and the public interest.

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 meets key international standards and ensures that the legal basis of the Ombudsman is proper. There are no state administration bodies exempted from the Ombudsman's oversight. The Ombudsman may investigate cases *ex officio* and challenge legislative acts by lodging a case with the Constitutional Court. It should be noted, however, that the Ombudsman has no explicit mandate to promote human rights, as required by the Paris Principles on the status of national human rights' institutions²²⁶.

The number of recommendations issued by the Ombudsman is high. The effectiveness of the interventions in individual cases, measured by the share of recommendations implemented by state administrative bodies, is also high (87% of recommendations issued in 2014 were implemented).

The above factors are reflected in a baseline value of 4 for the indicator on checks and balances.

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 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.

Principle 4: Fair treatment in administrative disputes is guaranteed by internal administrative appeals and judicial reviews.

The current Law on General Administrative Procedure (LGAP) ensures the general right to internal administrative appeal against administrative acts, which is implemented through a hybrid system of administrative appeals. Appeals may be brought to an appellate body referred to as the "Second-Instance Commission" or other commissions specialised in various areas of administrative law, for example, the State Appeals Commission for Public Procurement or the appellate body dealing with tax issues. The Second-Instance Commission has the capacity to decide on merit, and can do so when the facts indicate that the matter should have been resolved differently²²⁷. In fact, it is as a general rule returns the case to the first-instance body²²⁸. If the Commission is considering a case for the second time, it is obliged to decide on merit. The Second-Instance Commission handles the cases efficiently.

Final administrative decisions may be appealed to the Administrative Court. Cases are processed by judges specialised in various areas of administrative law. The electronic case management system, ACCMIS²²⁹, is fully operational but does not guarantee interconnection or the exchange of documents with other state institutions involved in administrative disputes. Adequate support from administrative staff (legal assistants and court secretaries) is not provided due to financial constraints²³⁰.

²²⁶ Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (The Paris Principles) adopted by the United Nations General Assembly Resolution No. 48/134 of 20 December 1993.

²²⁷ LGAP, Article 242.

²²⁸ The Commission states that it was difficult to deal with the cases on merit, given that the issues fell under the purview of more than 100 different laws. No exact data is available on the percentage of cases resolved on merits.

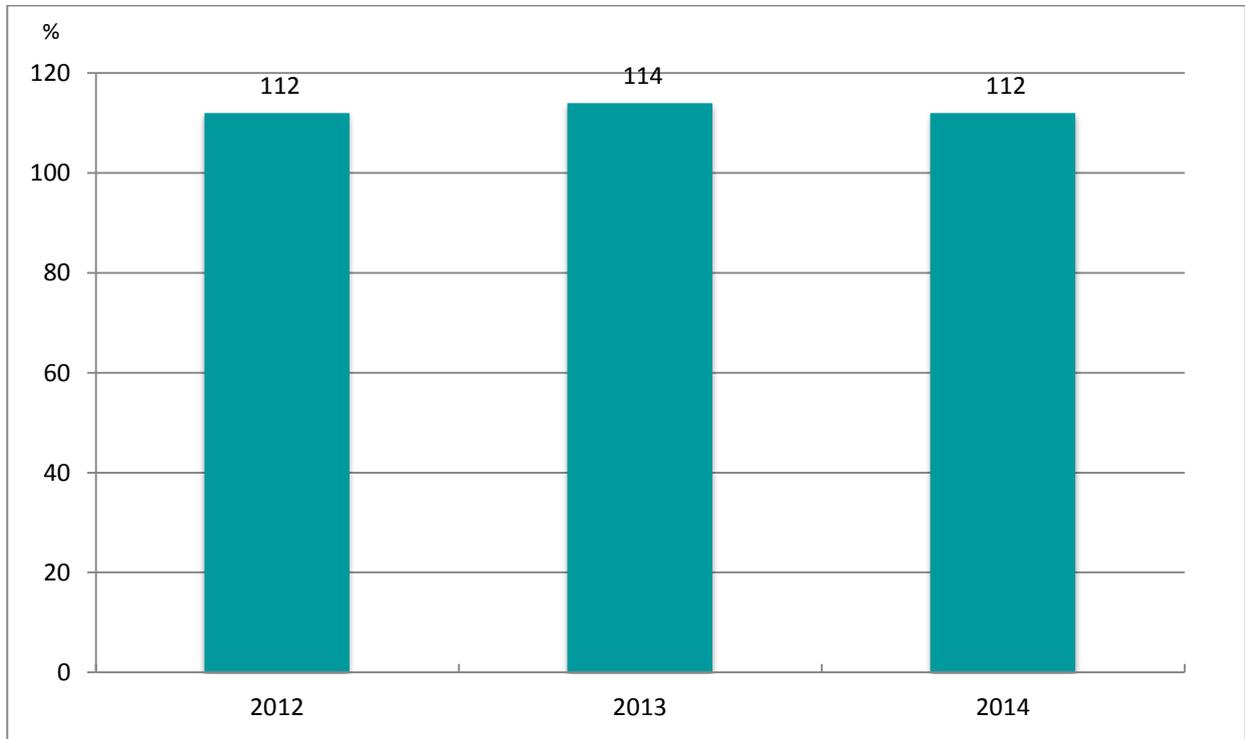
²²⁹ The Automated Court Case Management Information System.

²³⁰ As indicated by the representatives of the Court.

The former Yugoslav Republic of Macedonia
Accountability

The efficiency of the Administrative Court, measured by quantitative indicators, is high. The Court maintains positive clearance rates²³¹. In addition, the Higher Administrative Court has practically no backlog (only 82 cases pending at the beginning of 2015²³²).

Figure 2. Clearance rate for the Administrative Court, 2012-2014²³³



Source: Calculations based on data received from the Administrative Court.

Court fees in administrative cases do not deter access to the courts and a wide range of exemptions is available.

Public trust in the judiciary is low (28.4% of citizens in 2013²³⁴)²³⁵. The limited extent to which the Administrative Court and the Second-Instance Commission resolve cases on merit, and delays with the enforcement of court rulings²³⁶, detract from effective implementation of the right to administrative justice²³⁷.

²³¹ This indicator is commonly used to measure the efficiency of the courts. According to the definition of the European Commission for the Efficiency of Justice (CEPEJ, 2014, Report on “European Judicial Systems – Edition 2014 (2012 data): Efficiency and Quality of Justice”, Strasbourg, p. 191), the clearance rate is calculated by dividing the number of resolved cases by the number of incoming cases. If the clearance rate falls below 100%, the backlog at the end of a reporting period increases.

²³² Data provided by the President of the High Administrative Court.

²³³ This indicator is commonly used to measure the efficiency of the courts. According to the definition of the European Commission for the Efficiency of Justice (CEPEJ, 2014, Report on “European Judicial Systems – Edition 2014 (2012 data): Efficiency and Quality of Justice”, Strasbourg, p. 191), the clearance rate is calculated by dividing the number of resolved cases by the number of incoming cases. If the clearance rate falls below 100%, the backlog at the end of a reporting period increases.

²³⁴ Centre for Research and Policy Making, Open Government Partnership, “Open Government Mapping Report”, 2013.

²³⁵ This may be due to a lack of the low level of trust in the judiciary in general (58.8% of citizens say they do not trust their country’s judiciary), www.crpm.org.mk/wp-content/uploads/2014/11/Open-Government-Monitoring-report-2013-2014.pdf. In addition, the main opposition party has repeatedly accused the Government of improper involvement in court and prosecution decisions and in the election and dismissal of judges.

²³⁶ As underlined by the President of the Administrative Court and President of High Administrative Court during the interviews.

²³⁷ LGAP, Articles 242 and 243, with regard to the Second-Instance Commission; Law on Administrative Disputes, Article 30, with regard to Administrative Court.

A system of internal administrative appeals and judicial review of administrative acts is in place. The administrative courts are efficient in terms of reducing backlog. However, the right to administrative justice is hampered by the limited number of decisions on merit and by delays in the enforcement of court rulings.

Principle 5: The public authorities assume liability in cases of wrongdoing and guarantee redress and/or adequate compensation.

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 Litigation²³⁸.

No numerical data is available concerning the practical implementation of the right to compensation for any wrongdoing by the state administration. Data on public liability requests and their results are not available. According to the MISA, parties rarely use this mechanism, and then only in cases when they have suffered major material damages. In a recent case, the Basic Court Skopje I ordered the municipality of Kisela Voda to cover damages of EUR 2 million to an investor as a result of the illegal demolition of a building²³⁹.

The baseline value for the indicator on public liability and guarantee of redress is therefore 1.

The general principle of public liability is set out in the LGAP. Data on compensation for damages is not available, which makes it impossible to assess its functioning in practice.

Key recommendations

Short-term (1-2 years)

- 1) The Government should review the overall structure of the state administration in order to ensure that all administrative bodies are subject to a uniform mechanism of institutional accountability, established by the Law on Organisation and Operation of State Administrative Bodies, and that the criteria used for determining the form of state administration entities are clear.
- 2) The Parliament should consider transferring responsibility for supervision over certain agencies to the Government.
- 3) The Government should enforce the Law on the Use of Public Sector Data, making sure that more institutions disclose data. Moreover, the Government should strengthen the role of the Commission for Protection of the Right to Free Access to Information of Public Character, in the areas of monitoring implementation of the Law and imposing sanctions.

Medium-term (3-5 years)

- 4) The Office of the Prime Minister, with support from the MISA, should develop a uniform and comprehensive performance management scheme for state administration, including setting objectives and targets for all state administration bodies, managerial accountability for results, performance budgeting and regular performance reviews.
- 5) The Ministry of Justice, in collaboration with the administrative courts and the Judicial Council, should review the current system of administrative appeals with the goal of eliminating obstacles to handling administrative cases in a reasonable time. It is also of crucial importance to strengthen the legal guarantees for effective enforcement of court rulings.

²³⁸ Article 44.

²³⁹ The decision for demolition was based on sound legal principles but was not appropriately delivered.

The former Yugoslav Republic of Macedonia
Accountability

- 6) The Government should review the existing regulations on public liability to ensure that they:
 - a) are clear and easily accessible;
 - b) define the broad scope of public liability;
 - c) do not jeopardise the effective exercise of the right of action for compensation.
- 7) The Government should also introduce mechanisms to monitor court cases that result in the liability of the State, with the goal of improving administrative procedures and decisions and thus reducing public liability cases in the future.



SERVICE DELIVERY

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

There is a general policy prioritising improvement in public services. A comprehensive interoperability framework for e-services does not exist, but data is exchanged among institutions based on bilateral agreements.

The general legal framework enshrining the basic principles of good administrative behaviour exists, though its quality is low. It does not cover all forms of administrative action and the scope of its application is limited due to the existence of many special administrative procedures. A new Law on General Administrative Procedures (LGAP), fully aligned with the principles of good administrative behaviour, is being considered by the Assembly.

Sound initiatives aimed at quality measurement and improvements are in place, and there is a clear commitment to progress in the implementation of quality assurance tools. At present, 16% of central bodies are measuring customer satisfaction.

A wide range of services is offered to businesses both online and through one-stop-shops. The time taken to register a business is short. The number of e-services offered to citizens through the e-government portal is limited, and most of them do not offer full transactions.

1.2. Main developments

The proposal for a new LGAP has been approved by the Government and is currently being considered by the Parliament.

2. ANALYSIS

This analysis covers the four Principles of the service delivery area, which are under one key requirement²⁴⁰. For this key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover the policy and practice of service delivery. There is particular focus on the strategic and legal framework for service delivery, and on the standards for access and quality of services. The Principles refer also to the procedural guarantees of good administration behaviour being applicable to service provision.

2.1. Key requirement: Administration is citizen-oriented; the quality and accessibility of public services is ensured.

Baseline values

The policy and practice of service provision are examined through a set of 14 quantitative indicators, complemented by 3 qualitative indicators. Qualitative indicators analyse primarily the implementation of the policies and legislation in the area of service delivery. Most of the quantitative indicators are based on data provided by the country, which was subsequently verified for the purposes of this report. Selected quantitative indicators are based on the international comparative studies *Doing Business*²⁴¹ and *Global Competitiveness Report*²⁴².

The general policy on service delivery is integrated into the Public Administration Reform (PAR) Strategy 2010-2015. However, its full implementation is a challenge, in particular concerning the development and provision of e-services. The number of e-services provided to citizens through the e-government portal is limited. The general legal framework enshrining the principles of good administrative behaviour exists, though its scope is insufficient. Strong emphasis is placed on the implementation of quality assurance tools in public institutions.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which citizen-oriented policy for service delivery is in place and applied.	2014	2
	1	Extent to which policy and administrative preconditions for e-service delivery are applied.	2014	3
	2	Extent to which the legal framework for good administration is in place and applied.	2014	2

²⁴⁰ SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 66-74.

²⁴¹ World Bank.

²⁴² World Economic Forum.

The former Yugoslav Republic of Macedonia
Service Delivery

Quantitative	1	Expenditure on general public services as a share of gross domestic product.	2014	4.4% ²⁴³
	2	Favouritism in decisions of government officials ²⁴⁴ .	2014	3.6
	3	Percentage of users satisfied with public services.	2014	Not available ²⁴⁵
	3	Proportion of institutions using quality assurance tools and techniques (e.g. European Foundation for Quality Management, Common Assessment Framework and other international standards) ²⁴⁶ .	2014	49.1% ²⁴⁷
	3	Share of public servants directly engaged in service delivery who received training in the last two years.	2014	Not available ²⁴⁸
	3	Average time needed to acquire a personal identification document (passport or ID card) after submitting the application.		
		A. Passport	2014	7-10 days ²⁴⁹
		B. ID		7-10 days ²⁵⁰
	3	Share of institutions where customer satisfaction surveys are conducted on a regular basis (at least every two years).	2014	16.1% ²⁵¹
	3	Average number of days needed to set up a business.	2014	2 days ²⁵²
	3	Average cost of setting up a business ²⁵³ .	2014	0.6%
	4	Number of one-stop-shops that provide the services for more than three different public institutions.	2014	2

²⁴³ Ministry of Finance.

²⁴⁴ According to The World Economic Forum Competitiveness Index. (Scale from 1/minimum to 7/ maximum).

²⁴⁵ No surveys are available. Through scoreboards (voting buttons in the public offices), 86.5% of users indicated that they were satisfied with the service received in 2014.

²⁴⁶ Number of institutions calculated based on the list of state administration bodies subordinate to the Council of Ministers, the Prime Minister and the Parliament. Source: Ministry of Information Society and Administration (MISA).

²⁴⁷ Eight central institutions certified to use Common Assessment Framework (CAF) and 47 to use International Organization for Standardization (ISO). The total reference number of state administration bodies is 112. Source: MISA.

²⁴⁸ No data was provided by the administration.

²⁴⁹ Ministry of Internal Affairs.

²⁵⁰ Ibid.

²⁵¹ Eighteen institutions out of 112. Collection of opinions was done in the framework of: "citizen journal", the e-services portal, and scoreboards.

²⁵² According to World Bank 'Doing Business' report.

