



Baseline Measurement Report:

# The Principles of Public Administration

KOSOVO\*

April  
2015

Authorised for publication by Karen Hill, Head of the SIGMA Programme

This document has been produced with the financial assistance of the European Union. It should not be reported as representing the official views of the EU, the OECD or its member countries, or of beneficiaries participating in the SIGMA Programme. The opinions expressed and arguments employed are those of the author(s).

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

\*This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

## TABLE OF CONTENTS

<b>LIST OF ABBREVIATIONS AND ACRONYMS</b> .....	<b>2</b>
<b>OVERVIEW</b> .....	<b>4</b>
<b>STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM</b> .....	<b>6</b>
1. State of play and main developments: 2014-April 2015 .....	6
2. Analysis .....	7
<b>POLICY DEVELOPMENT AND CO-ORDINATION</b> .....	<b>18</b>
1. State of play and main developments: 2014-April 2015 .....	18
2. Analysis .....	19
<b>PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT</b> .....	<b>38</b>
1. State of play and main developments: 2014-April 2015 .....	38
2. Analysis .....	39
<b>ACCOUNTABILITY</b> .....	<b>54</b>
1. State of play and main developments: 2014-April 2015 .....	54
2. Analysis .....	55
<b>SERVICE DELIVERY</b> .....	<b>64</b>
1. State of play and main developments: 2014-April 2015 .....	64
2. Analysis .....	65
<b>PUBLIC FINANCIAL MANAGEMENT</b> .....	<b>74</b>
1. State of play and main developments: 2014-April 2015 .....	74
2. Analysis .....	77

Kosovo  
List of Abbreviations and Acronyms

## **LIST OF ABBREVIATIONS AND ACRONYMS**

APSAA	Action Plan for Stabilisation and Association Agreement
BRC	Business registration centre
CAC	Criteria Assessment Commission
CAF	Common Assessment Framework
CHU	Central Harmonisation Unit
CoG	centre of government
COSO	Committee of Sponsoring Organisations of the Treadway Commission
CPA	Central Procurement Agency
CSL	Civil Service Law
DCSA	Department of Civil Service Administration
DEIPC	Departments of European Integration and Policy Co-ordination
DEP	Declaration of Compliance
DoPARM	Department for Public Administration Reform Management
DP	Declaration of Priorities
EC	European Commission
EDI	Electronic Declaration system
EI	European integration
EIF	European Interoperability Framework
EU	European Union
FIA	financial impact assessments
FMC	financial management and control
GAWP	Government Annual Work Plan
GCS	Government Co-ordination Secretariat
GDP	gross domestic product
HR	human resources
HRM	human resource management
HRMIS	Human Resource Management Information System
IA	internal audit
IOB	Independent Oversight Board
IPA	Instrument for Pre-accession Assistance
ISO	International Organization for Standardization
ISSAI	International Standards for Supreme Audit Institutions
IT	information technology
KFMIS	Kosovo financial management information system
KIPA	Kosovo Institute of Public Administration
KJC	Kosovo Judicial Council

Kosovo  
List of Abbreviations and Acronyms

LAP	Law on the Administrative Procedure
LAPD	Law on Access to Public Documents
LGAP	Law on General Administrative Procedure
LO	Legal Office
LPFMA	Law on Public Financial Management and Accountability
LSA	Law on State Administration
LSCS	Law on Salaries of Civil Servants
MAFRD	Ministry of Agriculture, Forestry and Rural Development
MEI	Ministry of European Integration
MoF	Ministry of Finance
MPA	Ministry of Public Administration
MTBF	medium-term budgetary framework
MTEF	medium-term expenditure framework
MTI	Ministry of Trade and Industry
NGO	non-governmental organisation
OAG	Office of the Auditor General
OECD	Organisation for Economic Co-operation and Development
OPM	Office of the Prime Minister
PAR	public administration reform
PFM	public financial management
PIFC	Public Internal Financial Control
PPL	Public Procurement Law
PPP	public-private partnership(s)
PPRC	Public Procurement Regulatory Commission
PRB	Procurement Review Body
RIA	Regulatory Impact Assessment
RoP	rules of procedure
SAA	Stabilisation and Association Agreement
SAI	Supreme Audit Institution
SGSP	Steering Group for Strategic Planning
SMART	Specific, Measurable, Assignable, Realistic and Time-bound
SPO	Strategic Planning Office
TEP	Compliance Tables
UNDP	United Nations Development Programme
VAT	value added tax
WCAG	Web Content Accessibility Guidelines

## 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 EC<sup>1</sup>. The Principles cover six areas: strategic framework for public administration reform, policy development and co-ordination, public service and human resource development, 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 EU integration process. The Principles also feature a monitoring framework enabling regular analysis of the progress made in applying the Principles and setting benchmarks.

This Report sets the baseline values for the indicators included in the monitoring framework and provides analysis on where Kosovo 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 in Kosovo

Kosovo successfully finalised the Stabilisation and Association Agreement (SAA) negotiations with the European Union (EU) on 2 May 2014. The European Commission adopted the proposal for a SAA with Kosovo on 30 April 2015. The Agreement, which is expected to come into effect in 2016 after approval by the EU Council and the European Parliament, is an important step for Kosovo in the European integration process. It is also an encouragement to step up the pace of reforms.

To meet its obligations under the SAA and implement the necessary reforms, Kosovo requires a capable public administration. PAR is therefore among the medium-term reform priorities set out in the EC’s Feasibility Study for the SAA. Making progress on PAR implementation remains a crucial challenge for Kosovo in the coming years.

The legal framework for public administration is in place to a large extent. The most relevant remaining legislative challenges are the Law on State Administration, the Law on General Administrative Procedures and the Law on Auditor General. The legal framework in some areas, such as public service, access to information and public liability, still has shortcomings which hinder effective or full implementation.

The institutional set-up of the public administration is broadly in place, but the institutional structure is fragmented and does not define clear functions and accountability lines of administrative bodies. It has led to cumbersome administrative architecture which diminishes the efficiency of the administration and delivery of services.

Co-ordination capacity remains a challenge for most institutions responsible for cross-cutting policies. Staff capacity, as well as the mandate of the Ministry of Public Administration for matters related to service delivery and accountability, leads to fragmented policy efforts and impedes efficient implementation. PAR co-ordinating institutions lack monitoring and supervision authority and capacity, leading to inconsistent implementation practices.

In a few cases, long postponed reforms have moved forward incrementally, for example the job catalogue has been approved by the Government and a list of articles for central procurement has been adopted, however the general reform path remains slow and has been further affected by six months of political stalemate in forming the Government in the second half of 2014.

---

<sup>1</sup> See *The Principles of Public Administration* and relevant background information on the SIGMA website: [www.sigmaweb.org/publications/principles-public-administration-november-2014.htm](http://www.sigmaweb.org/publications/principles-public-administration-november-2014.htm).



## STRATEGIC FRAMEWORK OF PUBLIC ADMINISTRATION REFORM

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

#### 1.1. State of play

Public administration reform (PAR) is defined as one of the priorities of Kosovo and is generally aligned between the central planning documents. Currently, no comprehensive PAR strategic framework is in force, as it is still under development. A separate PAR monitoring and reporting mechanism was in place during 2014, but it lacked performance indicators and targets to determine the achievement of impact results in the area of PAR. The costing of PAR activities is not consistently applied; as a result, the financial sustainability of the reform is not ensured. One leading institution – the Ministry of Public Administration (MPA)<sup>2</sup> - has been designated to manage and co-ordinate the PAR agenda, and it has a separate Department for PAR Management (DoPARM)<sup>3</sup> to perform these functions. Two other involved institutions are assigned to be in charge of the implementation of activities in the following areas: the Office of the Prime Minister (OPM) is in charge of policy development and co-ordination, and legislation; and the Ministry of Finance (MoF) is in charge of public financial management (PFM)<sup>4</sup>.

#### 1.2. Main developments

The newly approved Programme of the Government of Kosovo 2015-2018<sup>5</sup> features PAR as a priority and defines its scope through areas in SIGMA's *Principles of Public Administration*.

In 2014, the Government approved a comprehensive report on implementation of the PAR Strategy 2011-2013<sup>6</sup>. The report on implementation of the PAR Roadmap 2014<sup>7</sup>, which provides information on reform steps accomplished according to the commitments foreseen, was adopted in 2015.

The Government also adopted two decisions establishing new structures for the co-ordination and management of PAR: 1) the new Committee of Ministers for PAR was established by Government Decision No. 05/09 On the organisation and functioning of Committee of Ministers to ensure implementation of Public Administration Reform, dated 21 January 2015, and 2) a technical secretariat – DoPARM in the MPA – was re-appointed, and structures responsible for implementation of PAR activities covering all areas were appointed by Government Decision No. 09/13 On the organisation and functioning of structures for the implementation of strategic documents and Public Administration Reform, dated 12 February 2015.

Two additional staff members were assigned to the DoPARM in the MPA in 2014 to better support the implementation of the programme. However, two other staff members left in early 2015.

In April 2015, the Government of Kosovo adopted the Public Internal Financial Control Strategy 2015-2019<sup>8</sup>, thus setting out reform objectives in this sub-area of PAR

---

<sup>2</sup> Regulation No. 02/2011 On the Areas of Administrative Responsibility of the Office of the Prime Minister and Ministries, Appendix 11.

<sup>3</sup> Regulation No. 03/161 On Internal Organisation and Systematisation of jobs in the Ministry of Public Administration, Article 6, 2013.

<sup>4</sup> Government Decision No 09/13 On the organisation and functioning of structures for the implementation of strategic documents and Public Administration Reform, 2015.

<sup>5</sup> The Programme of the Government of Kosovo 2015-2018, February 2015.

<sup>6</sup> Government Decision No. 07/145, Public Administration Reform Strategy (2010-2013), September 2010.

<sup>7</sup> Comprehensive Report on Implementation of the Public Administration Reform Strategy 2010-2013, approved by the Government in June 2014.

<sup>8</sup> Government Decision No. 07/23 On approval of the Public Internal Financial Control Strategy 2015-2019, 15 April 2015.

## 2. ANALYSIS

This analysis covers the five Principles for the area of a strategic framework of PAR, grouped under two key requirements<sup>9</sup>. Under each key requirement, a baseline value is 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 the 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 through eight indicators, which aim to describe the Kosovo’s general approach to defining reform objectives and actions, the comprehensiveness of the scope of PAR, links to financial planning documents, as well as the rate of implementation of planned reform actions. The PAR reporting and monitoring system is also assessed. Two out of the eight indicators are qualitative; the rest are quantitative, based on analysis of data and documents provided by the responsible institutions of Kosovo.

In Kosovo, PAR is acknowledged as a priority in the Government’s central planning documents. While clear formal leadership for PAR is evident, low levels of implementation of reform objectives and activities indicate that this is not transforming into actual implementation of the reform activities. In addition, the strategic framework for PAR expired at the end of 2014 and the new one is still under development. The monitoring of the reform focuses on actions rather than on objectives, performance targets and indicators – the latter of which would better show the outcome or impact of the actions taken. Furthermore, costing of the PAR agenda has not been done for all foreseen actions, which puts at risk the financial sustainability of the reform.