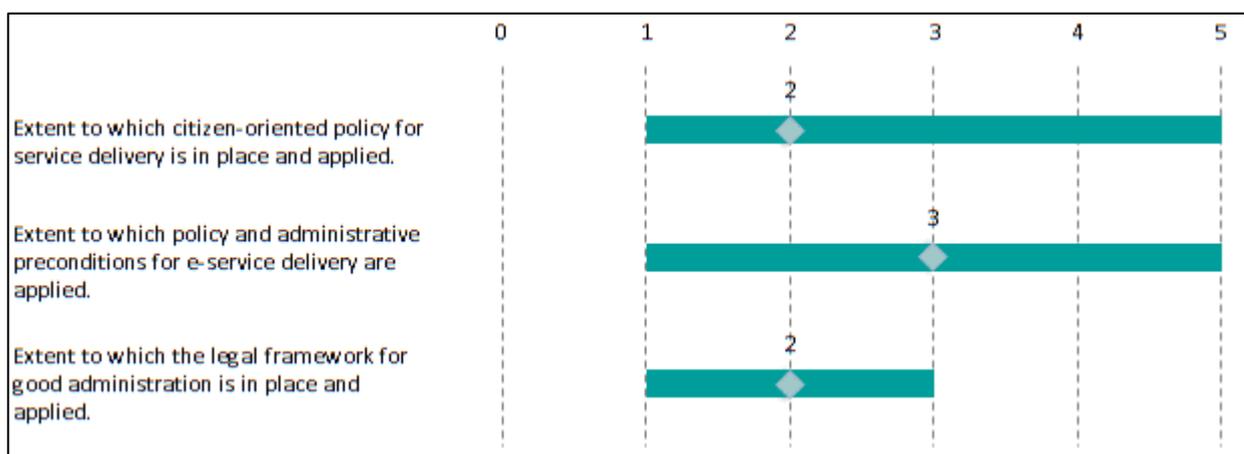
²⁵³ The percentage of income per capita, according to World Bank 'Doing Business' report.

The former Yugoslav Republic of Macedonia
Service Delivery

	4	Number of services provided through one-stop-shops.	2014	153
	4	Percentage of wheelchair accessible institutions.	2014	77.6% ²⁵⁴
	4	Share of citizens who submitted paperless/electronic/digital income tax statements last year.	2014	Not available ²⁵⁵
	4	Share of companies that sent their tax declarations using the Internet.	2014	Not available ²⁵⁶

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: Policy for citizen-oriented state administration is in place and applied.

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. However, no inventory exists which contains comprehensive information on the services offered by the state administration bodies, and no standards for their provision have been prepared. The newly enforced Law on Public Sector Employees contains an article on the principle of service orientation²⁵⁷, 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

²⁵⁴ MISA.

²⁵⁵ SIGMA was provided with the data on the percentage of tax declaration sent through the Internet, but the data encompassed a number of declarations and not only personal income tax annual returns. The value for 2013 was 0.58%. Information received from the Public Revenue Office.

²⁵⁶ SIGMA was provided with the data on the percentage of tax declaration sent through the Internet, but the data encompassed a number of declarations and not only corporate income tax annual returns. The value for 2013 was 38.78%. Information received from the Public Revenue Office.

²⁵⁷ Law on Public Sector Employees, Article 8.

barriers. The project was implemented in four phases, starting from 2006, and resulted in an abrogation or amendment of 626 regulations²⁵⁸.

The Regulatory Impact Assessment of draft legislation includes analysis of the implications of the draft on creating/reducing red tape. However, implementation of that requirement varies and analysis of samples illustrated an uneven level of administrative burden analysis²⁵⁹.

Therefore, the value of the indicator on citizen-oriented policy for service delivery is 2.

The e-government portal²⁶⁰ provides limited access to e-services; in the majority of cases, only information on services is available. The interoperability framework is under development²⁶¹; the process is led by the MISA.

The relatively large number of citizens using the Internet (61.2% in 2013) provides a solid platform for the future development of e-government services. The baseline value for the indicator on policy and administrative preconditions for e-service delivery is 3.

There is a general policy prioritising effort for public services improvement. A comprehensive interoperability framework for e-services does not exist, but data is exchanged among institutions based on bilateral agreements.

Principle 2: Good administration is a key policy objective underpinning the delivery of public service, enacted in legislation and applied consistently in practice.

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. The right to a hearing prior to a final administrative decision is also ensured, and procedural rules for amendment or repeal of administrative acts are set out. Each administrative decision should be accompanied with details of appeal rights, the relevant appellate body and the time limit for lodging an appeal²⁶². No detailed inventory exists of special administrative procedures but there are about 130, according to estimates by the MISA.

The current LGAP meets the minimum requirements set out in the Principles, 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.

The baseline value of the indicator on the legal framework for good administration is 2. The proposal for a new LGAP is currently before Parliament, and is expected to be adopted in the coming months.

The general legal framework enshrining the basic principles of good administrative behaviour exists, though its legislative quality is low. It does not cover all forms of administrative action and the scope of its application is limited, due to the existence of many special administrative procedures, of which no inventory has been made. A new LGAP, fully aligned with the principles of good administrative behaviour, is being considered in the Parliament.

²⁵⁸ MISA.

²⁵⁹ Draft Law amending the Law on Prevention of Corruption, January 2015; Draft Law on Craftsmen, April 2015; Draft Law Amending the Law on Tobacco and Tobacco Products.

²⁶⁰ <http://www.uslugi.gov.mk/>.

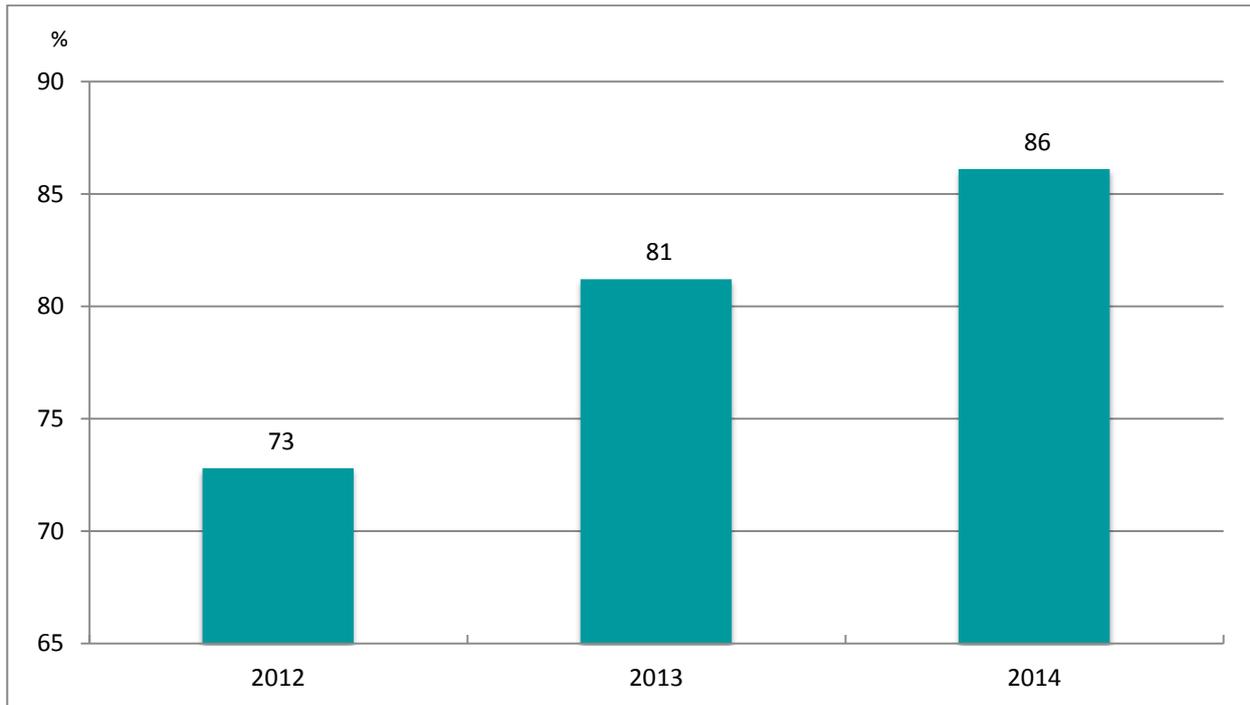
²⁶¹ MISA.

²⁶² Law on General Administrative Procedure, Article 213, Official Gazette No. 38/2005.

Principle 3: Mechanisms for ensuring the quality of public service are in place.

Various tools for measuring and improving the quality of services are used by state administration bodies. User satisfaction with the quality of services is measured in a pilot project using scoreboards installed at public institution counters, allowing customers to press one of three buttons: satisfied, neutral or not satisfied²⁶³. The pilot project results show an increasing level of user satisfaction (see Figure 1). The quality of services is also assessed by “mystery shoppers”.

Figure 2. User satisfaction with public services survey, conducted within the framework of “Assess the Administration” project



Source: Data received from the Ministry of Information Society and Administration.

Another initiative is the “Quality Barometer” project, which enables a complex evaluation of the quality of functioning of institutions, both internally (self-assessments) and externally (customer opinion, mystery shopper, etc.). The best institution receives a quality award from the Prime Minister. The number of institutions taking part in the project is increasing (9 in 2013, 13 in 2014), and the institutions are making real progress with the scoring²⁶⁴.

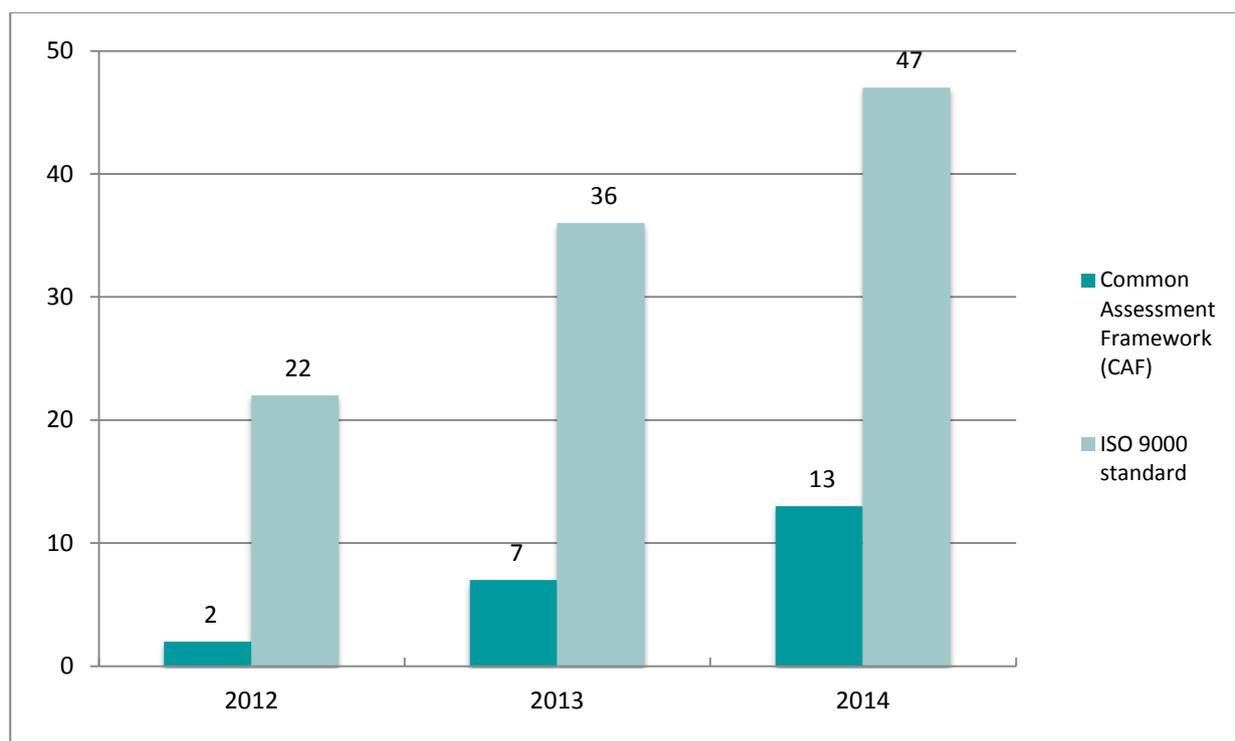
Strong emphasis is placed on the dissemination of quality assurance tools among state administration bodies. There is a statutory requirement for all public institutions to introduce a quality management system²⁶⁵ and a growing number of state administration bodies are using the Common Assessment Framework (CAF) or International Organization for Standardization (ISO) quality assurance models (see Figure 3.).

²⁶³ The field mission found that some buttons were broken in a couple of institutions. A new generation of devices are in the process of being installed.

²⁶⁴ MISA.

²⁶⁵ Law for Introduction of a System of Quality Management and Common Framework for Assessment, Official Gazette No. 69/2013.

Figure 3. The number of state administration institutions using quality assurance systems



Source: Data received from the Ministry of Information Society and Administration.

Identification documents are issued in a reasonable time (7-10 days). Setting up a business is a fast and inexpensive process, which has contributed to the country's third-position ranking in "Doing Business" on the ease of business registration.

There are sound initiatives aimed at quality measurement and improvement in place, and a clear commitment to progress in the implementation of quality assurance tools. At present, 16% of institutions are measuring customer satisfaction. The time taken to register a business is short.

Principle 4: The accessibility of public services is ensured.

Numerous services for business are provided by the Central Registry, which acts as a one-stop-shop. The Registry offers all services required for business registration, including registration for taxation and provision of a unique identification number. In addition, the Central Registry serves as a pledge and leasing registry, a real estate registry and an annual accounts registry. The Central Registry operates both online and as a network of 28 territorial offices²⁶⁶. Another online one-stop-shop is maintained by the Customs Administration and enables online submission of requests for export and import licenses²⁶⁷.

E-services regarding taxation are available to all taxpayers, and online submission of tax declarations is mandatory for most businesses. However, these services are not integrated in the e-government portal. The introduction of an e-taxation system has been recognised in the *PwC Paying Taxes 2015* report. Reaching first position in the Central Asia & Eastern Europe region in terms of the least amount of time needed to comply with tax obligations²⁶⁸ is a significant success for the country.

Other examples exist of institutions that are interconnected with other state institutions to provide services in a more efficient way (see Table 1.).

²⁶⁶ <https://www.crm.com.mk/DS/>.

²⁶⁷ <http://www.exim.gov.mk/EILWeb/>.

²⁶⁸ PwC, *Paying Taxes 2015*.

Table 1. Public services jointly provided through agreements and interconnections among different institutions

Services	Leading institution	Interconnected institutions
Export-import licences and tariff quotas	Customs Administration	16 state authorities
Business registration services	Central Register	5 state authorities and 28 branch offices
Healthcare insurance and services	Health Insurance Fund	3 state authorities
Cadastre services	Agency for real estate cadastre	81 municipalities, 150 notaries, 180 geodetic companies, 5 state authorities
Social security services	Ministry of Labour and Social Policy	5 state authorities, and with all regional and local centres for social security services
Pension insurance	Pension Insurance Fund	6 state authorities and several private pension funds
Tax services	Public Revenue Office	15 state authorities, 16 commercial banks, the National lottery public enterprise, as well as the authorised issuers of the fiscal devices
Building permits	Ministry of Transportation and Communication	4 state authorities, ZELS, all municipalities, more than 20 different public and regulatory bodies
Public procurement services	Public Procurement Office	All state institutions as a contractors and all private companies, as a suppliers
Employment services	State Employment Agency	6 state authorities
Citizenship issues	Ministry of internal affairs	5 state authorities
Student scholarships	Ministry of education and science	3 state authorities

Source: Data received from the Ministry of Information Society and Administration.

The e-government portal 'uslugi.gov.mk' provides incomplete and, in some cases, outdated information on institutional services and does not integrate all e-services provided by public administration. A new version of the portal is in development²⁶⁹.

Standards are in place to ensure accessibility of public institutions' websites but, to date, no monitoring has been carried out.

A wide range of services is offered to businesses through one-stop-shops and online portals. The number of e-services for citizens through the e-government portal is limited, as is the number of services that offer transaction possibilities.

²⁶⁹ The Government programme 2014-2018 lists this as one of the objectives: Upgrade national services uslugi.gov.mk centralised and standardised portal for all government services 2016-2018. The MISA is working on it, according to information received from the Ministry.

Key recommendations

Short-term (1-2 years)

- 1) The MISA should prepare and publish a comprehensive inventory of public services offered to citizens and businesses, including: information on the scope of services; conditions and requirements for access to services; fees; time limits for handling requests; and service level agreements. This will constitute a solid base for further developing service delivery quality, including e-services.
- 2) The MISA should strengthen ongoing efforts to create an interoperability framework compatible with the European Interoperability Framework (EIF) and covering information technology (IT) systems of public administration bodies providing services to citizens.
- 3) The draft LGAP should be adopted. Implementation of the law should be prepared with training and other awareness and support measures addressed to the authorities, civil servants, judges, lawyers and citizens.
- 4) An inventory of special administrative procedures should be prepared, with the goal of reducing their number and the scope of application as much as possible.

Medium-term (3-5 years)

- 5) The MISA should foster development of the e-government portal 'uslugi.gov.mk'. Both the number of e-services offered and their level of sophistication via this portal should be increased.



PUBLIC FINANCIAL MANAGEMENT

1. STATE OF PLAY AND MAIN DEVELOPMENTS: 2014-APRIL 2015

1.1. State of play

Budget management follows an annual process and the fiscal situation is broadly under control, but transparency in budget planning and execution is low. At present, there is no planning document in place that would meet the EU requirements for a medium-term budgetary framework (MTBF). Fiscal rules are not in place in legislation and are not explicitly presented in the Fiscal Strategy.

The area of Public Internal Financial Control (PIFC) has a comprehensive legal basis and is guided by a recent policy paper approved by the Government. However, implementation of both financial management and control (FMC) and internal audit (IA) requirements is not followed through by all organisations required to do so.

The rules governing public procurement in the country provide a detailed, very prescriptive, legal framework with a complex set of institutions and review mechanisms. Since 2013, frequent changes have created a need to realign public procurement legislation with the European Union (EU) *acquis*²⁷⁰ and have introduced a number of practices and procedures that pose problems for the efficient functioning of the public procurement system. The system benefits from an advanced e-procurement platform (ESPP²⁷¹). The Public Procurement Bureau (PPB) assists contracting authorities and economic operators through its monitoring and day-to-day advisory and training activities. However, the PPB has been severely hampered in its regulatory and supervisory role by not having a duly appointed director since September 2014.

The Public Procurement Council (PPC) was established within the PPB in May 2014 for the purpose of giving approvals to contracting authorities. However, the related market research prescriptions and the requirements to obtain prior approvals have no direct basis in the Directives²⁷² and add complexity to the procurement process, without any evidence of benefits in terms of, for example, greater participation in tenders.

Despite its incompatibility with the relevant provisions of the Public Sector Directive 2004/18, as well as the case law of the Court of Justice of the European Union, the Public Procurement Law (PPL)²⁷³ still provides for the possibility of issuing “negative references”.

The remedies system structure formally complies with the *acquis*, although some provisions of the Remedies Directive²⁷⁴ have not been transposed.

While the State Audit Office (SAO) law complies with international standards, the Constitution does not protect the legal status and the independence of the SAO. The SAO is working towards further harmonising its audit work with international standards. The Parliament considers only the SAO annual report.

A comprehensive strategy to define and plan public financial management reforms does not exist.

²⁷⁰ For a detailed analysis of the Public Procurement Law in the country in the light of the EU *acquis* and relevant recommendations, see the SIGMA paper of February 2014 “Analysis of the Public Procurement Law”.

²⁷¹ <https://e-nabavki.gov.mk/>.

²⁷² Directive 2004/18/EC on the co-ordination of procedures for the award of public works contracts, public supply contracts and public service contracts, 31 March 2004; Directive 2004/17/EC on co-ordinating the procurement procedures of entities operating in the water, energy, transport and postal service sectors, 31 March 2004.

²⁷³ Official Gazette No. 136/2007.

²⁷⁴ Directive 89/665/EEC on the co-ordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, 21 December 1989.

1.2. Main developments

In 2014, the Government adopted the Fiscal Strategy 2015-2017, later than envisaged by the Law on Budget²⁷⁵. A series of Constitutional changes were submitted to the Assembly in July 2014, including provisions for fiscal rules capping the budget deficit at 3% of gross domestic product (GDP) and public debt at 60% of GDP. The Assembly has not yet adopted the proposed changes.

During 2014, the treasury information system began capturing multi-annual budgetary commitments. A consolidated version of the Law on Public Debt²⁷⁶ was prepared and adopted by the Assembly in November 2014. After a long preparation period, the Government approved, in December 2014, a comprehensive Policy Paper for Public Internal Financial Control for 2015-2017.

Since the PPC became operational in May 2014, a total of 5 690 requests have been submitted by contracting authorities.

The PPL was amended four times in 2014²⁷⁷, with the main changes introduced summarised as follows: establishment of the PPC; mandatory publication of negative references on the ESPP²⁷⁸; extended obligation for contracting authorities to seek and receive confirmations of interest from several qualified domestic and foreign manufacturers (a minimum of five in open and restricted tenders; seven for framework agreements) before publishing the contract notice; obligation to seek prior approval from the PPC if the market check mentioned is not successful; introduction of misdemeanour provisions in relation to the State Appeals Commission (SAC) staff and providing for sanctions for failure to comply with procedural steps for convening an urgent procedure or with obligations concerning electronic distribution of cases²⁷⁹; introduction of imprisonment sanctions for staff of contracting authorities for various violations of the PPL²⁸⁰; introduction of mandatory use of electronic auctions (e-auctions) in the competitive dialogue procedures²⁸¹.

In accordance with the Strategy for implementation of International Standards for Supreme Audit Institutions (ISSAI), adopted in April 2014, the SAO has adopted new manuals for regularity audit and performance audit, which will start to apply when the SAO annual programme for 2015 is realised.

²⁷⁵ Official Gazette Nos. 64/2005, 4/2008, 103/2008, 156/2009, 95/2010, 180/2011, and 171/2012.

²⁷⁶ Official Gazette No. 165/2014.

²⁷⁷ Official Gazette Nos. 180/14, 130/14, 43/14 and 28/14.

²⁷⁸ Public Procurement Law, Article 29-a.

²⁷⁹ PPL, Art. 231-a.

²⁸⁰ Chapter XI-a "Penalty provisions", Articles 232-j, k, l, m, n, o, p, q, r, s and t.

²⁸¹ PPL, Art. 121.

2. ANALYSIS

The analysis covers the 16 Principles of the public financial management (PFM) area, grouped under 8 key requirements²⁸². For each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles.

2.1. Key requirement: The Budget is formulated in compliance with transparent legal provisions and within an overall multi-annual framework, ensuring that the general government budget balance and debt-to-gross domestic product are on a sustainable path.

Baseline values

The functioning of medium-term and annual resource planning is analysed using three qualitative indicators and five quantitative indicators.

The indicators confirm the need for improvement in the medium-term budget planning documents and to establish operational fiscal rules. Revenue estimates have also been over-optimistic in recent years, although the Government has been able to partially correct the expenditures. The budget deficit is at the level of 3.7% of GDP.

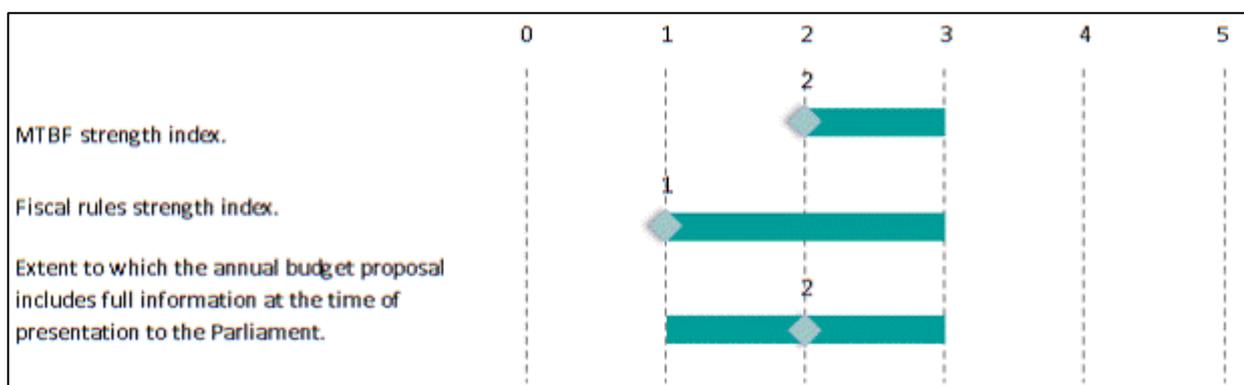
	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	MTBF strength index.	2014	2
	1	Fiscal rules strength index.	2014	1
	2	Extent to which the annual budget proposal includes full information at the time of presentation to the Parliament.	2014	2
Quantitative	1	Percentage differences between planned budget revenues in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	2014	-12.1%
	1	Percentage differences between the planned budget expenditure in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	2014	-9%
	2	General government budget balance.	2014	-3.7% ²⁸³
	2	Percentage differences between the planned budget revenues (as approved in the Budget) compared to the outturn of the latest available year.	2014	-6%
	2	Percentage differences between the planned budget expenditure (as approved in the Budget) compared to the outturn of the latest available year.	2014	-4%

²⁸² SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 75-109.

²⁸³ As a share of GDP. National Economic Reform Programme 2015.

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 1. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 1: The Government publishes a medium-term budget framework on a general government basis that is founded on credible forecasts and covers a minimum time horizon of three years; all budget organisations operate within it.

In 2014, a fiscal strategy was prepared covering the next three years; it includes 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 period²⁸⁴. 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. Furthermore, in 2014 the Government adopted the Fiscal Strategy only in September although the Budget Law requires this to be adopted by 31 May²⁸⁵. This delay made it impossible to use the Fiscal Strategy to frame the annual budget planning. Due to the weaknesses outlined above, the MTBF strength indicator value is 2.

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 Law²⁸⁶.

The National Economic Reform Programme 2015 presents an overview of the planned structural reforms and is coherent with the fiscal policy presented in the budget planning documents.

The Macroeconomic Department in the Ministry of Finance (MoF) has developed models for macroeconomic forecasts, but in recent years the official estimations have been overly optimistic. The indicators show that, both in the medium-term and annually, the estimates for both revenues and expenditure exceeded significantly the actual outturns (12% more revenue was estimated in 2012 for 2014 than actually incurred). The macroeconomic forecasts are made public only within the National

²⁸⁴ The Budget Law, Article 16.

²⁸⁵ The Budget Law, Article 16.

²⁸⁶ The Budget Law, Article 14 mentions the strategic priorities of the Government, the Fiscal Strategy, the draft strategic plans of the budget organisations and the budget policy as the basis for the budget preparation. There is no guidance given as to how they interrelate or if there is any hierarchy.

Economic Reform Programme and the budget planning documents: the Fiscal Strategy and the explanatory material of the annual budget bill.

The Government has prepared a proposal to include basic fiscal rules on the budget deficit and public debt in the Constitution, but for the time being the fiscal rules are not established. Therefore the fiscal rules strength indicator value is 1. The proposal is for a limit on the budget deficit of 3% of GDP and a public debt limit of 60% of GDP. Escape clauses are limited to exceptional cases, such as natural disasters, with a requirement of a two-thirds majority in the Assembly to approve such cases. No independent body (fiscal council) exists that would monitor compliance with fiscal rules and the fiscal policy of the Government, nor is an enforcement mechanism foreseen to regain compliance with the fiscal rule.

The Fiscal Strategy 2015-2017 does not fulfil the requirements of the EU Directive on Budgetary Frameworks²⁸⁷. In 2014, the Strategy was adopted by the Government over three months after the legally established deadline. The links to sectoral policy plans are not presented, although the existence of strategic development plans for all ministries provides good potential for linking sector policy planning and medium-term financial planning.

Principle 2: The Budget is formulated in line with the national legal framework, with comprehensive spending appropriations that are consistent with the medium-term budgetary framework and are observed.

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 documentation²⁸⁸ 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. For these reasons, the indicator on annual budget proposal has a value of 2. There is also a regular overestimation of annual revenues and expenditure (8% in 2012, and 6% in 2013 and 2014)²⁸⁹, which is largely due to an overestimation of donated funds²⁹⁰.

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.

Under the Budget Law, only one month is given for debating the draft budget bill in the Assembly (the draft is submitted by 15 November, discussion in the plenary starts 20 days after the submission)²⁹¹. This does not reflect current good practice as advised by the Organisation for Economic Co-operation and Development (OECD)²⁹² or bring it into line with EU requirements for Eurozone members – notably, the requirement that the draft central government budget for the coming year, as well as the main parameters of the draft budgets for all the other general government subsectors, be made public

²⁸⁷ Council Directive 2011/85/EU of 08 November 2011.

²⁸⁸ Including explanatory material supporting the annual budget law.

²⁸⁹ Comparing revenues set out in the annual budget with actual figures, source for 2014: Monthly Economic Report 12-2014.

²⁹⁰ Which have a neutral effect on budget balance.

²⁹¹ The Budget Law, Article 30, (1) and (2).

²⁹² OECD (2002), [OECD Best Practices for Budget Transparency](#), OECD Publishing, Paris.

annually no later than 15 October²⁹³. In 2014, the draft budget bill was submitted to the Parliament on 14 September and it was adopted already on 20 October 2014.

The existing legislation covers aspects of good budgeting practice, including the Assembly's role, although the time envisaged for the Assembly to debate the budget is limited. In 2014, the annual budget was prepared earlier than required by the Budget Law but the Assembly did not take the given time to scrutinise the draft budget bill. The annual budget is comprehensive, also including all Instrument of Pre-accession (IPA) funds.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should scrutinise the proposals by budget organisations in order to establish more realistic revenue and expenditure forecasts, particularly on donated funds, and thus provide a more realistic and credible picture of available budget funding.
- 2) The MoF should require the submission of strategic plans in advance of the preparation of the Fiscal Strategy and include more detailed sector policy information in the Fiscal Strategy.
- 3) The MoF should publish bi-annual macroeconomic and fiscal forecasts in advance of, and independently from, the Fiscal Strategy and the draft budget bill submitted to the Government.
- 4) The Assembly should adopt the proposed changes to the Constitution to establish binding fiscal rules or, alternatively, the MoF should propose legally binding fiscal rules to the Budget Law.

Medium-term (3-5 years)

- 5) The MoF should establish sector-specific (e.g. for each ministry) spending ceilings in the Fiscal Strategy to increase transparency in resource planning and guide the preparations of the annual budget. Sectoral ceilings for a smaller number of organisations should be consolidated, allowing line ministries to steer budget planning in their sectors.
- 6) The MoF should provide additional information on relevant topics for the interpretation of the draft budget (e.g. cost and benefits of new government policies, contingent liabilities, and long-term projections of revenues and expenditures in key sectors).

2.2. Key requirement: Accounting and reporting practices ensure transparency and public scrutiny over public finances; both cash and debt are managed centrally, in line with legal provisions.

Baseline values

The functioning of medium-term and annual resource planning is analysed using three qualitative indicators and five quantitative indicators.

Budget execution has provided positive outcomes in terms of budget control. Monthly cash flow estimates have provided a robust estimation. The MoF reports that, at the level of central government, there are no arrears at the end of 2014. The main weakness lies in the in-year financial reporting.

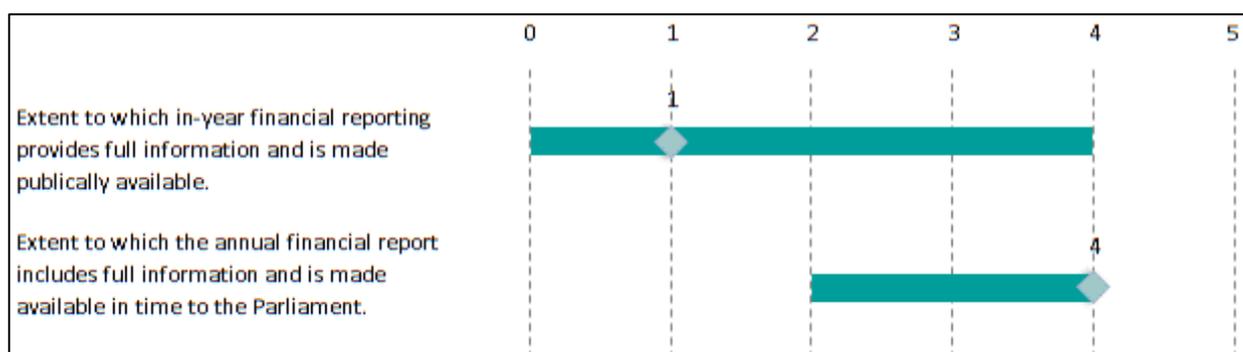
²⁹³ EU Regulation No. 473/2013.