	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	1	Extent to which the scope of PAR central planning document(s) is complete.	2014	2
	2	Extent to which a comprehensive PAR reporting and monitoring system is in place.	2014	2
<b>Quantitative</b>	1	Ratio of central planning documents featuring PAR objectives and priorities uniformly and coherently.	2014	67%
	1	Share of public administration development activities and reforms from all activities in PAR planning document(s).	2014	69%

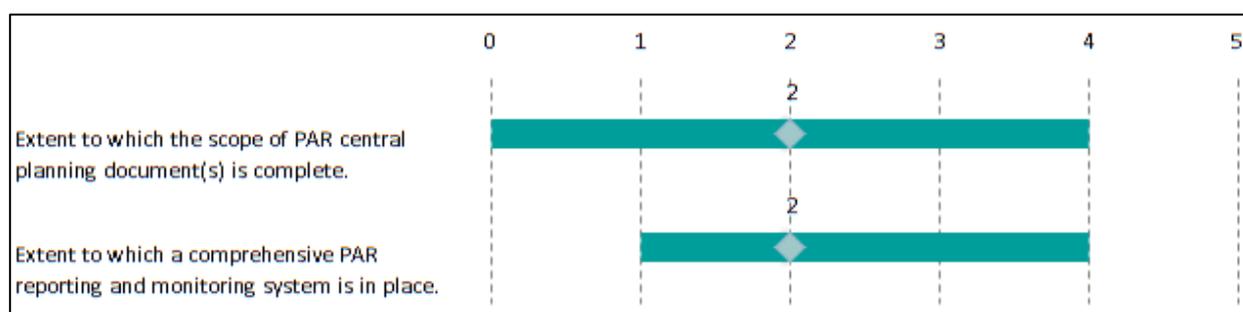
<sup>9</sup> SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 9-17.

Kosovo  
Strategic Framework of Public Administration Reform

	2	Annual implementation backlog <sup>10</sup> of public administration development activities and reforms.	2014	33%
	2	Percentage of fulfilled PAR objectives.	2014	Not available <sup>11</sup>
	3	Share of resourced and costed PAR measures.	2014	63%
	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.***

The central planning documents adopted by the new Government in early 2015, namely the Government Program 2015-2018 and the Government Annual Work Plan for 2015<sup>12</sup>, clearly and coherently set priorities in the field of PAR, structured around the Principles of Public Administration. However, since the full set of central planning documents had not yet been elaborated and adopted, the indicator value was set based on analysis of those central planning documents in force in 2014<sup>13</sup>.

<sup>10</sup> Note that the indicator looks at the implementation rate of public administration development activities and reforms within the particular year.

<sup>11</sup> Since the national planning documents in the PAR area did not have measurable objectives (linked to performance indicators and targets) for 2014, the indicator value for the implementation ratio of PAR objectives was not possible to calculate.

<sup>12</sup> Work Plan of the Government for 2015, Office of the Prime Minister.

<sup>13</sup> In Kosovo, the central planning documents in force in 2014 – Programme of the Government of Kosovo 2011-2014, Government Annual Work Plan 2014, Medium-term Expenditure Framework 2015-2017, Mid-term Policy Priorities, National Strategy for European Integration “Kosovo 2020”, and Action Plan for Stabilisation Association Agreement – generally recognised PAR as a priority of the Government. Based on the central planning document analysis in force in 2014, a ratio of 67% coherence between these documents for featuring PAR-related objectives can be established.

Kosovo  
Strategic Framework of Public Administration Reform

Currently, no strategic framework is in place for the PAR area. The Public Administration Reform Strategy 2010-2013<sup>14</sup> expired in 2013. As an interim measure, the PAR Roadmap 2014<sup>15</sup> was prepared and approved in April 2014 to bridge the gap until a new planning document for PAR is adopted. The MPA, together with other relevant stakeholders, is working on the development of a new planning document for PAR that will cover public service and human resource management, service delivery and accountability. The OPM and the MoF are tasked<sup>16</sup> to ensure that planning documents cover, respectively, the areas of policy development and co-ordination, and of PFM.

The Government has adopted three national planning documents in support of PAR, which set clear implementation plans in the areas of e-government, better regulation and public internal financial control (PIFC): Better Regulation Strategy 2014-2020<sup>17</sup>, Electronic Governance Strategy 2009-2015<sup>18</sup> and Public Internal Financial Control Strategy 2015-2019<sup>19</sup>. These three PAR planning documents define objectives in several sub-areas, such as better regulation, accountability, service delivery (only for the information technology [IT] aspect), and PFI and PFM. However, except for the PIFC Strategy, the documents were not preceded by a proper analysis of problems that would lead to evidenced objectives.

All of the four documents mentioned (the PAR Road Map 2014, Better Regulation Strategy 2014-2020, Electronic Governance Strategy 2009-2015 and PIFC Strategy 2015-2019) contain objectives, actions, timelines, responsible institutions and indicators linked mostly to actions. However, not all of them consistently provide information on the analysis of problems and costs, or on the performance indicator targets linked to reform objectives, and clear monitoring and evaluation requirements. In assessing the completeness of the scope of PAR planning documents, all of these factors have influenced the setting of an indicator value of 2.

**Overall, central government planning documents, adopted in early 2015 by the new Government, identify PAR as a priority reform, but coherency of the approach cannot be fully assessed as some central planning documents (e.g. the medium-term expenditure framework) are still under development. A comprehensive strategic framework for PAR is not currently in place, as the previous key PAR planning documents have expired and the new ones are still being developed.**

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

All PAR planning documents set reform objectives. However, the PAR planning documents contain no requirements and/or commonly accepted practices for defining clear targets and performance indicators, which would allow measurement of actual progress achieved during implementation. For this reason, it is not possible to set the value of the indicator for implementation ratio of the PAR objectives.

These shortfalls in the PAR planning stage are reflected also in implementation and monitoring processes. Reporting for PAR focuses on actions taken rather than on any outcome and impact level assessment. The PAR Road Map 2014 does not provide any indicators for outcomes nor outputs. The PAR Roadmap Implementation Report 2014<sup>20</sup> tried to produce "general indicators" linked to objectives;

---

<sup>14</sup> Government Decision No. 07/145, Public Administration Reform Strategy 2010-2013, September 2010.

<sup>15</sup> Draft Roadmap for 2014, Ministry of Public Administration, November 2013.

<sup>16</sup> Meeting minutes of the Committee of Ministers for PAR, 30 January 2015.

<sup>17</sup> Better Regulation Reform Strategy 2014-2020, Regulatory Impact Assessment, Government Decision No. 03/189, May 2014.

<sup>18</sup> Electronic Governance Reform Strategy 2009-2015, Ministry of Public Services Department of Information Technology (December 2008).

<sup>19</sup> Government Decision No. 07/23 On the approval of the Public Internal Financial Control Strategy 2015-2019, 15 April 2015.

<sup>20</sup> Draft Report: Roadmap for the implementation of the Public Administration Reform Action Plan for 2014, Department for Public Administration Reform Management, MPA, January 2015.

however, those included are not developed according to the SMART model<sup>21</sup> and do not provide any quantified information to support objective analysis of progress or failure. Similarly, the Comprehensive Report on Implementation of PAR Strategy 2010-2013<sup>22</sup>, adopted by the Government in July 2014, lacks any information on the achievement of performance indicators.

Quarterly and annual PAR progress reports are prepared by the DoPARM, and should have been discussed by the Working Group on PAR and Inter-ministerial Commission on PAR during 2014. Evidence gathered shows that PAR progress was discussed by the Working Group on PAR, but not by the Inter-ministerial Commission on PAR.

The work of the PAR co-ordination bodies, as well as of the ministries involved in PAR implementation, was disrupted to some degree by the elections and formation of the new Government. These setbacks, combined with low leverage of the MPA *vis-à-vis* other involved institutions<sup>23</sup>, inhibited pursuit of an efficient PAR steering and co-ordination process. These factors have resulted in a low implementation rate of the PAR Roadmap. The overall implementation rate of public administration development activities and reforms, in relation to those foreseen in different national PAR-related planning documents in 2014, was 33%<sup>24</sup>.

Analysis indicates that civil society, academia and the business community were not involved in the PAR monitoring process: quarterly and annual reports were discussed only within internal Government structures. Consequently, for the qualitative indicator that assesses the overall monitoring and reporting framework for PAR, the value has been set at 2.

**Reporting on PAR has been implemented in 2014. The main shortcoming of the system established was a lack of performance targets and indicators to enable analysis of implementation of the reform objectives. A new monitoring and reporting system will be created in 2015, but has not yet become operational as the planning documents are still under development.**

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

There is no universally accepted practice in Kosovo for costing PAR-related policies; as a consequence, the total budget needed for implementation of PAR cannot be clearly identified. Similarly, information on budget appropriations for implementation of the PAR policy cannot be clearly identified.

In the PAR-related planning documents in force during the 2014, only the sources of funding (national budget or donor funding) were indicated for each activity<sup>25</sup>. The average value for the indicator assessing the proportion of costed PAR measures is 63%, only by virtue of the Action Plan for Implementation of the Electronic Government Strategy. In the PAR Roadmap 2014, only 27% of measures were costed. The recently adopted PIFC Strategy 2015-2019 includes costings for nearly 50% of activities.

---

<sup>21</sup> SMART stands for Specific, Measurable, Assignable, Realistic and Time-bound.

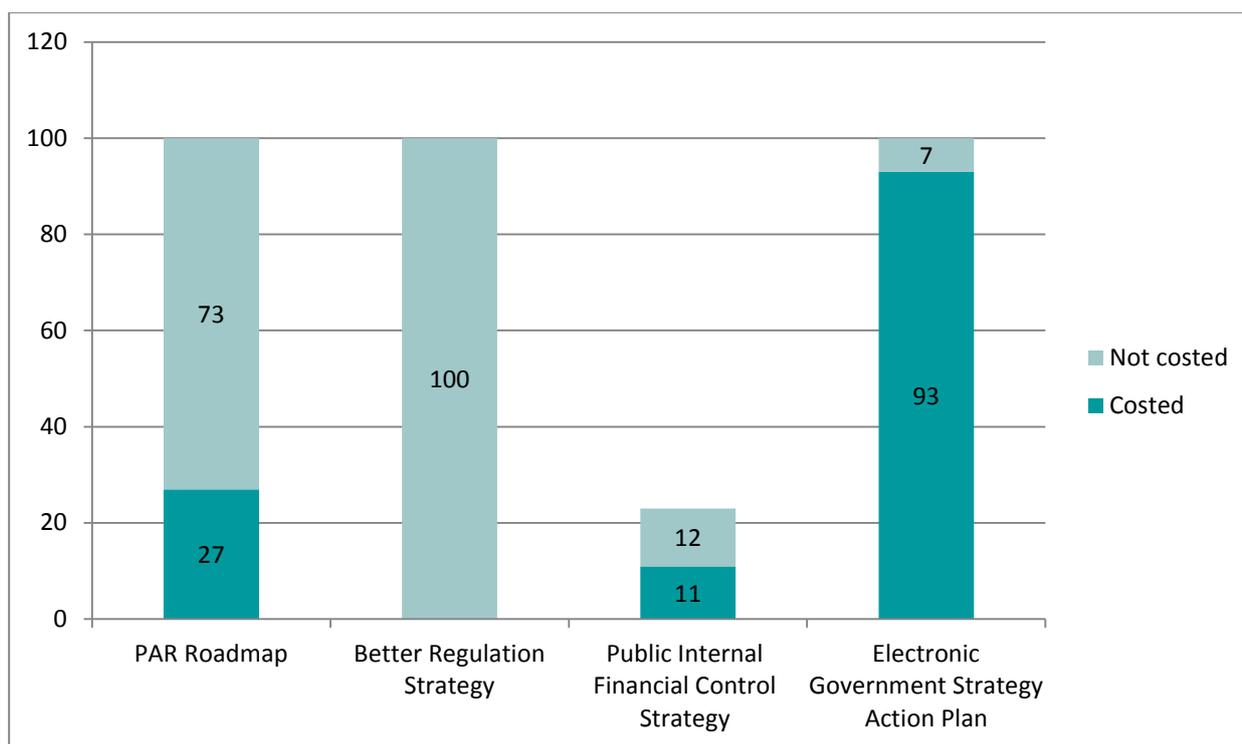
<sup>22</sup> Comprehensive Report on Implementation of the Public Administration Reform Strategy 2010-2013, adopted by the Government in June 2014.