The former Yugoslav Republic of Macedonia
Public Financial Management

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	5	Extent to which in-year financial reporting provides full information and is made publicly available.	2014	1
	5	Extent to which the annual financial report includes full information and is made available in time to the Parliament.	2014	4
Quantitative	3	Average percentage differences between cash flow projections and actual cash balance on a monthly basis.	2014	2.8% ²⁹⁴
	3	Accumulated arrears for central government measured as a percentage of total expenditure at the end of the latest available calendar year	2014	0% ²⁹⁵
	4	Public sector debt servicing costs as a share of gross domestic product	2014	0.8%
	4	Difference of public-sector debt level outturn from target	2014	14.1% ²⁹⁶

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 2. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 3: The Ministry of Finance, or authorised central treasury authority, centrally controls disbursement of funds from the treasury single account and ensures cash liquidity.

²⁹⁴ MoF data and SIGMA calculations.

²⁹⁵ Data included in the annual financial statement of the Government, which is audited by the SAO.

²⁹⁶ In 2013, the Government estimated the total stock of public debt to be 33.4% of GDP (Pre-Accession Economic Programme 2014-2016) but the actual situation in the end of 2014 was 38.1% of GDP (MoF report on the stock of public debt in 2014).

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 organisations²⁹⁷.

The monthly cash flow plans are prepared and there are only small deviations (an average deviation of 2.8% according to MoF data). A system of commitment controls exists by which payments from the Treasury are possible only if a commitment is registered in the system. From 2014, multi-annual commitments are also recorded. However, the treasury system is not linked with the information system for budget management, requiring manual reconciliation of this information for budget planning purposes. Nevertheless, the automatic controls enable the MoF to keep budget execution and the level of arrears under control. In the years 2013 and 2014, no arrears were reported at the level of central government. The problem of late payments nevertheless persists according to the regular survey carried out by the NGO Centre for Civil Communications and presented in the Report on Monitoring of Public Procurements²⁹⁸. Late payments were ranked as the second-highest problem in dealing with public procurement contracts. This shows the problem of arrears has decreased in recent years (from 50% of respondents in 2012 to 39% in 2014) but still exists, at least at the level of municipalities. Arrears exist also in the Health Insurance Fund according to the International Monetary Fund (IMF)²⁹⁹.

The MoF carries out controls that are unnecessary for budget management; for example, the MoF needing to approve individual recruitment processes in a situation where the budget for the staff position is already approved.

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 MoF 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.

All public funds are channelled through the treasury single account, which is controlled by the MoF. Cash flow estimates are prepared by all budget organisations. The Treasury system provides detailed controls and the MoF has been able to control public spending.

Principle 4: There is a clear debt management strategy in place and implemented so that the country's overall debt target is respected and debt servicing costs are kept under control.

The overall level of public debt is low, as is the level of debt servicing costs in the European context (annually, below 1% of GDP), suggesting that public debt management does not form a critical part of PFM. However, in 2014 the total public debt increased from 34.2% to 38.1% of GDP³⁰⁰, which was not estimated in the formal planning documents of the Government in 2013. The indicator measuring the difference in planned stock of public debt compared to the actual outcome is 14.1%.

Debt management is regulated in the Public Debt Law, which includes definitions and procedures for borrowing by local government and SOEs, as well as for central government. According to the law, the Debt Management Strategy should form part of the Fiscal Strategy³⁰¹. The section in the Fiscal Strategy on debt management includes sufficient data. However, there is no fixed ceiling set out for public debt as a percentage of GDP, as was the case in previous debt management strategies.

The Government reports on debt management quarterly and these reports are publicly available.

²⁹⁷ Details are set out in the guidelines on the method of treasury operations by the MoF.

²⁹⁸ Published in September 2014.

²⁹⁹ IMF Country Report No. 15/18, p 9.

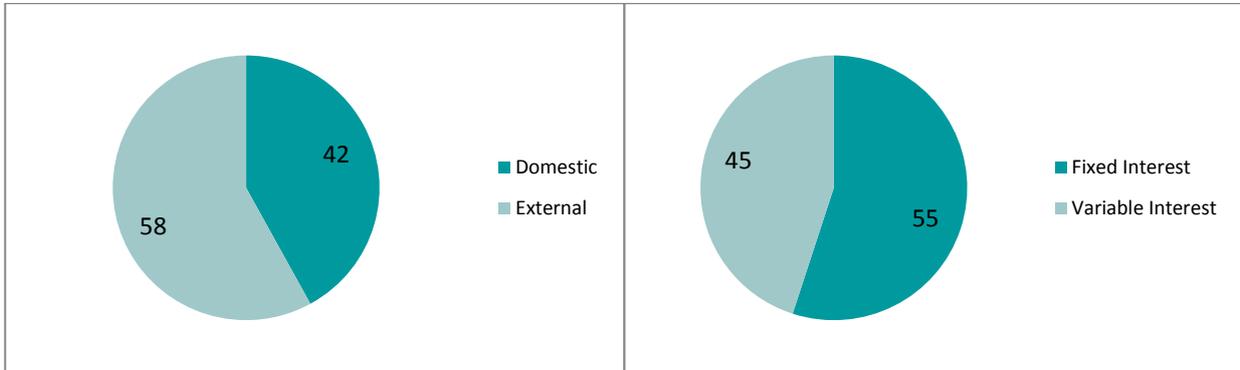
³⁰⁰ MoF report on the stock of public debt in 2014.

³⁰¹ Public Debt Law, Article 7.

The former Yugoslav Republic of Macedonia
Public Financial Management

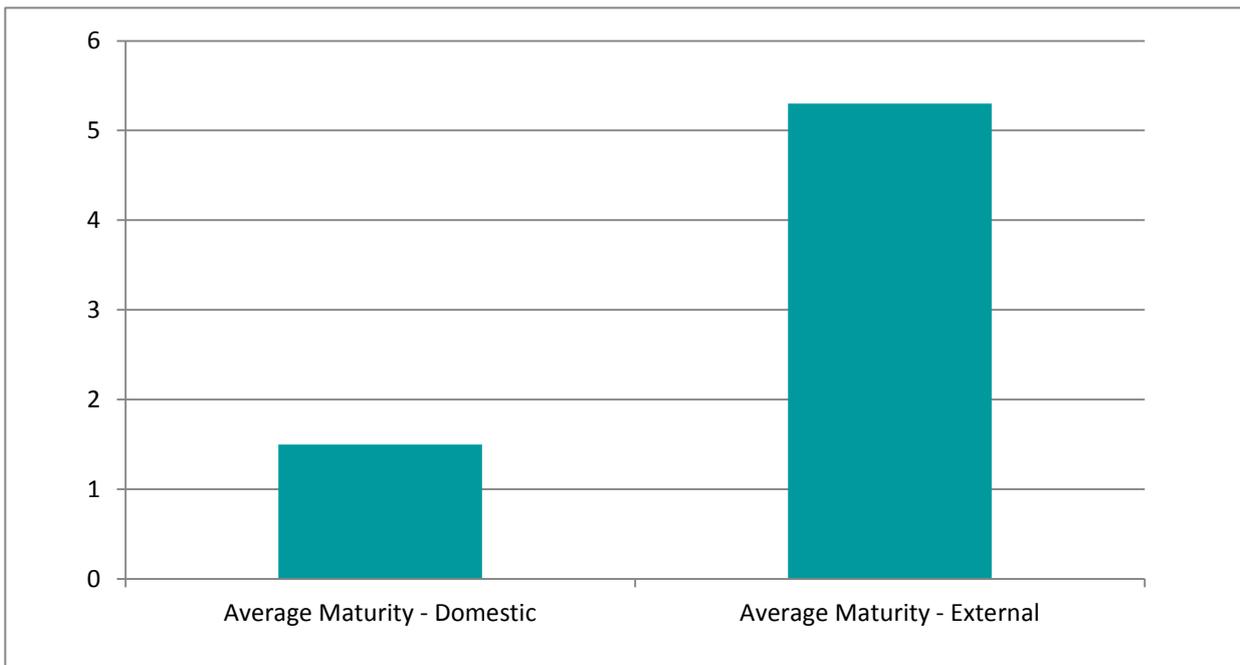
The main element of public debt relates to external debt from international financing institutions and is evenly split between fixed and variable interest rates. The average maturity of debt is 1.5 years for domestic debt and 5.3 years for external debt. The short average maturity of domestic debt exposes the Government to a short-term refinancing risk³⁰².

Figure 3: Proportion of domestic/external debt and debt with fixed/variable interest



Source: Report on Public Debt Management 2013.

Figure 4. Average maturity of domestic and external debt as a percentage of the total stock of debt in 2013



Source: Report on Public Debt Management 2013.

Currently guarantees are used to back up the borrowing of SOEs³⁰³. The total level of guarantees rose in 2014 and currently exceeds 7% of GDP³⁰⁴.

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.

³⁰² Report on Debt Management 2013.

³⁰³ Public Debt Law, Article 2.

³⁰⁴ MoF report on the stock of public debt in 2014.

Principle 5: Budget transparency and scrutiny are ensured.

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. The value of the indicator for in-year financial reporting is 1.

Financial statistics produced by the MoF do not fully comply with the European System of National and Regional Accounts (ESA) 2010 standards as the data is recorded on a cash basis (capturing revenue and expenditure).

The 2013 annual financial report, which was audited by the SAO, does not contain information on contingent liabilities or non-financial performance of the Government. For these reasons the value of the indicator for annual financial reporting is 4. According to the Budget Law, the annual financial report should be submitted to the Assembly by 30 June for discussion and approval. The 2013 annual financial report was adopted by the Assembly on 10 July 2014.

The basic conditions for budget transparency are in place with the annual financial statement prepared early after the end of the calendar year. However, in-year reporting provides only aggregate data on revenues and expenditure. Scrutiny over public finances is provided annually by the SAO.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should, in co-operation with other stakeholders, prepare a comprehensive medium-term planning document for PFM, covering reforms in the areas of PIFC, public procurement, external audit and oversight by the Assembly.
- 2) The MoF should review the definition of public debt set out in the Law on Public Debt, taking into consideration the definitions of ESA.
- 3) The MoF should strengthen the quarterly financial reports by providing further information on local government and SOEs' financial activities (e.g. borrowing and the stock of arrears).
- 4) The MoF should prepare and publish monthly reports that provide data on spending by first-level budget users.

Medium-term (3-5 years)

- 5) The MoF should gradually increase the average maturity of public debt.
- 6) The MoF should, in co-operation with the Statistical Office, develop procedures and capacities for the application of the ESA methodologies for the purposes of fiscal reporting.

2.3. Key requirement: National financial management and control policy is in line with the requirements of Chapter 32 of European Union accession negotiations and is systematically implemented throughout the public sector.

Baseline values

The functioning of financial management and control (FMC) is examined through one qualitative indicator, covering ten critical elements of an effective framework. This is complemented by three numerical indicators to analyse how basic conditions of FMC are developing.

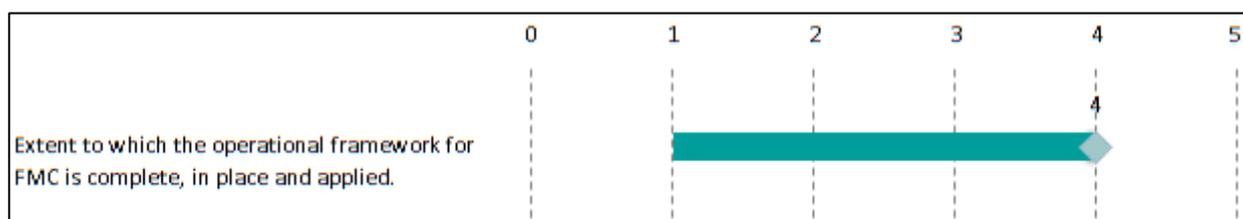
Based on the indicators, the overall framework for FMC is well established, although timely data on implementation is not readily available. The perception of the wastefulness of government spending,

according to the competitiveness index of the World Economic Forum, demonstrates a positive situation with a rank of 30 among 144 countries.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	6	Extent to which the operational framework for FMC is complete, in place and applied.	2014	4
Quantitative	7	Share of first-level budget organisations where budget structure is aligned with the organisational structure.	2014	67%
	7	Share of first-level budget organisations where delegated budget holders below minister or secretary-general level receive at least monthly information on financial commitments and spending against the Budget within their part of the Budget.	2014	Not available ³⁰⁵
	7	Wastefulness of Government spending (The World Economic Forum).	2014	3.8 ³⁰⁶

The value of the qualitative indicator of the country is displayed below in comparison with the range of values for the same indicator in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 6. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 6: The operational framework for financial management and control defines responsibilities and powers, and its application by the budget organisations is consistent with the legislation governing public financial management and public administration in general.

Both the Law on Public Internal Financial Control³⁰⁷ and the Financial Management and Control Manual refer to the five elements of the COSO framework³⁰⁸. In addition, several rulebooks regulate general financial processes in the budget organisations, establish the manner of delegation of authority and set requirements for the financial affairs departments. These rulebooks were prepared in 2010 and 2011 but have not been updated since. Overall, the operational framework for FMC is well established but

³⁰⁵ The MoF does not collect information for this indicator.

³⁰⁶ Global Competitiveness Report 2014-2015, p. 255. The score is given between 1 and 7.

³⁰⁷ Official Gazette Nos. 90/2009 and 188/2013.

³⁰⁸ Committee of Sponsoring Organisations of the Treadway Commission. These principles were originally drafted for application to private sector companies.

many budget organisations have not taken action to apply the rules and have not reported to the MoF on progress made. Therefore, the value of the indicator regarding completeness of the operational framework for FMC is 4.

Other legislation does not specifically support FMC, e.g. the Budget Law makes no specific reference to the delegation of decision making authority. The Rulebook for the Manner of Performing Activities of the Financial Affairs Units provides a useful basis for larger budget organisations, but it is too complicated as a guide for smaller organisations to organise their internal financial processes.

A comprehensive PIFC Policy Paper for 2015-2017 was approved by the Government in December 2014. The current plan focuses on weaknesses in implementation and sets out the necessary actions to cover all areas of the PIFC policy. It has a comprehensive coverage including actions in the area of budget management, but does not present links with wider PAR priorities.

The Central Harmonisation Unit (CHU) prepares an annual report to Government on progress with the implementation of FMC, which is largely based on the self-assessment of all budget organisations required to implement FMC³⁰⁹. This report, which includes detailed statistics about all budget organisations, is considered by the Government and the Government conclusions provide detailed directions to address shortcomings in individual budget organisations. However, the report is prepared long after the end of the year³¹⁰ and only summary statistics were made publicly available in 2014. Supervision of the quality of FMC in budget organisations is not carried out by the MoF³¹¹.

The management structures responsible for the management of IPA programmes are in place and operational, and some effort has been made to introduce IPA-specific procedures to the national programmes (e.g. the procedure for reporting on irregularities). However, the IPA and FMC procedures are still disconnected, even though both are based on COSO.

A financial inspection service was established in the MoF under the Law on Financial Inspection in the Public Sector³¹² and started its work in 2014. As the first cases concentrated on individual cases of possible financial mismanagement, the current practice does not conflict with the work of internal audit.

A regulation covering the operational framework required for FMC implementation is in place; however, the requirements are complex for smaller budget organisations and thus not fully implemented. The Government has approved a policy paper for PIFC that integrates FMC appropriately with the reforms needed in budget management.

Principle 7: Each public organisation implements financial management and control in line with the overall financial management and control policy documents.

Implementation of FMC at an institutional level is lagging behind the development of the policy framework. The common weaknesses in ensuring internal control include the following: key positions required by the FMC regulation are not filled; FMC action plans are not always developed; risk management procedures are not implemented; there is a lack of delegation of decision making authority in financial management beyond the level of the minister and the state secretary.

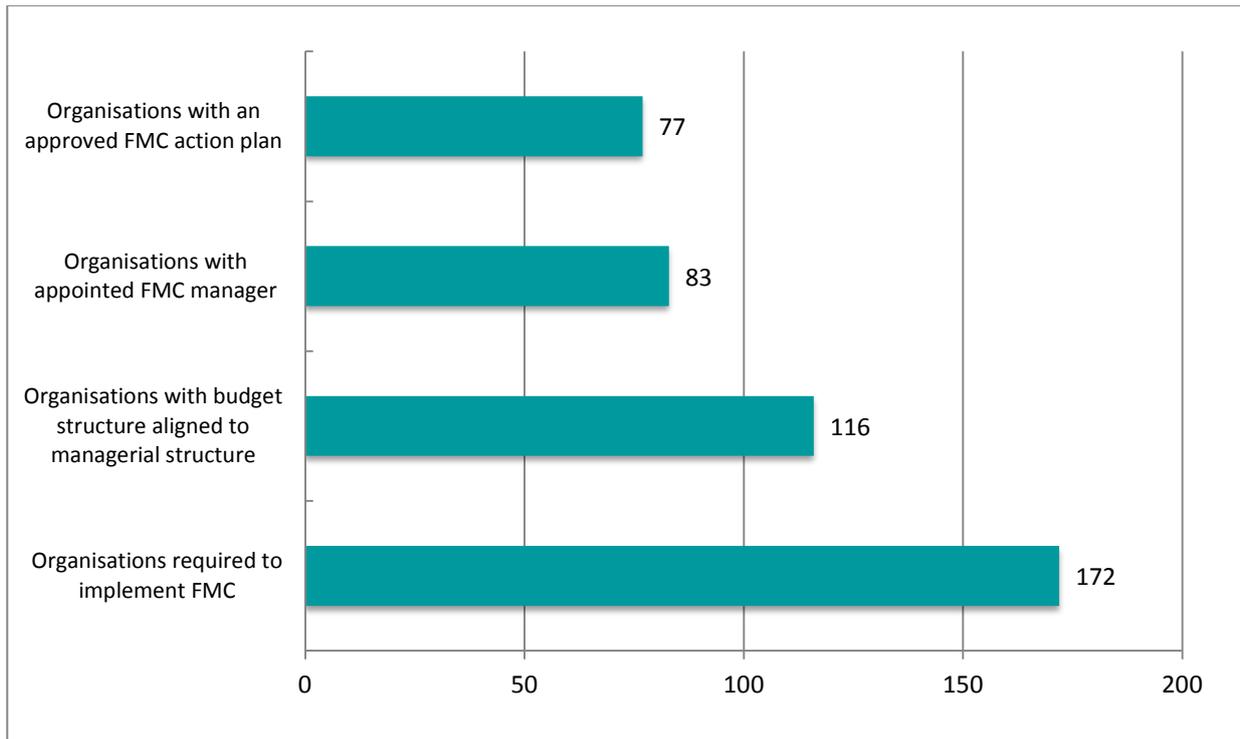
³⁰⁹ Not all budget organisations respect the obligation to report about FMC implementation. In early 2014, only 87% of central government organisations provided the required reports on 2013. The deadline for 2014 reports is in May 2015.

³¹⁰ The report on PIFC is published in June each year.

³¹¹ Although the PIFC Law, Article 48 requires this from the CHU.

³¹² Official Gazette Nos. 82/2013 and 43/2014.

Figure 7. Basic data on the implementation of FMC in budget organisations



Source: Ministry of Finance.

Most central government organisations have in place detailed written procedures for the key processes, reflecting the Government policy of implementing quality management programmes. A good level of alignment (67%) exists between budget structure and management structures in those organisations that have adopted decisions for the distribution of annual budget funds within the organisation.

Delegation of decision making authority in FMC is permitted but rarely applied; it is common that the minister signs all procurement contracts of the ministry and often also individual payment requests before these are submitted to the MoF.

Implementation of FMC has not received the full support of all organisations. Significant disparities exist among different organisations in implementing the legal requirements. There is little financial delegation below the level of ministers or state secretaries.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should carry out a quality assessment of the implementation of FMC procedures in individual budget organisations by reviewing both completeness and actual implementation of the FMC-specific procedures.
- 2) The MoF and the MISA should analyse existing practices in budget management, human resource management and other areas that determine managerial responsibilities in the public sector and identify provisions that need to be aligned with the PIFC regulation.
- 3) The MoF should lighten the requirements for small budget organisations for the organisation of their financial affairs functions.

Medium-term (3-5 years)

- 4) The MoF, in co-operation with the Ministry of Information Society and Administration (MISA), should prepare and implement a financial management training programme for the relevant public sector employees.
- 5) The MoF, in co-operation with the MISA, should ensure, through close monitoring and reporting, that arrangements for delegation of authority are put in practice in budget organisations.
- 6) The MoF should consider earlier submission of the annual reports on PIFC by ensuring that the consolidated report on PIFC policy is available within three months of the end of the calendar year.
- 7) The MoF should expand good practices of IPA management and control systems to the wider management rules for budget execution, and adjust the rules for IPA programmes to meet the needs of the overall framework for FMC.

2.4. Key requirement: The internal audit function is established throughout the public sector and internal audit work is carried out according to international standards.

Baseline values

The functioning of internal audit (IA) is examined through two qualitative indicators, one covering nine critical elements for an effective IA framework and the other covering the quality of IA reports prepared by public organisations. These are complemented by three numerical indicators to assess levels of staffing and training, as well as compliance with national planning requirements. For the precise methodology and scales please see the Methodological Annex.

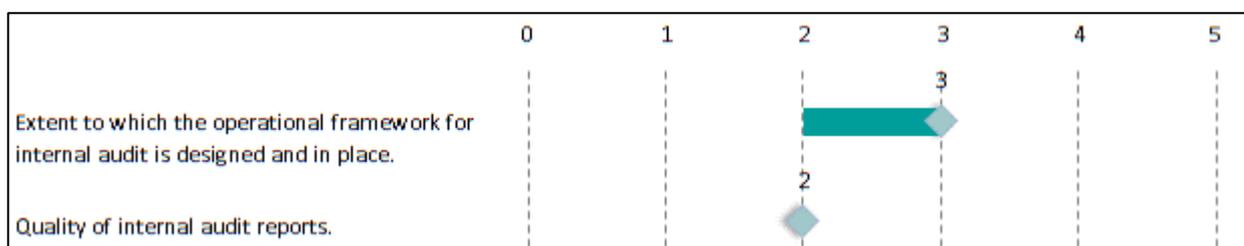
The overall legal and policy framework for IA is in place, but implementation is not ensured by all budget organisations that are required to implement IA. Many organisations have not met the requirements to establish IA units or ensure minimum staffing. In addition, training needs are not taken into account when planning central training and the share of internal auditors with IA certificates is low. The value of the indicator regarding the operational framework for IA is 3.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	8	Extent to which the operational framework for internal audit is designed and in place.	2014	3
	9	Quality of internal audit reports.	2014	2
Quantitative	8	Share of public administration organisations meeting national legal requirements for establishing and minimum staffing of internal audit units.	2014	Not available ³¹³
	8	Share of internal auditors with a national or international internal audit certificate.	2014	21%
	9	Share of organisations with annual internal audit plans conforming to national legal requirements.	2014	68%

³¹³ Information not provided by the MoF.

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 8. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 8: The operational framework for internal audit reflects international standards and its application by the budget organisations is consistent with the legislation governing public administration and public financial management in general.

The IA requirements of the PIFC Law apply to: users of the state budget, budgets of municipalities and state funds; independent regulatory bodies; shareholder companies and other legal entities in which the Government or municipalities have a controlling stake. Even small organisations (with an annual budget of more than EUR 1 million) are required to establish IA.

The PIFC Law also specifies that IA should be carried out in accordance with the International Standards of the Institute of Internal Auditors³¹⁴. The PIFC Law is supported by rulebooks consistent with the Law and extensive guidance material is available for internal auditors, including the Internal Audit Manual. The IA manual does not, however, include detailed guidance on audit planning. Moreover, audit methodologies have been described only for systems audits.

The PIFC Strategy includes plans to strengthen IA in the public sector and its two-year Action Plan focuses on persistent weaknesses, such as staffing, training and quality assurance. The CHU prepares detailed statistics about the work of IA in the public sector within the annual report on PIFC, which is presented to the Government. These statistics provide information on staff, audit plans, numbers of audits carried out, etc., both at central and local level. However, there is no focus on the quality of IA work other than statistics about the rate of implementation of IA recommendations.

For better co-ordination of IA across the public administration, an Audit Committee³¹⁵ was established; it is chaired by the State Secretary of the MoF and composed of the heads of the IA units of all the ministries. In 2014, this Committee met twice.

Currently, no systematic quality assurance is undertaken either by the IA units or by the CHU³¹⁶.

In terms of the operational framework required to implement IA, the laws and regulations are consistent with international standards and specify appropriate operational arrangements. Basic quality assurance arrangements for IA are not yet in place.

³¹⁴ The International Standards for the Professional Practice of Internal Auditing (ISPPPIA), laid down by the Institute of Internal Auditors.

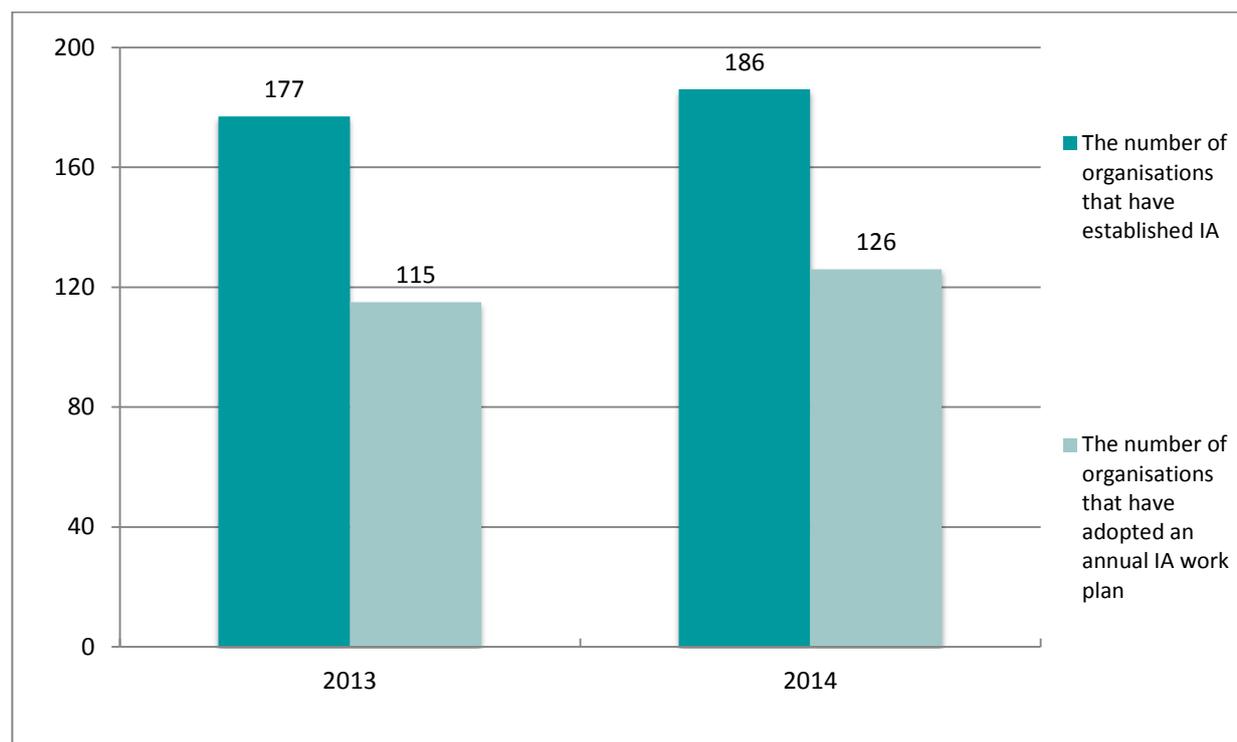
³¹⁵ The Audit Committee, established by a decision of the Minister of Finance, fulfils the role of a wider advisory board for the MoF in designing the IA policy.

³¹⁶ Although the PIFC Law, Article 48 requires this from the CHU.

Principle 9: Each public organisation implements internal audit in line with the overall internal audit policy documents as appropriate to the organisation.

Overall, 186 organisations have established an IA function, but only a few of them meet minimum staffing levels. This shows a lack of commitment to IA which may, in turn reflect a lack of funding for the necessary posts and/or a lack of suitably qualified staff for appointment. Of the total, 36 organisations do not have auditors in place or do not have a contract with another organisation for the provision of internal audit service. Only 68% (126 out of 186) of all organisations have prepared annual IA plans according to national requirements.

Figure 9. 2013 and 2014 data on the set-up of the IA function in budget organisations



Source: Ministry of Finance.

Not all of the IA units are fully operational; only one-third has approved an annual IA work plan in line with the legislation. In total, there are 211 internal auditors in place, with an average of just over one per IA unit, which further underlines weaknesses in staffing. It is difficult to recruit and retain staff of suitable ability and provide appropriate experience and training within small units. In particular, international standards envisage a level of review and supervision within the IA structure³¹⁷ that is not possible within these units. Most IA units do not meet the minimum staffing requirements³¹⁸, although in two out of the three sample ministries analysed by SIGMA, the minimum staffing requirements were met³¹⁹.

The CHU has commenced the second round of IA training in co-operation with the Centre of Excellence in Finance³²⁰ and the Chartered Institute of Public Finance and Accountancy³²¹. Currently, 45 internal auditors have passed this international certificate training, which at the end of 2014 represented 21%

³¹⁷ ISPPA – Attribute Standard 2340 Engagement Supervision.

³¹⁸ The PIFC Law specifies different thresholds for staffing in IA, depending on the size of the organisation.

³¹⁹ The MoF and the Ministry of Agriculture meet the minimum staffing requirements, but the Ministry of Transport and Communication does not.

³²⁰ The Centre for Excellence in Finance is a regional development institute based in Ljubljana, Slovenia.

³²¹ The Chartered Institute of Public Finance and Accountancy is a UK-based professional accountancy body specialising in the public sector.

of the total number of internal auditors. The second round of this certificate training is likely to double this number.

Most of the IA work focused on basic system-based audits; in practice, these are mostly compliance-oriented, testing if the procedures are applied rather than challenging the rules and procedures themselves. Based on a sample of ten organisations, SIGMA verified that audit reports are routinely prepared by IA units and the minimum national requirements are followed when preparing IA reports, leading to an indicator value of 2. However, the level of information provided in these reports varied considerably. Three of the analysed audit reports addressed internal control weaknesses, and one focussed also on value for money.

The number of internal auditors in place in relation to the number of IA units is low, showing that the overall IA framework is not yet fully implemented. In addition, many small organisations have not made arrangements for IA. Audit reports are prepared by most IA units, but they focus on compliance with existing rules of procedure and do not take the opportunity to advise on changes in the internal control procedures.

Key recommendations

Short-term (1-2 years)

- 1) The MoF, in co-operation with the MISA, should develop sustainable long-term arrangements for training internal auditors for the public sector, on the basis of the detailed regulation on training and examination of internal auditors; the training should be possible to implement without external financial support.
- 2) The MoF should update the IA Manual based on the recent changes to the PIFC Law, and to cover strategic and annual audit planning and other types of audit as foreseen by the PIFC Law.
- 3) The MoF should establish a basic quality assurance programme that supports the IA units in paying due attention to systemic weaknesses in their set-up and work.

Medium-term (3-5 years)

- 4) The MoF should develop a proposal that would allow the IA functions of smaller organisations to be covered by other state authorities in order to reduce the number of IA units without the necessary staff to ensure quality of work.
- 5) The MoF should develop IA capacities further as an advisory service to management, with a clear focus on ensuring that FMC) systems are operational and effective (as opposed to just meeting the legal requirements).