<sup>23</sup> Draft Report: Roadmap for the implementation of the Public Administration Reform Action Plan for 2014, Department for Public Administration Reform Management, Ministry of Public Administration, January 2015, p. 19.

<sup>24</sup> Ibid.

<sup>25</sup> The PAR Roadmap 2014 expired at the end of 2014.

**Figure 2. Percentage share of costed activities in PAR planning documents**



Sources: PAR Road Map 2014; Better Regulation Strategy 2014-2020; Action Plan for Implementation of the Electronic Governance Strategy 2009-2015; PIFC Strategy 2015-2019.

While the medium-term expenditure framework (MTEF)<sup>26</sup> acknowledges PAR as a priority for the Government, it gives no indication of the approximate amount of resources available to implement PAR activities. Funding is indicated on an “institution-by-institution” basis, which makes it impossible to distinguish between PAR-related and other mandated activities. Moreover, neither the annual budgets nor the national planning documents provide information on necessary IPA support for PAR policies and projects. Therefore, the value for the relevant indicator is 0%.

Analysis of expenditure trends for the main PAR-related institutions (the MPA, the OPM and the MoF) in the annual Budgets of 2014<sup>27</sup> and 2015<sup>28</sup> shows a clear increase of funding in 2014 for two departments within the MPA: the Department of Civil Service Administration and the DoPARM. This shows that, in 2014, more funding was allocated to implement reform in the civil service area, i.e. the implementation of a new wages system. The anticipated funding trends in 2015-2017<sup>29</sup> show a further incremental increase in the budgets of key institutions involved in PAR. This might change once the new strategic framework for PAR is adopted later in 2015.

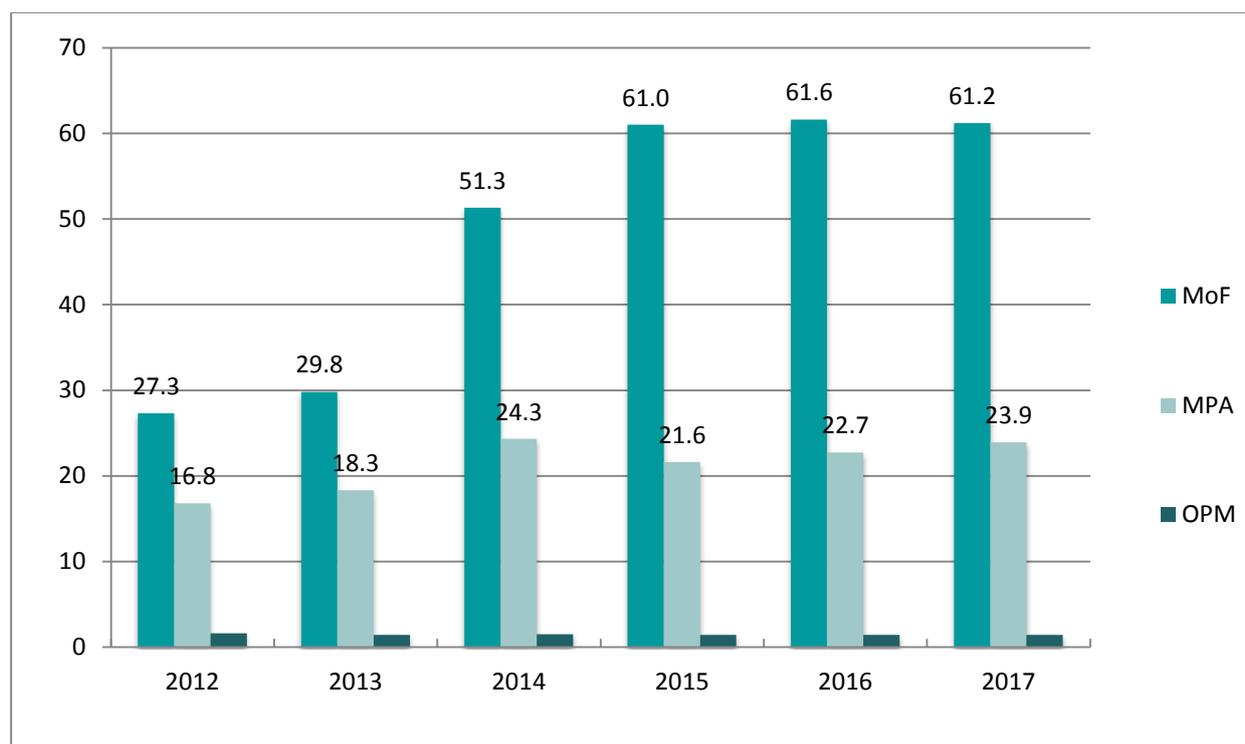
<sup>26</sup> Medium-term Expenditure Framework 2015-2017, April 2014.

<sup>27</sup> Law No. 04/L-233 On the Budget of Kosovo for 2014.

<sup>28</sup> Law No. 05/L-011 On the Budget of Kosovo for 2015.

<sup>29</sup> Medium-term Expenditure Framework 2015-2017, April 2014.

**Figure 3. Financing for PAR 2012-2017 (EUR million)**



Source: Medium-term Expenditure Framework, 2015-2017.

**Currently, PAR is not financially sustainable. The costing of PAR-related policies is not consistent and does not provide for comprehensive information on the total budget needed to implement envisaged reforms. National planning documents contain no information on envisaged IPA funding or on specific expenditure trends for PAR-related activities and projects, either in the medium-term or annual financial planning documents.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The MPA should take all necessary actions to finalise the PAR Modernisation Strategy 2015-2020 and its Action Plan, and submit both to the Government for adoption. The Strategy should, among other elements, contain very clear performance indicators and targets, as well as costings of actions (all of which were absent in the previous strategic framework).
- 2) The OPM should finalise, approve and start implementation of the Integrated Planning System, thereby setting universal rules for sectoral strategies and their components, in particular setting very clear provisions for:
  - i) the use of performance indicators, including those linked to objectives, in planning documents; and
  - ii) the costing of activities in planning documents.
- 3) Following the finalisation of the new strategic framework, the MPA should establish a comprehensive monitoring and reporting system, based on performance targets and their measurement. The system should clearly show progress achieved across the entire PAR area, including analysis of achieved results against resources invested from both national and donor funding.
- 4) The MoF should develop a complete strategic framework for PFM, submit the plan(s) to the Government for adoption and start its implementation.

**Medium-term (3-5 years)**

- 5) The MPA, with the assistance of the relevant institutions (the MoF and the Ministry of European Integration), should identify IPA funding for PAR activities and projects in the new framework. The funding should be linked to both medium-term and annual financial planning documents.
- 6) The MPA should prepare the first comprehensive implementation report of PAR in 2017, focusing it primarily on the achievement of set objectives based on performance indicators and their targets, as identified in national planning documents for PAR.
- 7) The MoF should revise its approach towards the MTEF to facilitate projections of planned funding for implementing the PAR agenda from a medium-term perspective, including national budget and donor funding.

**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 operations of the mechanism and also assess the capacity of the leading PAR unit to support the functioning of the PAR management and co-ordination mechanism.

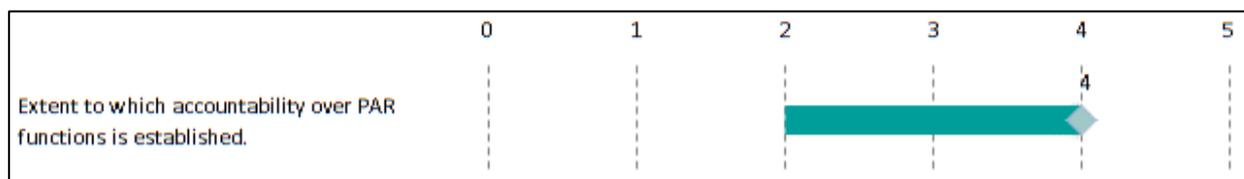
In Kosovo, PAR management and co-ordination mechanisms are well established with clear roles and accountability lines for the lead institution and other institutions involved. However, these mechanisms have not been effectively used in the past to assess progress on PAR or to establish a foundation for the development of the new PAR strategic framework. The DoPARM is well staffed and those staff receive regular training.

	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	5	Extent to which accountability over PAR functions is established.	2014	4
<b>Quantitative</b>	4	Frequency of PAR-related political discussions.	2014	4 <sup>30</sup>
	4	Implementation rate of decisions made by political and administrative-level PAR co-ordination forums.	2014	100%
	5	Annual staff turnover in leading PAR unit.	2014	0%
	5	Proportion of leading PAR unit staff that has undertaken at least two PAR-related trainings during the last year.	2014	86%

<sup>30</sup> This value shows the total number of the PAR-related discussions held during year 2014. It is a quantitative, not qualitative indicator and, therefore, should not be regarded as an indicator for scale.

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 4. 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.**

In Kosovo, PAR-related issues are discussed in two formalised political level discussion and decision-making forums: Government meetings and meetings of the Committee of Ministers for PAR<sup>31</sup> (known until January 2015 as the Inter-Ministerial Commission on PAR<sup>32</sup>). Specific PAR-related matters, such as discussion and approval of PAR documents and reports, were on the agenda at the Government meeting on three occasions during 2014. In addition, one meeting of the Inter-Ministerial Commission on PAR was held to discuss organisational issues. Therefore, the indicator for the frequency of PAR-related political discussions in 2014 is set at 4.

The low number of meetings of the Inter-Ministerial Commission on PAR can partially be explained by the general elections held in June 2014 and the subsequent stalemate in establishing the new Government, which was achieved only in December 2014. This adversely impacted preparation of the new planning document for PAR, as several decisions relating to the scope, the division of responsibilities and the overall process were not taken.

At the administrative level, the DoPARM within the MPA is assigned the dual role of co-ordinating and monitoring implementation of PAR strategic documents and of serving as the Technical Secretariat for PAR to the Committee of Ministers for PAR<sup>33</sup>. During 2014, a PAR Working Group and sub-groups were also supposed to operate in order to implement effectively PAR objectives and actions. However, these groups did not meet regularly in 2014<sup>34</sup>; in fact, they were disbanded in early 2015 to create a more streamlined structure for PAR co-ordination.

It should be noted that the few decisions taken during 2014 by the political- and administrative-level forums were fully implemented, thus warranting a 100% value of the relevant indicator.

The operational PAR co-ordination structure did not lead to successful implementation. The implementation rate of PAR actions was 33% in 2014<sup>35</sup>. The decision, in 2015, to establish the Committee of Ministers for PAR was based on analysis of the shortcomings associated with the

<sup>31</sup> Government Decision No. 05/09 On the organisation and functioning of the Committee of Ministers to ensure implementation of Public Administration Reform, 2015.

<sup>32</sup> Government Decision No. 11/141 On the organisation and functioning of structures for implementation of the Action Plan of Strategy of Public Administration, July 2013.

<sup>33</sup> Government Decision No. 09/13 On the organisation and functioning of structures for the implementation of strategic documents and Public Administration Reform, 2015.

<sup>34</sup> Government Decision No. 11/141 On organising and functioning of structures for implementation of the Action Plan of the Strategy of Public Administration Reform, 2013. This decision was repealed by Government Decision No. 09/13 On the organisation and functioning of structures for the implementation of strategic documents and Public Administration Reform, 2015, which does not foresee a further functioning of AP PAR Working Group and sub-groups.

<sup>35</sup> Ibid.

previous PAR management and co-ordination structure. During the first quarter of 2015, the Committee of Ministers for PAR has taken a more active approach, and has discussed and agreed on several important issues, leading to active work on the development of the new PAR Strategy.

Representation on the Committee of Ministers for PAR<sup>36</sup> is limited to the members of the Government. There is no evidence in 2014 of consultations with interest groups on PAR implementation.

**PAR co-ordination structures at both political and administrative levels have been formally established and tasked with steering and managing the reform design and implementation. In 2014, there was no public consultation process on implementation of the PAR policy.**

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

There is one lead institution assigned to co-ordinate and manage PAR policy in Kosovo – the MPA<sup>37</sup> – and this role is formally acknowledged by other involved public institutions. In practice, however, the MPA has indicated that “its influence to push forward the reforms in institutions that are outside of its competencies through this guideline has been quite limited”<sup>38</sup>.

The DoPARM is the leading unit within the MPA to ensure day-to-day operations associated with PAR management, co-ordination and monitoring, as well as to provide secretarial support to the Committee of Ministers for PAR<sup>39</sup>. The DoPARM advises the Chair of Committee of Ministers for PAR and the Minister of Public Administration; it also compiles reports received from co-ordinators and creates a comprehensive annual report, proposes a draft agenda for the Committee of Ministers for PAR, handles minutes of the Committee of Ministers for PAR meetings, and performs other functions<sup>40</sup>.

The DoPARM currently has seven staff members, two of whom joined in 2014, reflecting a staff increase of 29%. The indicator value for staff turnover in the leading PAR unit for 2014 is 0%. It should be noted, however, that two staff members of the DoPARM left in early 2015. In addition, staff members of the DoPARM were engaged in regular training – in total, 86% of the Department staff had more than two PAR-related training events in 2014. This has led to a gradual increase in the quality of implementation reports and other outputs produced by the DoPARM. It should be noted that after more than a year, the DoPARM is still managed by the Acting Head; several rounds of recruitment procedures to fill this position permanently have not been successful.

Government Decisions On the organization and functioning of the Committee of Ministers to ensure implementation of Public Administration Reform,<sup>41</sup> dated January 2015, and On the organization and functioning of structures for the implementation of strategic documents and Public Administration Reform<sup>42</sup>, dated February 2015, describe the PAR management and co-ordination mechanism, and clearly allocate the functions and responsibilities among involved institutions. They assign responsibility to three key institutions – the OPM, the MoF and the MPA – for the elaboration of PAR

---

<sup>36</sup> Government Decision No. 05/09 On the organisation and functioning of the Committee of Ministers to ensure implementation of Public Administration Reform, 2015.

<sup>37</sup> Government Regulation No. 02/2011 On the Areas of Administrative Responsibility of the Office of the Prime Minister and Ministries, 2011.

<sup>38</sup> Draft Report: Roadmap for the implementation of the Public Administration Reform Action Plan for 2014, Department for Public Administration Reform Management, MPA, January 2015, p. 19. The Draft Report was discussed by the Committee of Ministers of PAR in the meeting of 30th January 2015, however its adoption was postponed to the next meeting to allow the members of the Committee more time to familiarise themselves with the report.

<sup>39</sup> Government Decision No. 09/13 On the organisation and functioning of structures for the implementation of strategic documents and Public Administration Reform, 2015.

<sup>40</sup> Ibid.

<sup>41</sup> Government Decision No. 05/09 On the organisation and functioning of the Committee of Ministers to ensure implementation of Public Administration Reform, 2015.

<sup>42</sup> Government Decision No. 09/13 On the organisation and functioning of structures for the implementation of strategic documents and Public Administration Reform, 2015.

planning documents and subsequent implementation of activities from these planning documents, including regular monitoring and reporting. The General Secretaries of the respective institutions are appointed as co-ordinators for specific PAR areas, and have the responsibility to plan, implement, oversee and report on the implementation of PAR activities within their area(s).

The new set-up for the PAR management and co-ordination mechanism can be assessed as an important step forward in comparison to the situation in 2014, when accountability lines within the PAR area were less well developed and described.

**There is one leading institution to manage PAR process. It has a sufficient number of staff to fulfil its functions, and they undergo regular PAR-related training and/or capacity-building activities. Furthermore, the allocation of functions and responsibilities of institutions involved in different PAR areas is clearly defined.**

**Key recommendations**

**Short-term (1-2 years)**

- 1) The MPA, under the leadership of the Minister, should ensure that the Committee of Ministers for PAR meets regularly to discuss substantive PAR-related issues, as set out in its terms of reference and covering the full extent of PAR areas, including policy making and co-ordination, and PFM.
- 2) The MPA should continue implementing capacity-building activities for the PAR co-ordination secretariat; further, it should ensure the sustainability of staff members working in this matter to avoid losing institutional memory.
- 3) All PAR-related strategic documents developed in 2015 should go through a public consultation process.

**Medium-term (3-5 years)**

- 4) The MPA should review the current approach towards monitoring and reporting of PAR, and also involve non-governmental sector representatives into this process; this will help to ensure that progress achieved is assessed in a balanced way.

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), adopted in 2011, are in line with European values and practices, and are very ambitious compared with the existing capacities of Kosovo's administration in terms of what is expected from the centre of government (CoG) bodies and ministries. The overall institutional framework is in place, except for clear policy development structures and arrangements in the line ministries. Implementation capacity remains the challenge in all areas, particularly in sectoral policy planning in line with financial circumstances and in ensuring inclusive, evidence-based policy development.

Both the Office of the Prime Minister (OPM) and the Ministry of European Integration (MEI) have launched reforms of the planning system and the redesign of central planning documents. However, as the changes have not yet been implemented, the planning system remains fragmented and a medium-term planning framework for EI is lacking.

#### 1.2. Main developments

The Government adopted the Better Regulation Strategy 2014-2020<sup>43</sup> developed by the OPM.

The OPM and the MEI developed and circulated in April 2014 the Practical Guidelines for Legal Approximation of the Legislation with the EU *acquis*, supporting the implementation of the legal framework developed for transposition in 2013.

The Government completed the Stabilisation and Association Agreement (SAA) negotiations with the European Union (EU) in May 2014. This now leads to the end of SAA negotiations structures and to the beginning of a new phase in EI co-ordination, which concerns both co-ordination structures and planning arrangements.

---

<sup>43</sup> Better Regulation Strategy 2014-2020, approved by Government Decision No. 03/189, 23 May 2014.

## 2. ANALYSIS

This analysis covers the 12 Principles of the Policy Development and Co-ordination area, grouped under four key requirements<sup>44</sup>. For each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover an entire policy cycle and address four areas: functioning of the CoG; policy planning, co-ordination and monitoring; Government decision making; and policy and legislation development. 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**

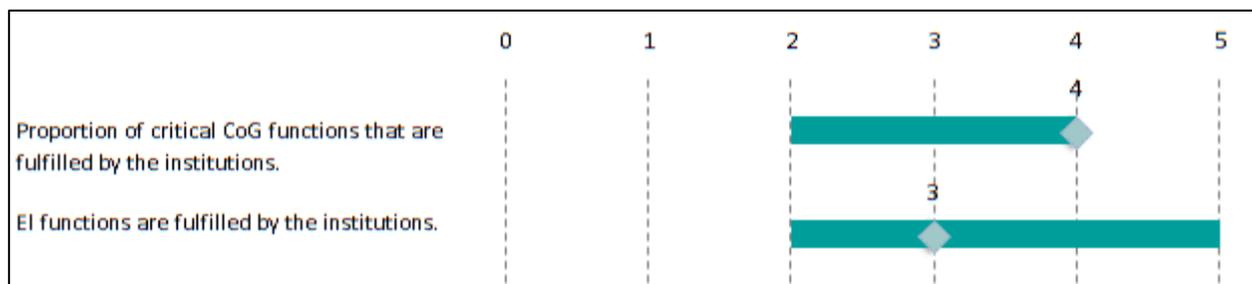
The functioning of the CoG is examined through two qualitative indicators: one covers all critical functions that should be fulfilled by the institutions; it is complemented by a specific indicator to analyse how the key EI functions are carried out by the administration. Both qualitative indicators analyse the establishment of the functions and how they are implemented. The precise methodology and scales can be found in the Methodological Annex.

In Kosovo, all of the key functions are established, including for EI. The values below reflect partial implementation. Taking into account Kosovo's status in the EI process (i.e. as a potential candidate that recently finalised SAA negotiations and is now in the process of EU accession negotiations), the values illustrate that the EI functions are established to the greatest extent possible, with implementation challenges in *acquis* transposition.

	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	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**



<sup>44</sup> SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 18-40.