2.5. Key requirement: Public procurement is regulated by duly enforced policies and procedures that reflect the principles of the Treaty of the functioning of the European Union and the European Union *acquis*, and are supported by suitably competent and adequately resourced institutions.

Baseline values

The key requirement for harmonisation with the EU principles and *acquis* ruling public procurement as well as the establishment of institutional structures and arrangements is examined through six qualitative indicators. The first two describe the extent to which the legislation is complete and enforced (i.e. covering the eight main goals as defined in Principle 10), and the openness of the administrative bodies involved in policy making to the public (participants of the market). The next two indicators concern the extent of development and implementation of the policy framework, and the existence and performance of dedicated institutions for central procurement functions. The indicators are qualitative and aim to assess the legal basis for public procurement, the associated instruments or functions, and implementation of the law and related rules.

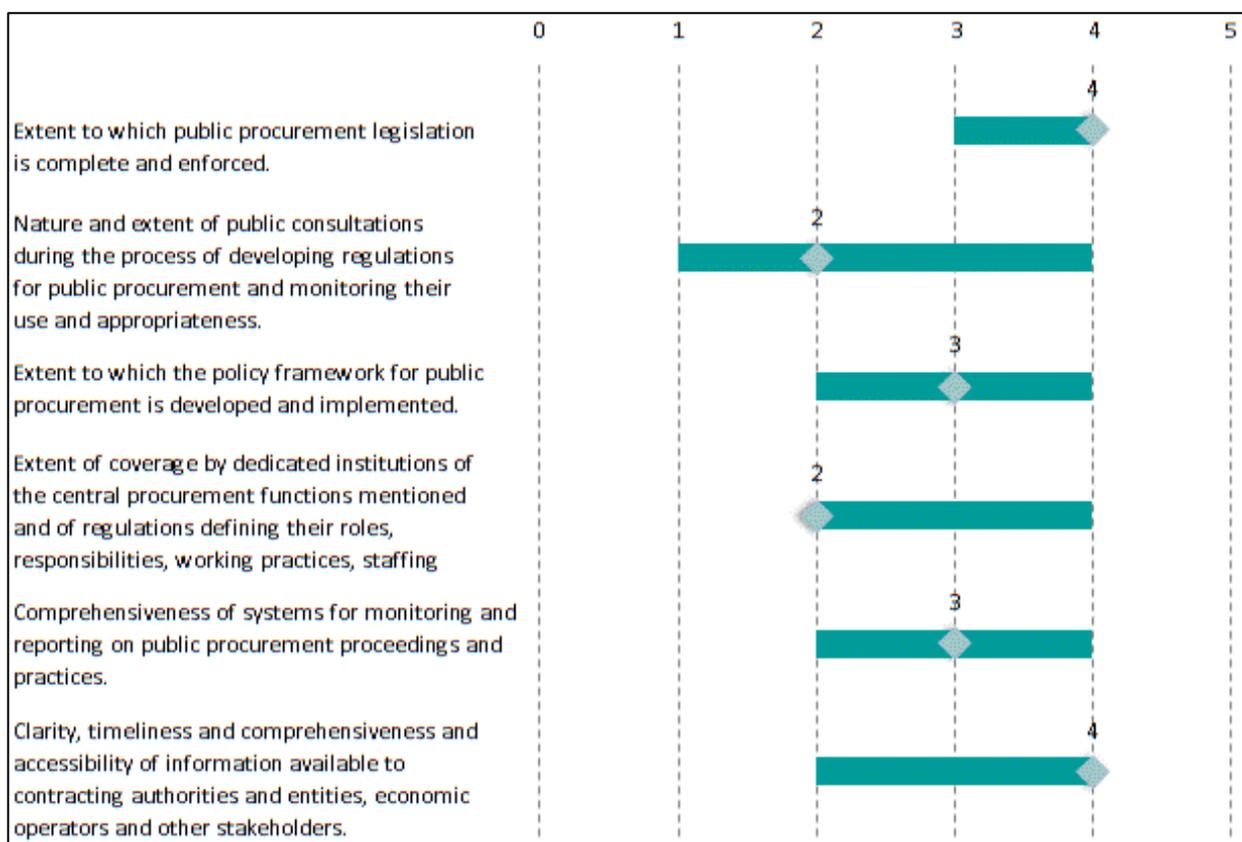
The former Yugoslav Republic of Macedonia
Public Financial Management

The values indicated reflect the high level of detail of selection and award procedures for public contracts, while shortcomings remain in the coverage of other fields, regarding public consultations, and in some specific procedures and practices.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	10	Extent to which public procurement legislation is complete and enforced.	2014	4
	10	Nature and extent of public consultations during the process of developing regulations for public procurement and monitoring their use and appropriateness.	2014	2
	11	Extent to which policy framework for public procurement is developed and implemented.	2014	3
	11	Extent of coverage by dedicated institutions of the central procurement functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources.	2014	2
	11	Comprehensiveness of systems for monitoring and reporting on public procurement proceedings and practices.	2014	3
	11	Clarity, timeliness, comprehensiveness and accessibility of information available to contracting authorities and entities, economic operators and other stakeholders.	2014	4

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 10. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 10: Public procurement regulations (including public-private partnerships and concessions) are aligned with the acquis, include additional areas not covered by the acquis, are harmonised with corresponding regulations in other fields, and are duly enforced.

The PPL covers both the classic and utilities sectors in considerable detail and is thoroughly implemented, although some provisions do not match the EU Directives, e.g. the obligation for the price to be the only award criterion and the use of ‘negative reference’ (more detail below). Concessions and public-private partnerships (PPPs) are subject to a separate law, namely the Law on Concessions and Public-Private Partnerships³²². The single regulatory framework governing concessions and PPPs, as well as its amendments in 2014, which introduced new provisions on e-auctions, only provides a set of basic regulations. Moreover, its practical implementation leaves significant room for improvement in relation to the current non-operative nature of the PPP Council and the public register of awarded PPP contracts and concessions. The Defence Directive³²³ has not been transposed into domestic law. Article 6 of the PPL provides that the rules of PPL apply in the field of defence, subject to

³²² Law on Concessions and Public-Private Partnerships, 11 January 2012 (Official Gazette No. 07-149/1), amended in 2014 (Official Gazette No. 07-3620/1).

³²³ Directive 2009/81/EC on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, 13 July 2009, and amending Directives 2004/17/EC and 2004/18/EC.

some exceptions where the essential security interest of the country may be adversely affected. In fact, these exceptions related to state security allow for defence procurement to be entirely exempted from the scope of general public procurement regulations. The indicator for the extent to which public procurement legislation is complete and enforced therefore has a value of 4.

In 2014, the PPL was amended four times. In principle, the National Electronic Registry of Legislation³²⁴ constitutes a mechanism for facilitating public involvement in the legislative process, with the PPB nominally in charge of collecting and processing the comments in the case of procurement legislation. However, such public consultations are launched at a very late stage of the elaboration of the legislative drafts; in addition, many laws are adopted by Parliament following an expedited procedure with even less consultation. All of the 2014 amendments of the PPL were adopted very quickly, without sufficient time for a full and substantial consultation procedure³²⁵. As a consequence, the indicator for the nature and extent of public consultations has a value of 2.

The PPL (Articles 47/48) lays down a mechanism whereby it is possible for a contracting authority to issue a negative reference and publish it on the ESPP. This excludes a particular bidder from all further contract award procedures in the country for a period of one year, extendable for up to five years.

These provisions are inconsistent with the EU Public Sector Directive³²⁶ and the interpretation of the Court of Justice of the European Union³²⁷.

Since the beginning of 2014, the PPL has undergone several amendments. The process has not been transparent and the amendments have brought the Law away from conformity with the EU Directives on public contracts and utilities, e.g. in the form of the compulsory use of e-auctions for practically all procurement and mandatory publication of negative references on the ESPP. "Black-listing" procedures are also not in line with the *acquis*. The Defence Directive has not yet been transposed.

Principle 11: There is a central institutional and administrative capacity to develop, implement and monitor procurement policy effectively and efficiently.

The PPB³²⁸ is responsible for developing, implementing and monitoring public procurement policy in the country. However, the effective exercise of the PPB's statutory roles is currently compromised because no appointment has been made to the post of Director, which has been vacant since September 2014. The PPB has prepared a comprehensive strategy³²⁹ and a related action plan for the development of the public procurement system until 2018. However, only some of the measures envisaged until the end of 2014 have been carried out. As a result, the indicator of the extent to which the policy framework for public procurement is developed and implemented has a value of 3.

The PPB's activities and tasks are divided between two departments and are carried out by a staff of 20, in addition to those of a new body established in May 2014: the Public Procurement Council (PPC), which is formally part of the PPB.

The PPC's main role is to review and decide on requests from contracting authorities for approval to publish notices, even in the absence of the required minimum number of interested potential tenderers. It also decides on granting approvals upon requests submitted by contracting authorities in any other matter requiring prior approval.

The PPC was established with the goal of promoting open competition and the fundamental principles of transparency, value for money and non-discrimination by verifying market analyses made by

³²⁴ www.ener.gov.mk.

³²⁵ Interviews with the EU Delegation in Skopje, the PPB, contracting authorities and economic operators.

³²⁶ Directive 2015/24/EU, replacing Directive 2004/18/EC, which has similar provisions.

³²⁷ Judgement of the EU Court of Justice, C-465/11, 13 December 2012, *Forposta*.

³²⁸ <http://www.bjn.gov.mk/>

³²⁹ <http://www.bjn.gov.mk/bjn-portal/wordpress/?documents=strateski-prioriteti>

contracting authorities and ensuring that, for example, technical specifications are as open as possible and not unduly exacting, so as to attract broad competition. However, since the establishment of the PPC, the average number of tenderers per procedure has not showed any significant change. The less strict specifications and the use of price only as the award criterion are leading to a lower quality of items actually procured³³⁰ and the prescribed procedures create additional delays and costs for contracting authorities.

In the field of concessions and PPPs, a unit in the Ministry of Economy is overseeing the application of the Law on concessions and PPPs. However, the minister-level Public-Private Partnership Council established under the Law in 2012 has not yet become operational. The overlaps and gaps in the roles and responsibilities of the authorities concerned mean that the indicator of the coverage of central procurement functions by dedicated institutions has a value of 2.

Procurement is monitored by the PPB using its e-procurement system³³¹ which also serves reporting purposes. However, the contract management phase is not covered, data mining facilities are limited and data are not available for important infrastructure procurement not covered by the PPL. Hence, the values of the indicators for the comprehensiveness of the monitoring and reporting system, and for the clarity, timeliness and comprehensiveness of the information available are 3 and 4, respectively.

The institutional set-up and the procedural regulations introduced in 2014 concerning the PPC, market research prescriptions and requirements for prior approvals have no basis in the EU Public Procurement Directives. They add complexity to the procurement process and render it more time-consuming and onerous for contracting authorities and economic operators, without any evidence of benefits in terms of greater participation, better correspondence to needs or better value for money. The e-procurement system includes monitoring and reporting functions for procurement under the PPL.

Key recommendations

Short-term (1-2 years)

- 1) The Ministry of Finance (MoF) should prepare a draft law on defence procurement.
- 2) The Government should undertake a thorough assessment of the impact of the functioning of the PPC, analyse the benefits of the prior approval system against the burdens that it entails, and thoroughly reform the PPC and its operations, unless it is simply abolished.
- 3) The Ministry of Economy should strengthen institutional capacity in the concessions and PPP areas.

Medium-term (3-5 years)

- 4) The MoF should review and revise the PPL for full compliance with the new EU Directives and submit corresponding, draft legislative amendments to the Government, after appropriate and full public consultation.
- 5) The Government should prepare a new draft law on concessions to implement the new EU Directive on concessions³³².

³³⁰ Interviews with contracting authorities.

³³¹ <https://e-nabavki.gov.mk/PublicAccess/Home.aspx#/home>

³³² Directive 2014/23/EU of the European Parliament and of the Council on the award of concession contracts, 26 February 2014.

2.6. Key requirement: In case of alleged breaches of procurement rules, aggrieved parties have access to justice through an independent, transparent, effective and efficient remedies system.

The key requirement for the establishment of an independent, transparent, effective and efficient remedies system is examined through six indicators. The quantitative indicators describe the timeliness of the review procedure, the accessibility of the review system for economic operators and the performance of the responsible body. The last indicator stipulates the level of availability of relevant information.

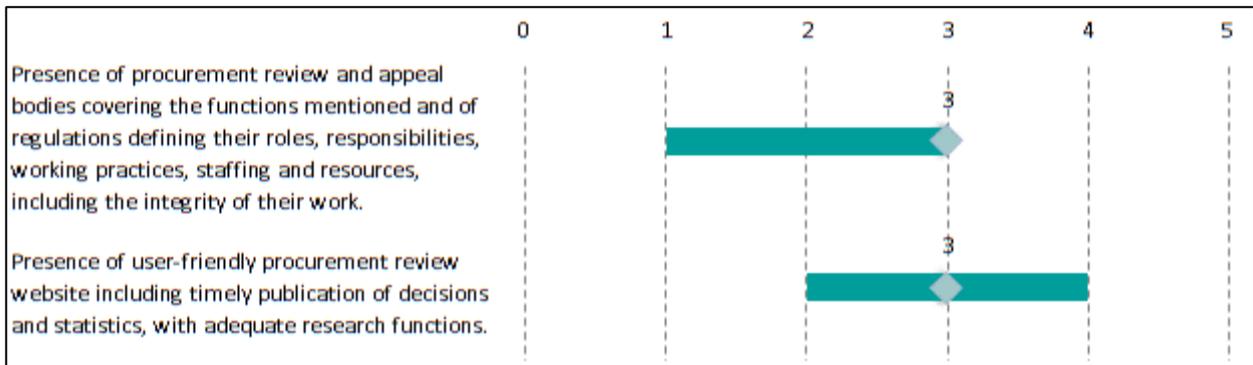
The indicator values reflect the presence of a working remedies system, including the timely publication of decisions, although with a focus on formal details and without any search functions.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	12	Presence of procurement review and appeal bodies covering the functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources, including the integrity of their work.	2014	3
	12	Presence of user-friendly procurement review website including timely publication of decisions and statistics, with adequate research functions.	2014	3
Quantitative	12	Actual processing time of complaints related to procurement compared with the maximum legal requirements.	2014	87% ³³³
	12	Number of cases in which the procurement review body exceeded the legal maximum processing time in relation to the total number of complaints.	2014	0%
	12	Number of complaints in relation to the number of tender notices published.	2014	3,8%
	12	Share of complaints in procurement that are challenged to the next judicial level.	2014	11,5%

³³³ The actual average time is 13 days, compared to 15 (maximum time allowed by the PPL).

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 11. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 12: The remedies system is aligned with acquis standards of independence, probity and transparency and provides for rapid and competent handling of complaints and sanctions.

Public procurement review procedures are regulated by Chapter X of the PPL. Pursuant to Article 200 the State Appeals Commission (SAC)³³⁴ is competent to resolve appeals in the contract award procedures prescribed by the PPL and in procedures for awarding concessions and concluding PPPs. The SAC is also entrusted with appeals lodged against decisions adopted by the PPC. According to interpretation provided during an interview with the SAC, this review is, however, of a limited nature and the SAC only checks eventual procedural omissions on the part of the PPC; it does not evaluate the legality or the substance of the opinions of the PPC experts, nor does it tend to consider the overall achievement of the main goals of public procurement.

The SAC is composed of a president and four members; the total number of its staff is 14 employees.

³³⁴ <http://dkzin.mk/>.

Table 1. Key characteristics of the remedies system

	2012	2013	2014
Number of complaints submitted	658	533	591
Number of decisions taken	638	617	874
Share of decisions published	100%	100%	100%
Number of complaints accepted (decision of contracting authority changed)	212	178	220
Number of complaints rejected	237	263	494
Average time of processing the case before the SAC (days)	15	15	15
Number of SAC decisions challenged to the next judicial level	64	66	86

Source: State Appeals Commission.