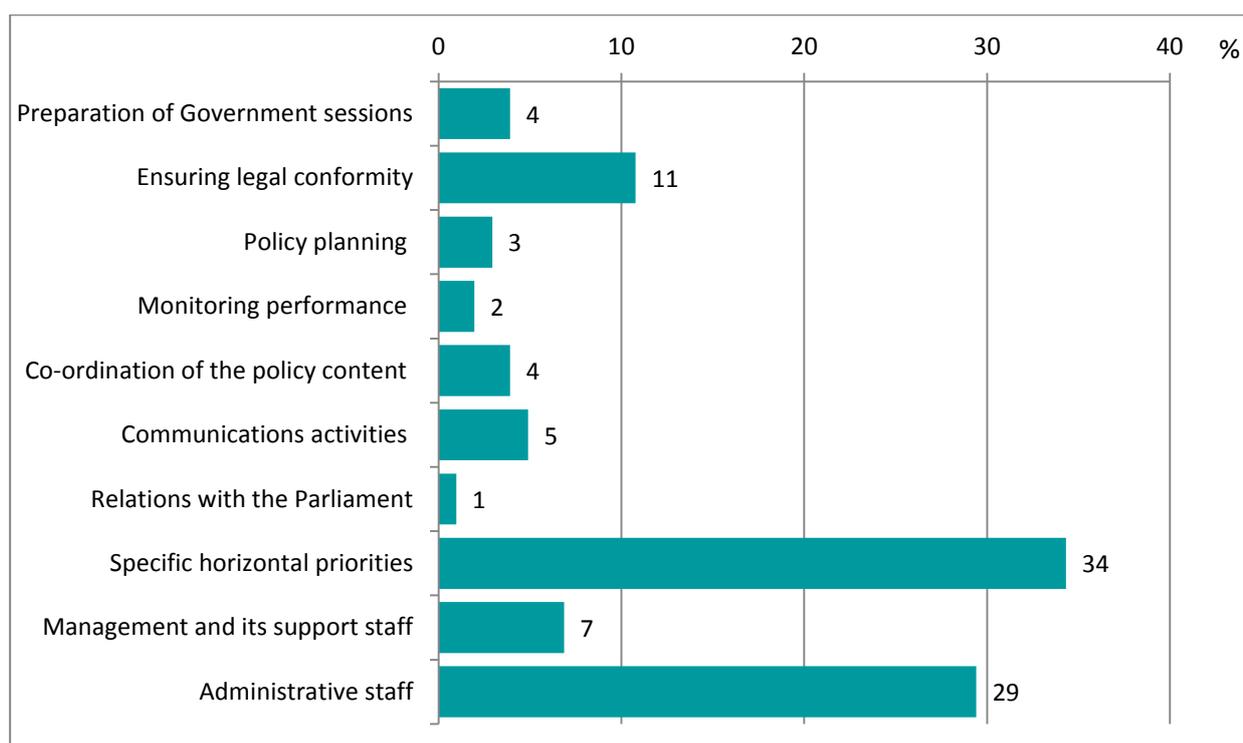
**Analysis of Principles**

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

The institutions fulfilling the functions of the CoG in Kosovo are the OPM, the Ministry of Finance (MoF) and the MEI. All CoG functions are formally established and proper institutional set-up has been created in the OPM and the MEI. Policy co-ordination and planning issues are regulated in the RoP<sup>45</sup>. Responsibilities and functions of the CoG institutions are stipulated in regulations on internal organisations<sup>46</sup>. Overall, the roles of three CoG organisations are well established. In most cases, responsibilities are clearly divided among them and respected by the ministries. The adherence to relevant procedures has led to a stage of maturity at which they are broadly followed by all stakeholders<sup>47</sup>.

The Steering Group for Strategic Planning (SGSP)<sup>48</sup> met regularly and discussed the problems and possible solutions for reducing the fragmentation of the strategic planning documents system in 2014<sup>49</sup>. There is limited informal co-ordination among CoG institutions during policy analysis, however, resulting in several incoherent instructions for ministries; for example, concerning financial impact assessments (FIAs).

**Figure 2. Staff allocation to critical CoG functions in the OPM, as of 1 December 2014**  
(share of overall staff (%))



Source: Office of the Prime Minister

<sup>45</sup> Regulation No. 09/2011 of the RoP of the Government.

<sup>46</sup> Regulation No. 16/2013 on the Organisational Structure of the OPM; Regulation No. 32/2012 on the Internal Organisation and Systematisation of Jobs in the MEI; Regulation No. 44/2013 on the Internal Organisation and Systematisation of Jobs in the MoF.

<sup>47</sup> For detailed analysis, see SIGMA (2014), "[Policy making review: Kosovo](#)", SIGMA Paper No. 52, OECD Publishing, Paris.

<sup>48</sup> Government Decision No. 05/83 on the Establishment of the SGSP, 11 July 2012.

<sup>49</sup> OPM report on the meeting of the SGSP held on 11 November 2014.

Eight out of the nine CoG critical functions defined by the Principles<sup>50</sup> are established and implemented daily at the expected level. Implementation challenges remain in co-ordinating the policy content of proposals for Government decisions. Therefore, the baseline value for Kosovo for the indicator “Proportion of critical centre of government functions that are fulfilled by the institutions” is 4.

**All CoG functions critical to a well-organised, consistent and competent policy making system are established. Implementation challenges remain in co-ordinating the policy content of proposals. Formal co-operation forums among CoG institutions have been created, but both formal and informal co-operation do not ensure the coherent functioning of the CoG.**

***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 institutionalised in the MEI. Overall responsibilities of the EI process are defined within the general legal framework and complemented with separate secondary legislation for EI policy co-ordination structures and responsible units in the ministries<sup>51</sup>. Responsibilities are clear, except for quality control and guidance over *acquis* transposition, for which both the MEI and the OPM Legal Department have a role and also authority to issue legal opinions.

The MEI has the authority to co-ordinate five functions of EI: 1) overall daily co-ordination; 2) planning, including costing of reforms; 3) monitoring preparations for the process; 4) co-ordinating transposition of the *acquis*; and 5) co-ordinating EU assistance. Responsibility over accession negotiations is not yet determined, as Kosovo is starting the implementation of the SAA phase. The organisational structure enables the MEI to carry out necessary tasks. In addition to the departments that lead the planning, monitoring and co-ordination efforts of the EI process<sup>52</sup>, the MEI has a separate unit to oversee the harmonisation effort (Department of EU Law), as well as a new, separate unit for co-ordinating donor assistance<sup>53</sup>.

However, these new units still need time to build up full implementation capacity in the areas of *acquis* transposition and EU assistance planning. Implementation of the functions is further influenced by finishing the SAA negotiations, which has an impact on the planning and monitoring of EI. Adjustments of the system are planned but not finalised. As Kosovo has not yet started accession negotiations, the baseline value for the indicator on fulfilled EI functions is 3.

**The EI co-ordination function is established, the necessary legal framework is developed and the MEI has the authority to carry out its functions. Implementation challenges remain in the planning and monitoring of EI, and in co-ordinating transposition of the *acquis* and EU assistance.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The OPM should improve its competencies and enhance co-operation among key departments and with the MoF on policy analysis.
- 2) The OPM should strengthen the function of scrutiny of policy content by better defining responsibilities among key departments and increasing human capacities.
- 3) The MEI should consolidate the EI planning and monitoring mechanisms, adjusting the system to the needs of the SAA implementation period.

<sup>50</sup> SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, p. 21.

<sup>51</sup> Regulation No. 01/2011 on the Departments for European Integration and Policy Co-ordination in the Ministries.

<sup>52</sup> Such as the Department of Political Criteria, the Department of Economic Criteria and Internal Market and the Department for Sectorial Policies.

<sup>53</sup> For detailed analysis, see SIGMA (2014), [“Policy making review: Kosovo”](#), SIGMA Paper No. 52, OECD Publishing, Paris.

**Medium-term (3-5 years)**

- 4) The OPM should strengthen its Strategic Planning Office (SPO) – primarily by increasing the number of available positions and provide training – in the following fields: policy analysis; prioritisation and objective setting; development of strategies; and impact assessment.
- 5) The OPM should strengthen the Government Co-ordination Secretariat (GCS) and Legal Office to guide ministries on impact assessment and conducting quality control.
- 6) The MEI should develop the capacity to co-ordinate *acquis* transposition by increasing the competencies of its own staff to guide ministries and make whole-of-government transposition plans. Co-operation with the OPM Legal Department needs to be strengthened by adopting the policy of issuing joint legal opinions (at least for pivotal EI-related acts) to avoid giving conflicting signals to ministries and ensure consistency of legal oversight.
- 7) The MEI needs to further develop the co-ordination system of EU assistance to enable inclusive, whole-of-government priority setting and to strengthen monitoring over the implementation of assistance projects.

**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**

The harmonisation of policy planning is measured through six indicators covering the following areas: 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 expenditure framework (MTEF); the completeness of financial estimates; the annual backlog of EI-related commitments; and the extent to which achieved outcomes are reported.

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

	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	3	Completeness of financial estimates in sector strategies <sup>54</sup> .	2014	1
	5	Extent to which reporting provides information on the outcomes achieved.	2014	3
<b>Quantitative</b>	3	Annual implementation backlog of planned commitments in the central planning document(s).	2014	48.5%
	3	Annual backlog in developing sectoral strategies.	2014	67%
	3	Ratio between total funds estimated in the sectoral strategies and total funding	2014	20%

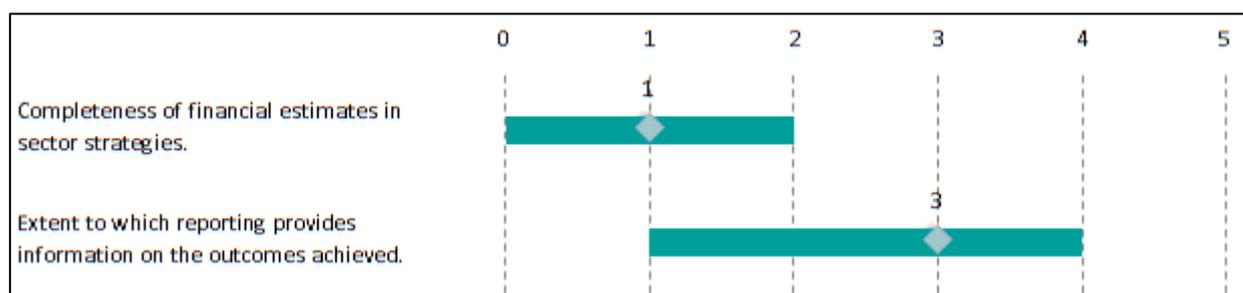
<sup>54</sup> A sample of five recently adopted sector strategies is used.

Kosovo  
Policy Development and Co-ordination

		identified for corresponding sectors within the MTBF <sup>55</sup> .		
	4	Annual implementation backlog of EI-related commitments.	2014	67.2%

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 legislative framework stipulates four central planning documents: the Government Annual Work Plan (GAWP); the Action Plan for Stabilisation and Association Agreement 2013 (APSAA)<sup>56</sup>; the Medium-term Expenditure Framework (MTEF); and the Medium-term Declaration of Priorities (DP). Three of these (the APSAA, the MTEF and the DP) have a medium-term planning dimension. There is also a clear set of Government priorities, based on the Government Programme<sup>57</sup> and developed under the co-ordination of the SPO of the OPM. In 2014, priorities were transferred by the MoF into the narrative part of the MTEF. However, due to the change of structure, no policy and/or priority objectives-based financial allocations are reflected in the MTEF 2015-2017.

Priorities of the Government are also reflected in a separate table in the GAWP. The coherence of the plan with other strategic documents is ensured by a structure in which references to other planning documents are requested. In line with the RoP of the Government, the SPO and the GCS issue general guidelines to enable better planning and more detailed guidance of the methodology of the GAWP. Annual development plans of legislation and strategies are attached to the GAWP as separate annexes. Therefore, the system enables prioritisation and focused planning through specific tasks within the GAWP. Such tasks are usually formed bottom-up, however, with little scrutiny or prioritisation from the CoG. This resulted in a substantial annual implementation backlog of 48.5% in 2014.

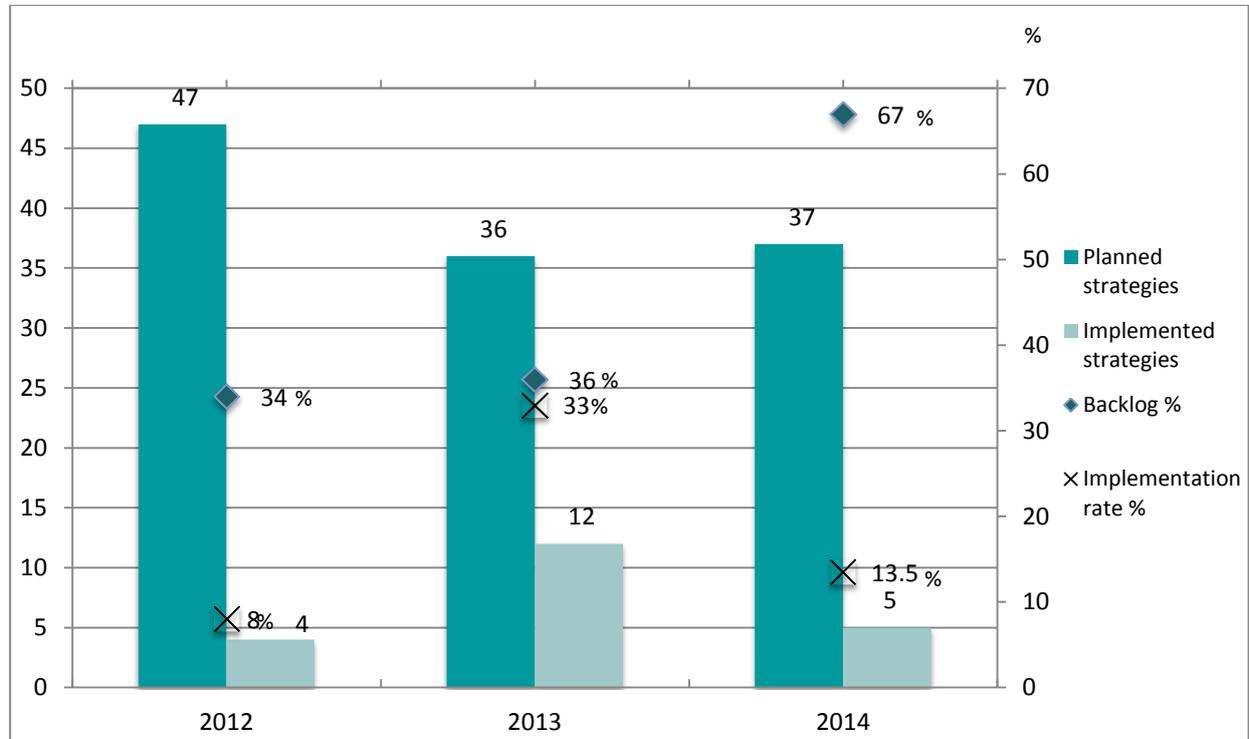
<sup>55</sup> The ratio is calculated as a percentage (0% being minimum and 100% maximum), illustrating the differences in planned funding in the last five strategies adopted and the MTEF. The outcome value of the indicator is the average of the five cases. In the event that it is not possible to make the calculation due to a lack of financial data in the MTEF and/or in all or some sector strategies, the ratio is determined as 0%.

<sup>56</sup> The APSAA replaced the European Partnership Action Plan in late 2012.

<sup>57</sup> The new Government which entered into office in December 2014 adopted the new Government Programme 2015-2018 in March 2015.

The same challenges apply to the sector strategies planning system. The RoP and detailed instructions are in place to guide the strategy development process, including financial estimates of the plans<sup>58</sup>. However, the consolidation of the strategic planning system remains a challenge. There are 66 strategic plans in force as of the end of 2014<sup>59</sup>. The planning of sectoral policies is still fragmented, with noticeable bottom-up pressure leading to plans being unrealistic and not prioritised.

**Figure 4. Implementation rate and backlog of sector strategies, 2012-2014**



Source: Office of the Prime Minister.

This is also demonstrated by the annual backlog of 67% in developing sector strategies in 2014 (up from 36% in 2013), and an implementation rate of 13.5% in 2014 (of 37 planned strategies, only 5 were adopted). Moreover, only one out of the five most recent sectoral strategies contains a financial estimation and is linked with cost estimates in the MTEF. The particularly low implementation rate and the high backlog, both for Government commitments and sector strategies, is partly caused by a caretaker Government for a period of six months after general elections in early June 2014.

**The medium-term planning system is in place with mostly coherent central planning documents; however, the strategic planning system is fragmented. Substantial implementation challenges remain, characterised by a high backlog and a low implementation rate. Fiscal alignment of strategies is deficient.**

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

Policy directions for EI are set by the National Strategy of European Integration 2020<sup>60</sup>, which aims to solidify a broader national consensus around EI goals and concentrates on five priority areas. Development and monitoring of key operational planning documents for the EI process is co-ordinated

<sup>58</sup> Administrative Instruction No. 02/2012 on the Procedures, Criteria and Methodology for the Preparation and Approval of Strategy Documents and Plans for their Implementation; Manual for Preparation of Sectoral Strategies, June 2013.

<sup>59</sup> OPM.

<sup>60</sup> "National Strategy of European Integration: Kosovo 2020, a Participatory Approach", National Council for European Integration.

by the MEI. Requirements exist for linking the GAWP with the EI process. The guidelines on the preparation of the GAWP foresee a reference to APSAA. Moreover, Article 48 of the RoP requires from the GCS of the OPM to co-ordinate the preparation of the GAWP with the MEI.

Completion of SAA negotiations has an impact on the EI planning system, as planning and monitoring arrangements need to ensure the implementation of SAA commitments as well as fulfilment of medium-term priorities of the EC Feasibility Study<sup>61</sup>. In order to enable the transfer to the new planning system, the Action Plan for implementation of the Progress Report recommendations 2015 (APPR)<sup>62</sup> was developed and adopted. This one-year plan focuses on the implementation of the EC Progress Report recommendations. The APPR includes references to national planning documents and is partially costed, including resources available through donor assistance. The implementation backlog from the previous year is substantial, 67.2% in 2014.

**The EI planning system is in a transition phase after the completion of SAA negotiations. The one-year plan in force for 2015 has references to national planning documents and is partially costed.**

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

The reporting and monitoring system is embedded in the legal framework. Monitoring of the implementation of key strategic documents (GAWP, legislative plan, EI plan, budget plan) is annual and provides an overview of the general implementation record of each ministry. For monitoring implementation of the GAWP, ministries have to transmit data to the GCS quarterly, indicating the extent to which each activity has been achieved; whether the deadline has been met; and an assessment of any problems encountered in the implementation and recommendations for remedial action. The guidance on reporting about the GAWP has been recently amended by the GCS; since April 2015, the reports also include information about outcome indicators. The information is consolidated into quarterly and annual Government-wide reports by the GCS. The first report based on the new requirements was discussed by the Government at the end of April 2015.

The annual report for the implementation of the GAWP is published and distributed by the GCS during the first quarter of the subsequent year. A similar process applies for monitoring implementation of the legislative programme, which is co-ordinated by the Legal Office (LO) of the OPM<sup>63</sup>. Guidance materials are also provided by the MEI to support the preparation and monitoring of the EI plans, and by the MoF for the budget report. While the reporting on budget and EI shows a rather technical nature of reporting, which concentrates on taking stock of delivered items without examining achieved results and outcome indicators, thanks to the recent amendments in the process and content, the quarterly GAWP reports now also include information about the achieved policy outcomes. Reporting on the implementation of sector strategies is rare; there is no requirement to compile the reports and submit them to the Government. Therefore, the value for the indicator of the extent to which reporting provides information on the outcomes achieved is 3.

**Although the implementation of all central planning documents is annually monitored and reports are made publicly available, reporting has a technical nature concentrating on taking stock of delivered items. Reporting is not conducted on results achieved and policy outcomes.**

---

<sup>61</sup> European Commission (2012), "Communication on a Feasibility Study for a Stabilisation and Association Agreement between the European Union and Kosovo", EC, Brussels.

<sup>62</sup> Action Plan for the implementation of Progress Report recommendations (APPR) 2015, January 2015.

<sup>63</sup> Regulation No. 01/2012 for the Board of Directors of the Legal Department, 29 February 2012. For the purpose of monitoring the implementation of this programme, ministries follow pages/Articles 255-259 of the Guidelines for the design of the Annual Report of the Work of the Government, and pages/Articles 261-265 of the Guidelines for monitoring the implementation of Government Decisions.

**Key recommendations**

**Short-term (1-2 years)**

- 1) The MoF, OPM and MEI should translate the priorities of the Government Programme 2015-2018 into the MTEF, the GAWP and the EI plan, when these documents are prepared. The Government's priorities should be reflected through concrete policy measures in these plans.
- 2) The OPM should, when planning the GAWP 2016, firmly apply planning criteria to ensure that the annual backlog of strategies to be adopted and that are to be carried into the next year does not exceed 20%. It should also introduce a new rule, according to which only sectoral strategies can be included in the annual plan of strategic documents.
- 3) The MEI should, in 2015, develop and submit for adoption a medium-term planning document, aligned with the MTEF, focusing on implementing the SAA commitments and EC Feasibility Study medium-term priorities.
- 4) Under the co-ordination of the SGSP and using the Departments of European Integration and Policy Co-ordination (DEIPCs) in ministries, the OPM, the MEI and the MoF should harmonise the development of the GAWP 2016 and the MTEF, as well as EI planning documents on process and priorities.

**Medium-term (3-5 years)**

- 5) Under the co-ordination of the SGSP, the OPM and the MEI should harmonise (and, if possible, merge) the monitoring of implementation of the new Government Programme and EI-related strategic plans.
- 6) The OPM, the MoF and the MEI should gradually introduce performance indicators when reporting on key strategic documents of the Government (EI and budget reporting).
- 7) The OPM should launch a Government reporting system on the implementation of sectoral strategies and create a mechanism for using information to also report on the GAWP and MTEF policy outcomes.

**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 through six indicators under two Principles. The indicators cover the ratio of regular agenda items submitted on time for Government sessions; the transparency of 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 laws or sectoral policy implementation reports discussed in the Parliament.

The Government decision making process follows procedures and there is co-operation between the Government and the Assembly. A total of 77% of the laws sponsored by the Government were adopted by the Parliament within a year after submission. The Assembly also has a role in scrutinising the effects of legislation and policy making.

Kosovo  
Policy Development and Co-ordination

	Principle no.	Indicator	Baseline year	Baseline value
<b>Quantitative</b>	6	Ratio of regular agenda items submitted on time <sup>64</sup> by ministries to the Government session.	2014	84.6%
	6	Transparency of Government policy making <sup>65</sup> .	2014	Not available <sup>66</sup>
	6	Number of laws with court rulings <sup>67</sup> against the Government during the year.	2014	Not available <sup>68</sup>
	7	Ratio of laws initiated by the Government and approved by the Parliament no later than one year after submission.	2014	77%
	7	Extent to which forward planning mechanisms between the Government and the Parliament exist <sup>69</sup> .	2014	3
	7	Number of law implementation reports discussed in the Parliament.	2014	8

### Analysis of Principles

***Principle 6: The 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 regulates in detail meeting preparations and the decision making procedures of the Government (including the responsibilities of various co-ordinating offices of the OPM, MEI and MoF). The OPM regularly enforces procedures enabling steering of legal conformity and proposal content. Generally, relevant rules and deadlines are well adhered to. In 2014, 84.6% of agenda items were submitted on time by ministries (up from 60% in 2013). However, a high number<sup>70</sup> of proposals are reviewed by the Government as “extraordinary cases”<sup>71</sup>, for which any or all of the procedures specified in the RoP can be carried out in an abbreviated manner or waived entirely (including prior consultation among ministries).

The RoP clearly specifies the documents that must be presented to support the Government session agenda items, including the explanatory memorandum; a concept paper (policy paper)<sup>72</sup> in case of a policy proposal or a draft law; and an FIA. If the substance is problematic or other requirements are

<sup>64</sup> “On time” is understood as within the procedural criteria set by regulation(s).