While the overall working methods of the SAC do not reveal any particular shortcomings, the review system in general raises a number of concerns.

The time limits for submitting complaints to the SAC are very short (eight days in regular procedures, and three days in some cases³³⁵) and not consistent with the EU Remedies Directives (ten days)³³⁶.

The time limits for the SAC to adopt and publish its decisions were also shortened³³⁷, while a temporary shortage of staff makes the handling of urgent cases a challenge.

While the SAC's decisions are published on its website, the search facilities are very limited: interested parties, even SAC staff themselves, find it difficult to navigate through the entire body of its decisions. The same holds true for the decisions of administrative courts reviewing the SAC's decisions on appeal.

Decisions of the SAC may be appealed against at the administrative courts³³⁸. However, these courts do not have any special means for handling cases related to public procurement and their staff have not participated in any public procurement related capacity building activities in recent years.

Overall, the indicator for the presence of procurement review and appeal bodies has a baseline value of 3.

While all decisions by the SAC are rapidly published on its website, there are no search facilities and interested parties, even SAC staff themselves, as stated by in meetings with SIGMA, find it difficult to navigate through the entire body of its decisions. The same holds true for the decisions of administrative courts reviewing the SAC's decisions on appeal. The indicator for the presence of a user-friendly procurement review website is therefore given a value of 3.

Although some provisions of the EU Remedies Directive have not been transposed, at least the structure of the country's remedies system formally complies with the *acquis*. However, the actual functioning of the system is difficult to ascertain, since it is not possible to search for past decisions on any particular issue. Short and strict time limits for review are in place.

³³⁵ Article 216 of the PPL.

³³⁶ Directive 92/13 on remedies in the utilities sector; Directive 89/665 on remedies in the public sector.

³³⁷ In relation to urgent resolution of cases, under Article 224, paragraph 7, of the PPL, as amended by Law No 180/14.

³³⁸ Article 230 of the PPL.

Key recommendations

Short-term (1-2 years)

- 1) The Government should enable the SAC to operate at full staff numbers, so that it can better cope with the increasing case load.
- 2) The SAC should put into place a web-supported search engine that enables navigation through the body of its decisions and through case law of the administrative courts.
- 3) The MoF should revise and submit appropriate draft legislative amendments to the Government in relation to the deadlines laid down in Article 216 of the PPL for lodging appeals to SAC, with the aim of extending deadlines and reducing the criminal sanctions for not meeting them.

Medium-term (3-5 years)

- 4) The SAC should raise its ability to address the substance of complaints and to consider the main goals of public procurement in addition to purely formal errors and omissions.
- 5) Administrative courts should ensure greater participation of their members in training activities specific to public procurement, or otherwise improve their skills in handling procurement-related cases.

2.7. Key requirement: Contracting authorities are adequately staffed and resourced and carry out their work in accordance with applicable regulations and recognised good practice, interacting with an open and competitive supply market.

Baseline values

The key requirement for an efficient public procurement system based on professional, value-driven and integrity-conscious management in contracting authorities is examined through a package of indicators describing the performance of the public procurement market. The indicator concerning the usage of modern procurement techniques and methods describes the presence and performance of modern tools: e-procurement, framework agreements, and the establishment of central purchasing bodies and arrangements.

The values achieved illustrate the extensive e-procurement system in place and the advice and support provided by the PPB, although there is very little centralised purchasing and the level of professionalisation is still modest.

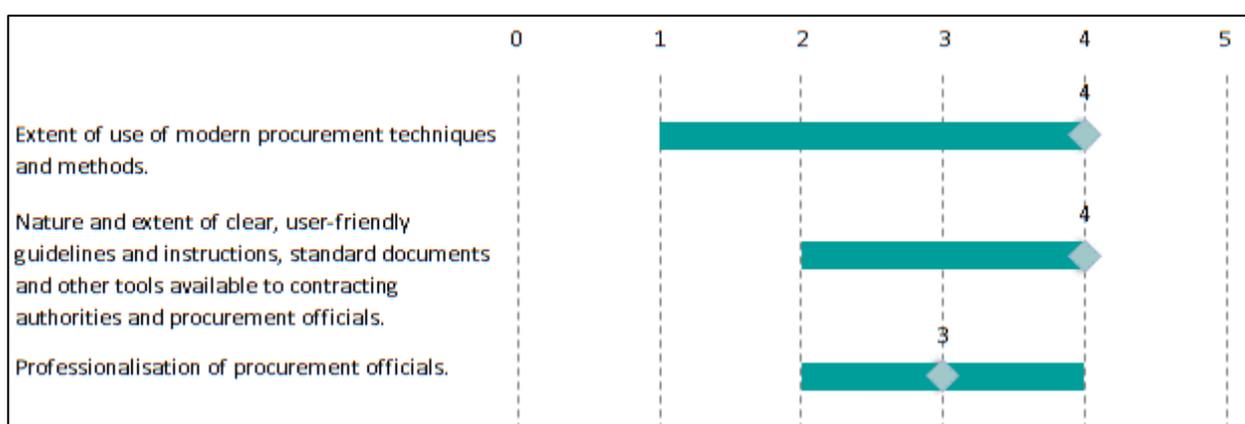
	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	13	Extent of use of modern procurement techniques and methods.	2014	4
	14	Nature and extent of clear, user-friendly guidelines and instructions, standard documents and other tools available to contracting authorities and procurement officials.	2014	4
	14	Professionalisation of procurement officials.	2014	3

The former Yugoslav Republic of Macedonia
Public Financial Management

Quantitative	13	Share of contracts already announced in published procurement plans or indicative notices.	2014	52%
	13	Share of contracts awarded by competitive procedures.	2014	Not available ³³⁹
	13	Share of contracts awarded based on acquisition price only.	2014	Not available
	13	Share of contracts amended after award.	2014	Not available
	13	Share of contracts subject to formal post-evaluation.	2014	Not available
	13	Average number of tenders submitted per goods contract to be procured.	2014	Not available
	13	Average number of tenders submitted per works contract to be procured.	2014	Not available
	13	Average number of tenders submitted per services contract to be procured.	2014	Not available

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 12. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 13: Public procurement operations comply with basic principles of equal treatment, non-discrimination, proportionality and transparency, while ensuring the most efficient use of public funds and making best use of modern procurement techniques and methods.

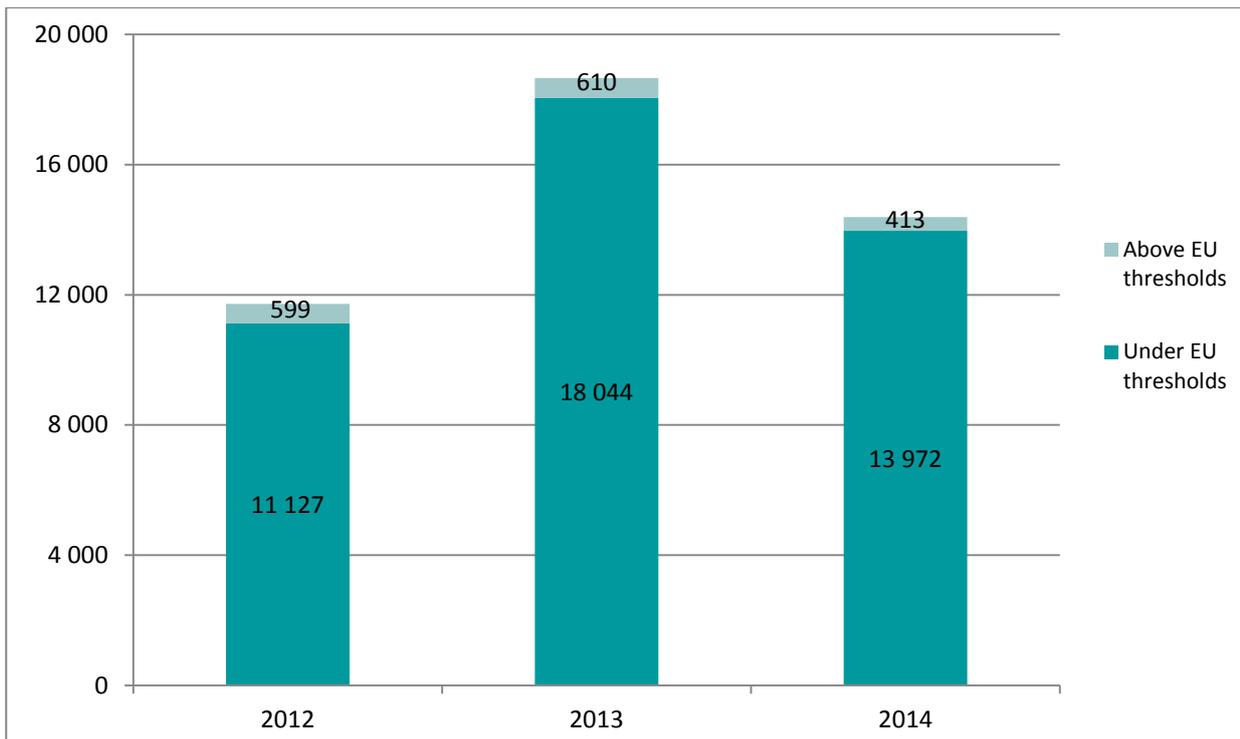
³³⁹ No data for this and the following indicators for 2014 were officially available by end April 2015.

The former Yugoslav Republic of Macedonia
Public Financial Management

The comprehensive e-procurement system (the ESPP) run by the PPB for several years provides the basic framework for ensuring the transparency of procurement opportunities and equal access for economic operators within public procurement falling under the PPL.

However, the mandatory use of the lowest price criterion³⁴⁰ is one of the major weaknesses of the country's procurement system. The most economically advantageous tender (MEAT) criterion may be used only in limited circumstances and its use requires prior approval by the PPC. This approach is not compatible with the provisions of the EU Public Sector Directive 2004/18 (Article 53), which explicitly allows the choice between the two award criteria. Furthermore, the new EU Directives³⁴¹ have a general requirement for all awards to be made based on the MEAT criterion, with the possibility of using the lowest price only in certain circumstances.

Figure 13. Number of procurement procedures with prior publication of a notice

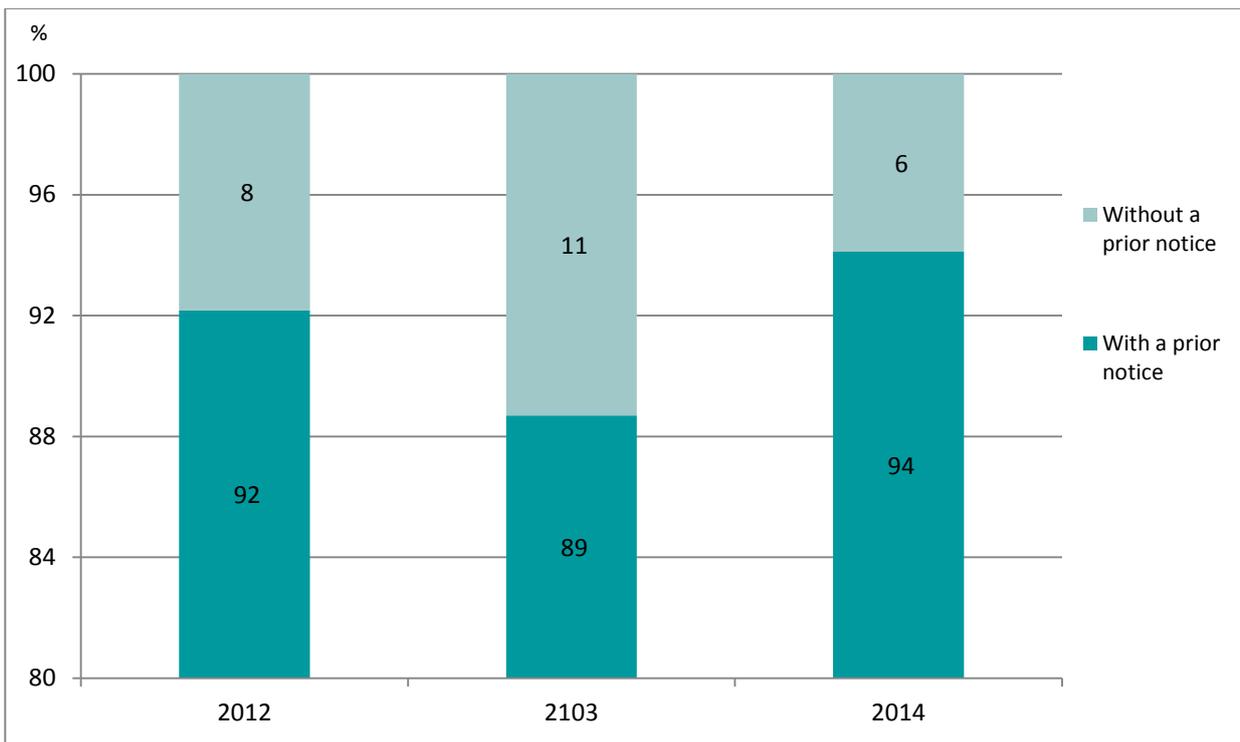


Source: Public Procurement Bureau.

³⁴⁰ PPL, Article 160 of the PPL, Official Gazette No. 148/13.

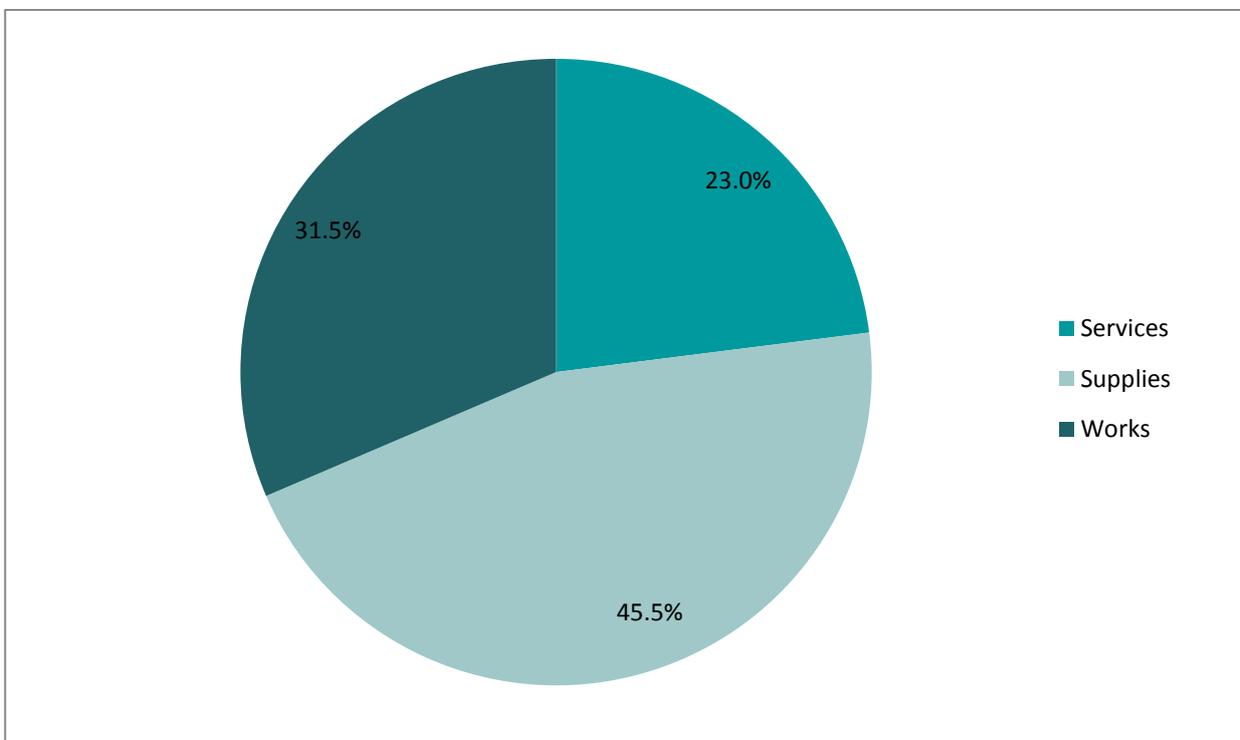
³⁴¹ Directive 2014/24/EU on public procurement, 26 February 2014; Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors, 26 February 2014.

Figure 14. Total value of contracts awarded with and without prior publication



Source: Public Procurement Bureau.

**Figure 15. Types of contract
(contract value)**



Source: Public Procurement Bureau.

The average number of tenders submitted in public tenders has decreased steadily over the last three years (2012: 3.00; 2013: 2.82; 2014: 2.17), indicating that the procurement market has become less competitive. Looking at the number of contracts, the vast majority of them are for procurement below the EU thresholds. Here, the e-procurement system facilitates the publication of notices also for small

value contracts. By value, the share of contracts without prior publication is considerably higher, as seen in the chart. An important reason for this is typically the need to procure utility services (e.g. water, electricity) from monopoly suppliers. On the other hand, the considerable fluctuations in the procurement patterns and the share of works contracts in public procurement may merit further analysis in view of the considerable construction activities that appear to have taken place in the last few years.

Article 118 of the PPL stipulates that there must be at least seven economic operators for the conclusion of a framework agreement, except with prior approval of the PPC. The need to seek prior approval from the PPC renders the recourse to such framework agreements cumbersome and less attractive for contracting authorities. Nevertheless, at 16 %, the share by value of procurement using framework agreements is high.

On the other hand, centralised purchasing is very little developed; the PPL allows the creation of a body for the purpose, but in practice a decentralised approach is used.

The practical application of the procedural rules³⁴² for the mandatory market analysis (PPL Article 36-a) is difficult, especially for small contracting authorities. Draft technical specifications cannot be sent out as it would give an undue advantage to those receiving them; but without a reasonably specific description of the items to be procured, prospective tenderers are reluctant to engage in the process. Furthermore, while the PPL also requires confirmations from foreign manufacturers, many of these are, according to several interviewed contracting authorities, inclined to refer to their local representatives. As a result, the process tends to prevent the contracting authority from demonstrating the required interest from a foreign manufacturer. Finally, the required minimum number of interested local manufacturers is often difficult or impossible to meet, particularly for a large number of items for which there is little or no domestic production³⁴³.

The 2014 amendments to the PPL introduced new provisions on penalties (Chapter XI-a) targeting, among others, public procurement officials, and providing for sanctions of imprisonment for violations of the PPL. Although no cases of misdemeanour or misprocurement in public procurement in general are known to have been brought to justice recently, the provisions reduce the willingness to take up official positions in public procurement and render decision making in public procurement highly formalistic (having a strong focus on conformity with procedural prescriptions). As a consequence, objectives such as value for money and suitability for the purpose are only given secondary attention.

Given the various strong and weak points mentioned, the indicator for the extent of the use of modern procurement techniques and methods has a baseline value of 4.

A comprehensive, fully operational e-procurement system is in place and framework agreements are widely used. However, there is no centralised purchasing body and procedural requirements aiming at ensuring equal treatment, non-discrimination, proportionality and transparency are onerous and of limited effect.

Principle 14: Contracting authorities and entities have the appropriate capacities and practical guidelines and tools to ensure professional management of the full procurement cycle.

The main tool available to contracting authorities for managing the procurement process is the ESPP which also provides access to various forms and guidelines.

In 2014, in addition to the existing body of manuals and guidelines issued by the PPB, a set of new standard tender documents was adopted, namely to provide guidance to contracting authorities in the conduct of an open, simplified, competitive procedure. These documents also cover specific sectors of public procurement, such as mobile and fixed line telephony, insurance and electricity services. In

³⁴² PPL, Article 36-a.

³⁴³ Interviews with contracting authorities.

addition, the PPB issued the Guidebook on negative references and Manuals on the use of the ESPP for contracting authorities and economic operators.

As a result, a value of 4 is given to the indicator for the nature and extent of clear, user-friendly guidelines and instructions, etc.

Although public procurement officials are not subject to any specific educational requirements at the time of engagement, the PPB has a statutory obligation³⁴⁴ to prepare and deliver educational training on public procurement (for a fee) and issue certificates to those who have passed the public procurement officer exams. Lectures on public procurement have to be delivered by trainers who hold a certificate issued by the PPB. Upon completion of the training and successfully taking the public procurement officer exam, the PPB issues a certificate, which is valid for three years.

Information on scheduled training activities is easily available in a comprehensive format on the website of the PPB. In 2013, 29 training events were held (26 designed for contracting authorities and 3 for economic operators). Training for economic operators was a novelty, but triggered little interest among the intended audience (only three training sessions out of ten scheduled took place). The PPB also offers “train-the-trainers” seminars³⁴⁵. Several comprehensive practical manuals for procurement officers have been published (and are being regularly updated) on the PPB website³⁴⁶.

The PPB carries out advisory functions by providing opinions in response to requests submitted by contracting authorities and operators, as well as through the “Open Doors Day” initiative started in 2013. This event gathers contracting authorities and economic operators together in order to facilitate an exchange of opinions on various aspects of the functioning of the public procurement system.

However, one significant gap remains: no specific training on concessions and PPPs is provided by the Ministry of Economy (MoE), which is in charge of monitoring this area, or by any other authorities concerned.

The overall value of the indicator for the level of professionalisation of procurement officials is 3.

Among its other statutory responsibilities, the PPB provides a wide range of capacity-building services, in particular professional training and advice delivered to contracting authorities and economic operators, as well as to the trainers themselves. Information on scheduled training activities is easily available in a comprehensive form. However, no training is currently provided in relation to concessions and PPPs, which fall within the competence of the MoE.

Key recommendations

Short-term (1-2 years)

- 1) The MoF should revise the PPL in order to remove limitations related to the application of the MEAT criterion, and submit appropriate draft legislative amendments to the Government.
- 2) The MoF should redraft PPL provisions on market analysis in line with the guidance in the EU Directives, sharply reducing their now very prescriptive nature.
- 3) The MoF should revise the PPL to soften penalties for procurement officials in light of their inhibiting and demoralising effect, and submit appropriate draft legislative amendments to the Government.

³⁴⁴ PPL, Article 14-a

³⁴⁵ Public Procurement Bureau, Annual Report 2013.

³⁴⁶ www.bjn.gov.mk/bjn-portal/wordpress/?docs=procurement-manuals

Medium-term (3-5 years)

- 4) The MoF should increase the funds for contracting authorities intended for trainings for procurement officials.
- 5) The MoE should provide training and advisory assistance on concessions and PPPs.

2.8. Key requirement: The constitutional and legal framework guarantees the independence, mandate and organisation of the Supreme Audit Institution to perform its mandate autonomously according to the standards applied for its audit work, allowing for high-quality audits that impact on public sector functioning.

Baseline values

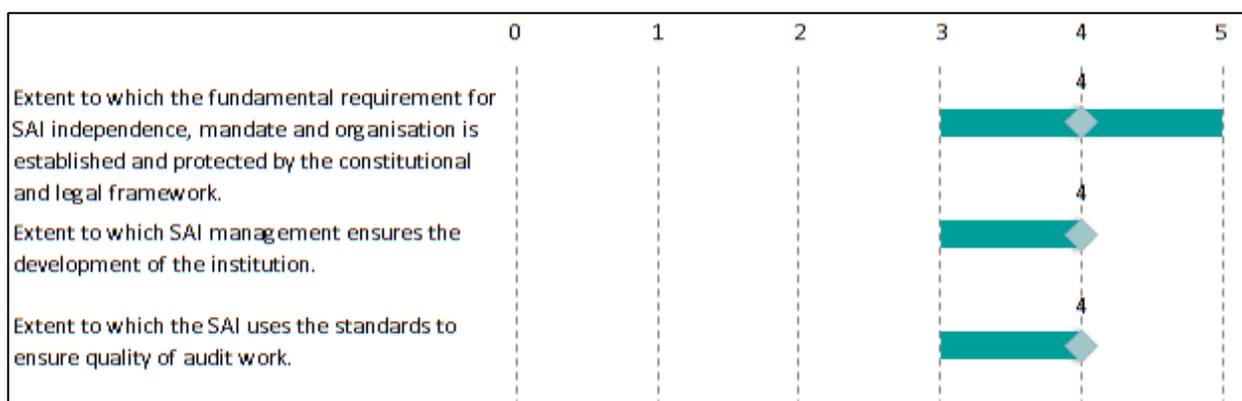
The legal framework of the SAO is examined through four quantitative indicators and one qualitative indicator by reviewing the Constitution and the legislation governing the SAO (including internal rules and procedures and other relevant documents). The functioning of the SAO is examined through three quantitative indicators and one qualitative indicator by an analysis of the relevant documentation.

The SAO in the country has no constitutional coverage, but the SAO law guarantees its independence, mandate and organisation. The SAO performs its mandate autonomously according to the standards applied, publishes all audit reports on time and uses almost all of its annual share of the budget. The implementation rate of its recommendations is limited, however, as shown by the indicators below.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	15	Extent to which the fundamental requirement for SAI independence, mandate and organisation is established and protected by the constitutional and legal framework.	2014	4
	15	Extent to which SAI management ensures the development of the institution.	2014	4
	16	Extent to which the SAI uses the standards to ensure quality of work.	2014	4
Quantitative	15	Difference between approved budget and realised expenditure of the SAI.	2014	8%
	15	Share of SAI budget in the state Budget.	2014	0.1%
	15	Amount of resources used for mandatory audits compared with resources for audits selected independently by the SAI.	2014	20%
	16	Proportion of audit reports published on the SAI website compared to total audit reports adopted.	2014	100%
	16	Share of audit recommendations accepted and implemented by auditees.	2013	51.5%
	16	Share of timely audit reports.	2013	100%

The values of the qualitative indicators of the country are displayed below in comparison with the range of values for the same indicators in the other Enlargement countries (in the Western Balkans and Turkey). The range is formed by the values given to the lowest and highest performer for a given indicator.

Figure 16. Country baseline value in comparison with the regional range



Analysis of Principles

Principle 15: The independence, mandate and organisation of the Supreme Audit Institution are established and protected by the constitutional and legal framework and are respected in practice.

The SAO does not have constitutional anchorage and therefore the indicator concerning the extent to which the fundamental requirements are established and protected by the constitutional and legal framework has a value of 4. However, the financial and operational independence of the SAO is clearly regulated by the State Audit Office Law, as are the appointment/dismissal and terms of mandate of the General State Auditor and the deputy³⁴⁷. The law provides the SAO with a mandate for regularity and performance audit, which should be conducted in compliance with INTOSAI³⁴⁸ auditing standards and the rules determined in the INTOSAI Code of Ethics. The law also foresees the right of access to all required information.

The SAO law requires only mandatory annual audits³⁴⁹ of the Government's budget and the budgets of the three extra-budgetary funds³⁵⁰. In 2014, the SAO needed only 20% of its resources for those audits. The audit of the budget is not only a financial audit but also a compliance audit of the core Government budget with defined objectives. For 2013, those objectives were to assess the compliance of: the drafting, adoption and execution of the budget; the planning and collection of tax and non-tax revenues; and the operation of control procedures in the treasury system.

The SAO also has to supervise the financial and material operations of political parties³⁵¹. While the SAO has audited all political parties annually since 2011, it applies the same risk-based approach as for other audits; since 2014, it has included only some political parties in the audit programme³⁵². All other audits are carried out on the decision of the SAO according to its annual audit programme and based on applying a risk-based approach to its decisions.

During 2013, the SAO carried out 103 audits and adopted and published a total of 155 audit reports, of which 145 were financial audit reports, 7 performance audit reports and 3 reports of thematic audits.

³⁴⁷ The Audit Law of 2010, Articles 4, 6 and 7, latest amendment Official Gazette No. 43/2014.

³⁴⁸ International Organisation of Supreme Audit Institutions.

³⁴⁹ The State Audit Law, Article 23.

³⁵⁰ Health Insurance, Pension and Disability Fund, Employment Agency.

³⁵¹ The Law on Financing Political Parties, Article 26, Official Gazette No. 148/2011.

³⁵² In 2013 the SAO audited all 51 political parties; in 2014, only 7 political parties.

The difference between audits carried out and audit reports can be explained by the fact that the SAO issues a report on each of the accounts of the auditees, which may amount to more than one per auditee. In 2013, the SAO reached audit coverage of only 40%. In 2014, the SAO increased its efforts on performance audits. It carried out a horizontal audit in 80 entities to establish the efficiency and effectiveness of the system for FMC and IA in budget beneficiaries.

Audits are conducted by the 82 auditors of the SAO, 70 of whom hold a certificate of authorised state auditor. They are supported by 11 administrative support staff. The SAO has an HRM strategy in place and improves its members' and staff's theoretical and practical professional development through internal, external and international programmes. The average annual training days undertaken by audit staff is 18.

The independence, mandate and organisation of the SAO are not established and protected by the Constitution, but only in the State Audit Law. As the SAO does not carry out a full financial audit on the final accounts of the Government budget, it can devote the majority of its resources to audits on which it decides itself. However, at 40% the annual audit coverage is low, leaving the majority of public funds unaudited.

Principle 16: The Supreme Audit Institution applies standards in a neutral and objective manner to ensure high quality audits, which positively impact on the functioning of the public sector.

The State Audit Law provides for the audits to be conducted in compliance with international auditing standards. The SAO has adopted methodologies and guidance for carrying out regularity audits and performance audits. It also has audit quality control and audit quality assurance procedures in place. All guidance material was revised in 2014 to further adapt it to ISSAI requirements. In 2014, nine quality assurance reports were issued, as well as an annual quality report that stated the general accordance of audit processes with the set standards and procedures, but also highlighted some shortcomings to be addressed in future audits.

While the SAO has criteria in place to develop its annual audit plan, it does not have a strategic multi-annual system to prioritise its work over time. While quality control and quality assurance provide recommendations, they don't provide a timetable for follow-up. For both reasons, the value for the indicator measuring the extent to which the SAO uses standards to ensure its audit work is 3. The SAO follows up on its audit reports with regard to the implementation of its audit recommendations but, for 2013, the level of implementation by the end of the following year amounted to only 51% of the total accepted by the auditees.

The SAO submits its annual work programme and its annual report on conducted audits and operations to the Assembly. It also publishes a strategic development plan, but does not report on progress made in its implementation; therefore, the indicator measuring the extent to which the SAO management ensures the development of its organisation has a value of 4. The Finance and Budget Committee of the Assembly reviews the annual report and draws conclusions, after receiving it not later than 30 June each year. The Committee does not consider individual audit reports during the year, although in 2013, the SAO issued 21% adverse (negative) audit opinions. The annual report includes information on performance indicators, but no clear information on achievements regarding implementation of the strategic development plan that the SAO has published.

While the SAO publishes all audit reports on its website and puts efforts into producing an easy-to-read and easy-to-understand annual report, it does not pro-actively communicate with the media, the Parliament or the wider public through press conferences, press releases or other means.

The SAO publishes audit reports that meet international standards and impact, to some extent, on the functioning of the public sector. Nevertheless, the SAO audits have limited impact as many of its recommendations are not implemented and the Assembly does not use the audit reports to their full extent in order to hold the Government to account.

Key recommendations

Short-term (1-2 years)

- 1) The SAO should develop a multi-annual audit strategy to prioritise its work, taking into account the need to maintain quality and ensure adequate audit coverage over the years.
- 2) The SAO should take further measures to improve the annual audit coverage.

Medium-term (3 to 5 years)

- 3) The SAO should continue its efforts to co-operate with the Assembly in order to increase the impact of its audit work, especially with regard to raising the interest and understanding of members of Parliament concerning performance audit results.
- 4) The SAO should communicate more proactively with the media and the wider public in order to explain audit results and further explain its role on the basis of concrete audit examples.



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