<sup>65</sup> World Economic Forum, *Competitiveness Index*, a score of 1 being minimum and 7 maximum.

<sup>66</sup> Data is not available as Kosovo is not included in the study.

<sup>67</sup> By the Constitutional Court.

<sup>68</sup> Information was not provided to SIGMA during fact gathering.

<sup>69</sup> Its value is based on the SEE2020 indicator on “forward planning mechanisms between Government and national as well as sub-national Parliaments”.

<sup>70</sup> According to the assessment of the officials of the GCS.

<sup>71</sup> According to Article 33, “extraordinary cases” includes policy proposals involving extreme public need, such as to deal with a national emergency or to avoid physical danger to the public. The use of emergency procedures is requested by the minister proposing the initiative and has to be approved by the Prime Minister.

<sup>72</sup> The requirement of a policy paper to be submitted for Government discussion prior to legal drafting for all proposals, except those of a minor nature, is a new principle in the RoP of 2011. To allow the Government to make informed decisions, ministries have to send a policy analysis that includes the consideration of different options and their consequences. This policy analysis must be prepared in the format of a Concept Paper (RoP of the Government, Articles 28, 29 and 36).

not fulfilled, the GCS is authorised to return to ministries items submitted to the Government sessions. It has done so in 25% of the cases: in the 4th quarter of 2014, the GCS returned 29 ministerial proposals out of 114.

Transparency is enabled through routinely followed requirements to send the agenda of the Government meetings in advance, and to publish both the agenda and minutes. Procedures enable the involvement of key stakeholders, allow for the contribution of input at both the political and administrative levels, and permit sufficient time for processing the dossiers for the OPM. Interaction rules between the political level (the Deputy Prime Ministers and advisers of the Prime Minister) and the administrative level (Secretary-General of the OPM and key directors) are clear and respected by the relevant actors.

**The procedures for enabling Government decision making in a transparent manner and for ensuring legal conformity are established and enforced routinely by the OPM. However, full implementation is hindered by a high volume of extraordinary cases, for which procedural requirements do not need to be followed.**

***Principle 7: The Parliament scrutinises government policy making.***

The main rules governing the legislative process are contained in the Constitution and the Assembly's RoP<sup>73</sup>, which stipulates clear legislative procedures and the role for both functional committees and two standing committees (the Committee for Legislation and the Committee for European Integration).

Executive-legislative co-ordination is affected by a high backlog of Government bills, resulting in an uneven workflow for standing committees. Despite uncertainties in planning, the Assembly adopted 77% of the Government-sponsored bills within one year after submission. The standing Committee on Legislation is active: in 2013, it had 31 meetings and discussed 50 draft laws; in 2014, it convened 14 meetings and discussed 19 draft laws<sup>74</sup>. The Committee has one official to support its work; this low level of staffing undermines the quality of the work.

The Work Plan of the Assembly and of its committees relies on the GAWP which, among other things, sets out the draft laws to be submitted during the course of the year. The value for the indicator for the extent to which forward planning mechanisms between the Government and the Parliament exist is 3.

Numerous working groups, established by the Committees, are attended by representatives of the sponsoring ministry. Ministers attend the committee meetings, which discuss working group recommendations. In 2013 and 2014, ministers attended 58 meetings and also 14 hearings at the Assembly, indicating the presence of ministers is not always ensured<sup>75</sup>.

The Assembly has, and also applies, tools for scrutinising law enforcement. It has adopted a practice, under Article 73 of the RoP, whereby each committee should aim to carry out an examination of the implementation of at least one major law per year. In 2014, the Assembly discussed eight law implementation reports.

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

---

<sup>73</sup> RoP of the Assembly, April 2010.

<sup>74</sup> 2014 statistics are influenced by the fact that Kosovo had general elections in early June and the Assembly was not able to start legislative work before the last days of 2014 due to a political stalemate in electing the speaker.

<sup>75</sup> The OPM, Government Co-ordination Secretariat.

**Key recommendations**

**Short-term (1-2 years)**

- 1) The SPO of the OPM should strengthen its competence for analysing Government policy priority items submitted to the Government, to ensure that an opinion is provided for all items and policy analysis support is given to the Prime Minister (as foreseen in the RoP of the Government).
- 2) The GCS of the OPM should improve monitoring of the presence of ministers in the Assembly hearings, and promote participation through better forward planning and information sharing.
- 3) The Assembly should increase the support staff of the Committee of Legislation through staff reallocation.

**Medium-term (3-5 years)**

- 4) Standing committees of the Assembly should reinforce and enhance the good practice of discussing law implementation reports, and integrate it into the regular working routine.

**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 done 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 inter-ministerial consultation process occurs; the ratio of staff participating in legal drafting trainings; 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.

In Kosovo, inclusive and evidence-based policy and legislative development is in the early stages. The legal framework is in place, but implementation challenges remain.

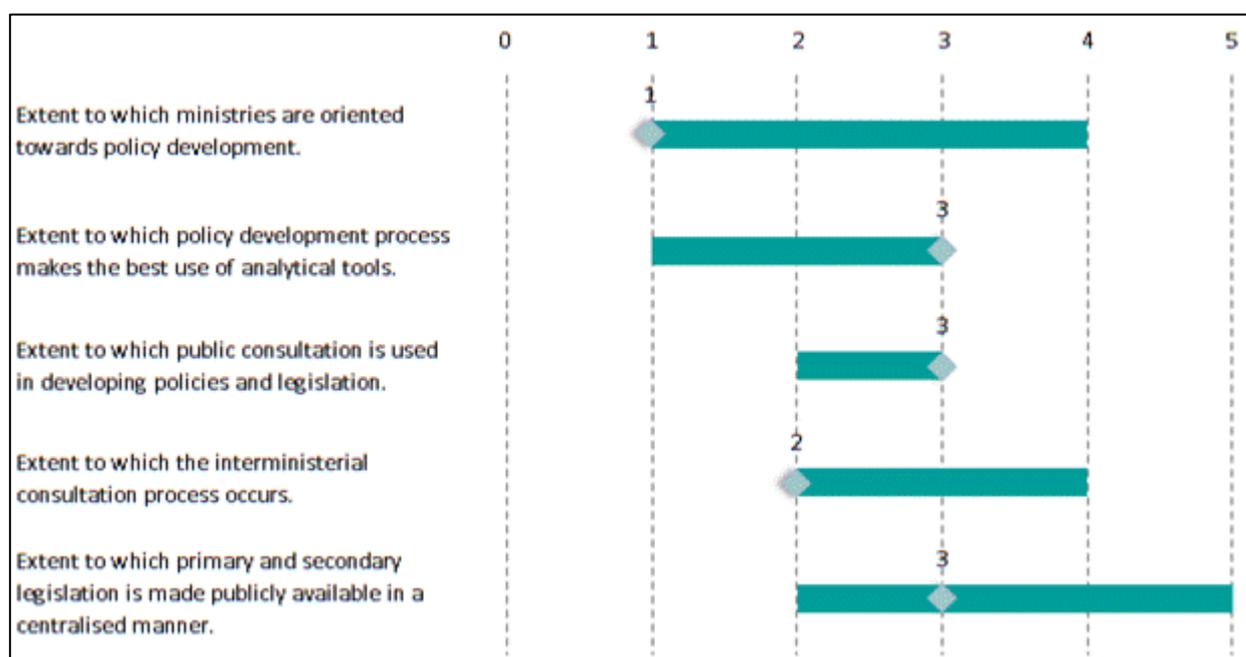
	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	8	Extent to which ministries are oriented towards policy development.	2014	1
	10	Extent to which policy development process makes the best use of analytical tools.	2014	3
	11	Extent to which public consultation is used in developing policies and legislation.	2014	3

Kosovo  
Policy Development and Co-ordination

	11	Extent to which the interministerial consultation process occurs.	2014	2
	12	Extent to which primary and secondary legislation is made publicly available in a centralised manner.	2014	3
<b>Quantitative</b>	9	Backlog of transposition <sup>76</sup> .	2014	Not available <sup>77</sup>
	9	Number of annually transposed directives.	2014	42
	12	Ratio <sup>78</sup> 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	Not available <sup>79</sup>
	12	Number of laws sent back to the Government by the Parliament.	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 5. Country baseline value in comparison with the regional range**



<sup>76</sup> Backlog is analysed as the comparison of documents consisting of commitments (GAWP, EI plan) from two consecutive years, taking into account items carried forward from one year to the other.

<sup>77</sup> As the transposition plan does not exist, it is not possible to calculate backlog of transposition.

<sup>78</sup> Ratio is calculated as staff trained over the total ministerial staff dealing with legislative drafting.

<sup>79</sup> Information was not provided to SIGMA during fact gathering.

### **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.***

According to the RoP of the Government, it is the responsibility of ministries to develop policies and draft legislation<sup>80</sup>. The GAWPs are in line with this as, for example, the preparation of draft laws is always the task of a specific ministry or the OPM<sup>81</sup>.

There is no clear allocation of the responsibility for policy development in the higher managerial level of the ministries. According to the regulations on the internal organisation of the ministries, the line department is responsible for the development of policies and legislation in a given responsibility area. For example, in the Ministry of Trade and Industry (MTI), the Department of Trade “proposes and designs Kosovo's trade policies” and the Department of Industry “proposes and designs documents of sectoral and sub-sectoral policies for industrial development”. Heads of departments within ministries report either to the Secretary-General or to the minister<sup>82</sup>. According to regulations, the legal departments of the ministries are responsible for providing legal support in the development of strategic documents and legislation relating to the scope of the ministry<sup>83</sup>.

However, practice deviates from this requirement, putting legal departments in control of legislative development<sup>84</sup>. There are no internal rules for developing policies and drafting legislation adopted by ministries (in addition to the central guidelines issued by the OPM)<sup>85</sup>. The regulations on internal organisation and systematisation of jobs for each ministry<sup>86</sup> stipulate the functions of all the departments of the ministry, but do not regulate the internal policy development process or the steps of the law-drafting process. The share of staff working in the policy development departments varies, but is on average considerably less than half of the ministry's overall staff. For the two sample ministries analysed, policy development staff in the MTI is 47% of the overall staff since the implementation of a structural reform that moved departments fulfilling enforcement functions out of the Ministry<sup>87</sup>; in the Ministry of Agriculture, Forestry and Rural Development (MAFRD), the share of staff in policy-making departments is only 19%<sup>88</sup>.

---

<sup>80</sup> See RoP, Article 38 and Regulation No. 13/2013 on Government Legal Service.

<sup>81</sup> Based on the assessment of the GAWP for 2014.

<sup>82</sup> Based on analysis of internal regulations on the internal organisation and systematisation of jobs for the MTI and the Ministry of Agriculture, Forestry and Rural Development (MAFRD).

<sup>83</sup> Their role is stipulated in the Regulation on Government Legal Services, Articles 20-21; see also RoP, Article 38 (6).

<sup>84</sup> Interviews with sample ministries and the CoG conducted in February 2014; analysis of internal work plans of ministries.

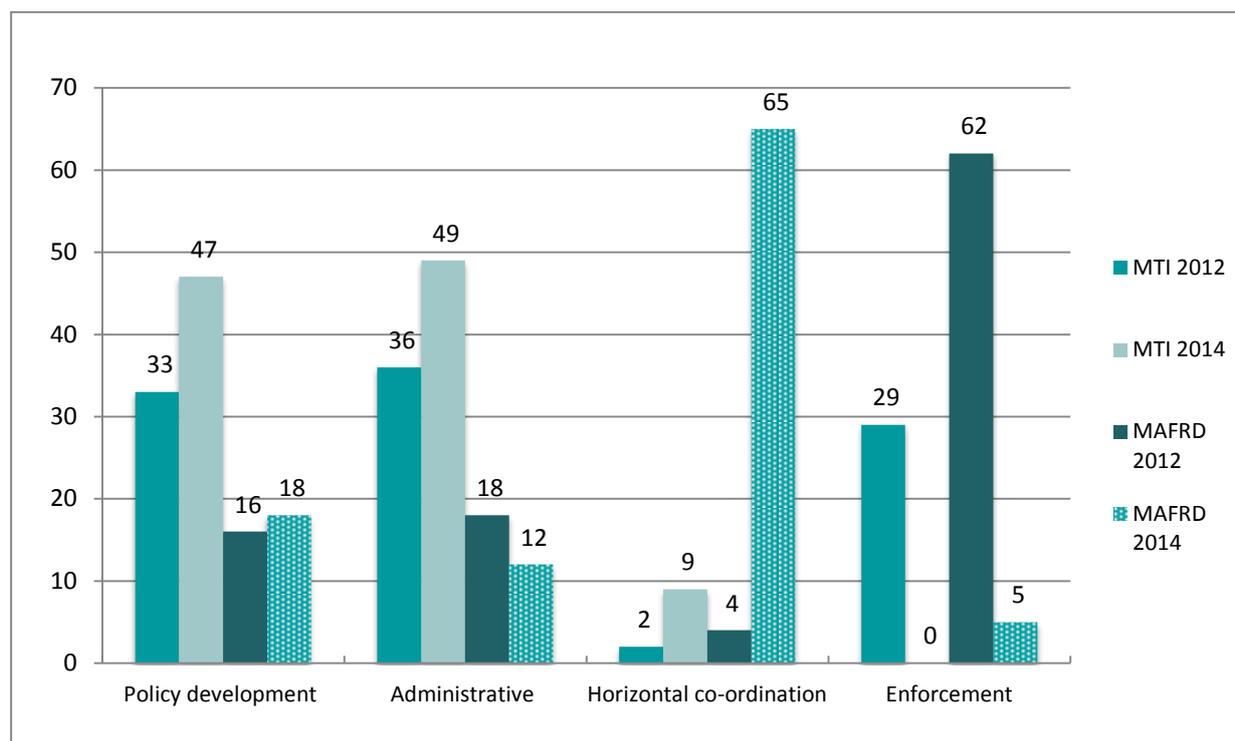
<sup>85</sup> This assessment is based on the responses of two ministries which were approached during the Baseline Assessment, the MTI and the MAFRD. The central guidelines which prescribe the legislative process in the ministries are stipulated in the Regulation on Government Legal Service.

<sup>86</sup> For the MAFRD, see: [www.kryeministri-ks.net/repository/docs/Rregullore\\_per\\_organizimin\\_e\\_brendshem\\_dhe\\_sistemizimin\\_e\\_vendeve\\_te\\_....pdf](http://www.kryeministri-ks.net/repository/docs/Rregullore_per_organizimin_e_brendshem_dhe_sistemizimin_e_vendeve_te_....pdf).  
For the MTI, see: [www.kryeministri-ks.net/repository/docs/Rregullore\\_Nr.\\_29\\_2012\\_per\\_Organizimin\\_e\\_Brendshem\\_te\\_MTI-se.pdf](http://www.kryeministri-ks.net/repository/docs/Rregullore_Nr._29_2012_per_Organizimin_e_Brendshem_te_MTI-se.pdf).

<sup>87</sup> The Cabinet of the Ministers is excluded from the data set, as the aim was to compare staff numbers in key departments.

<sup>88</sup> Staff numbers provided by the MTI and the MAFRD as of 1 December 2014. Calculations made by SIGMA.

**Figure 6. Staff allocated to policy development in sample ministries in 2012 and 2014**  
(% of total civil service positions)



Source: Ministry of Trade and Industry, Ministry of Agriculture, Forestry and Rural Development for 2014, SIGMA paper no. 52 (2012).

Therefore, the value of the indicator that measures the extent to which ministries are oriented towards policy development is 1.

**Regulations establish the responsibilities of ministries for policy development and legislative drafting, and the responsibility of the line departments over policy and legislative development. In practice, however, the internal boundaries of responsibility are indefinite. There are no internal rules for developing policies and drafting legislation. Staff in the policy development departments constitute less than 30% of the overall staff in some ministries.**

***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 Government's RoP and the Regulation on Government Legal Service establish the basic mechanisms for aligning national legislation with that of the European Union as a part of the general policy development process. The line ministries have the primary responsibility for alignment, while the MEI performs quality control and checks whether the draft law is elaborated in compliance with the *acquis*<sup>89</sup>. When submitting a draft for the Government's approval, the MEI's opinion on compatibility with the relevant *acquis* needs to be included by the sponsoring ministry, together with the Declaration of Compliance (DEP) and the Compliance Tables (TEP)<sup>90</sup>.

The three most recent transposition cases analysed included both the DEP and the TEP. However, the fact that two-thirds of the bylaws do not reach the MEI for its opinion is a problem<sup>91</sup>. The Assembly also faces challenges when participating in the transposition process, as the Government prepares the

<sup>89</sup> RoP, Article 35.

<sup>90</sup> RoP, Article 36 and Regulation on Government Legal Services, Article 14.

<sup>91</sup> Forty out of 140 were submitted to the MEI for opinion in 2014.

DEP and TEP in English only, though the Assembly's RoP prescribes that all drafts should be submitted in three languages (Albanian, Serbian and English)<sup>92</sup>.

There are five positions allocated specifically to support line ministries in the implementation of their tasks related to the EI process and to co-ordinating the process of evaluating the legal approximation of national legislation to that of the *acquis* (in co-operation with the LO of the OPM and line ministries<sup>93</sup>). In addition, the Division of *Acquis Communautaire* Translation and Terminology has two positions for co-ordinating the process of translation of the *acquis communautaire*. As of 2014, the *acquis* has not been translated, presenting a challenge for the transposition process<sup>94</sup>. Transposition is also hindered by the low capacity of the staff in the MEI and in the other ministries<sup>95</sup>.

It was not possible to calculate the value for the indicator representing the annual implementation backlog of EI-related commitments because a list of planned transpositions had not been adopted. In 2014, Kosovo managed 42 transpositions.

**The legal framework for transposing the *acquis* has been in place since the beginning of 2014, including the requirements for the process. The interministerial consultation process regarding transposition has not been fully established in secondary legislation, but the tables of concordance are used during the preparation of primary legislation. The delay in translating the *acquis* is a concern.**

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

The RoP of the Government establishes the analytical process expected of line ministries during policy making and legal drafting. A "Concept document"<sup>96</sup> should be prepared as the first step for policy proposals which involve the adoption of primary legislation or important secondary legislation. The annual list of the concept documents to be developed is compiled by the GCS, in conjunction with the development of the GAWP, and is then adopted by the Government. In 2012, the OPM produced guidelines on drafting concept papers and explanatory memorandums.

The concept document contains the main elements of an impact assessment: a comparison of options based on their cost and benefits, an FIA, and the rationale for choosing the particular option. If the concept document is not fully elaborated, analysis at the same level must be included in the explanatory memorandum, a mandatory accompanying document of any proposal submitted to the Government<sup>97</sup>. Currently there are two instructions in force which specify the requirements for describing the costs of new policy initiatives – the MoF instruction on the form, content and procedures for costing of new policy initiatives, and the Annex to the Government's RoP containing the template for FIAs. The inconsistent standards laid out in these instructions<sup>98</sup> blur requirements for ministries and add to implementation challenges.

An analysis of sample policy initiatives<sup>99</sup> illustrates that materials do not contain descriptions and analyses of alternative solutions, or the rationale for the recommended option. The FIA is prepared at

---

<sup>92</sup> RoP of the Assembly, Article 54.

<sup>93</sup> The Departments for European Integration and Policy Co-ordination in line-ministries have two to three staff.

<sup>94</sup> Regulation on Internal Organisation and Systematisation of Jobs in the MEI.

<sup>95</sup> "Gaps and Needs" report, December 2013; Twinning Light Project, "Assessment of the Capacities and Strengthening of the Key Kosovo Structures for the EU Acquis Transposition and Policy Co-ordination".

<sup>96</sup> RoP, Article 29: "The purpose of a Concept Document is to enable the Government to consider in general terms the objectives and main characteristics of a proposal and the possible options for addressing it".

<sup>97</sup> See RoP, Article 30.

<sup>98</sup> For example, the MoF instruction on costing requires – among other things – the identification of outputs, objectives, goals and performance indicators; the FIA form (Annex to the RoP) does not require such data.

<sup>99</sup> The draft Law on Amending and Supplementing the Law on Prevention of Conflicts of Interest in the Exercise of Public Office; draft Law on the Electronic Supervision of Persons Whose Movement is Limited by the Decision of the Court or

a general level or is lacking altogether. In addition, when the MoF does not approve the analysis because actual costs are not included in the MTEF and the budget, the draft can still proceed to the Government meeting if the sponsoring ministry secures funding itself. This practice, in which neither implementation costs nor their sources are described, may later hinder the successful implementation of adopted policies. Therefore, the value of the indicator measuring the extent to which the policy development process makes the best use of analytical tools is 3.

**The legal framework for inclusive and evidence-based policy making is in place, but its implementation is limited. *Ex ante* analysis exists, but it is not comprehensive as not all impacts are taken into consideration.**

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

The RoP establishes procedures for interministerial and public consultations that are inclusive, permit sufficient time for consultation and require feedback mechanisms from the sponsoring ministry for informing the Government of the results<sup>100</sup>.

The sponsoring ministry must include information about who was consulted during the policy-making process and give a brief summary of the responses in the explanatory memorandum submitted to the Government<sup>101</sup>. In practice, however, this requirement is not followed. Only one out of four analysed samples contained a table of opinions and comments, though all samples listed consulted bodies. If there is unresolved contention among ministries regarding policy proposals, the Council of General Secretaries is the highest conflict resolution mechanism at the administrative level. It convenes weekly and considers, among other issues, the policy proposals put on the Government's agenda<sup>102</sup>. Therefore, the value of the indicator showing the extent to which the interministerial consultation process occurs is 2.

The RoP prescribes the obligation of the sponsoring ministry to carry out public consultation and defines the relevant procedure, including the requirement to provide information on the consequences of the proposal and to allow "sufficient time"<sup>103</sup> for the interested parties to submit a considered response. Results of the public consultation should be described in the concept paper or the explanatory memorandum. During the elaboration of the assessment (March 2015), no public consultations through the web pages were ongoing in the MTI or the MAFRD<sup>104</sup>. Therefore, the indicator value for the extent to which public consultation is used in developing policies and legislation is 3.

**The regulations and guidelines for interministerial and public consultation are in place, but implementation is inconsistent. The Government is not informed about the outcomes of the interministerial consultation process, and the enforcement of public consultation requirements is sporadic or inconsistent.**

---

of the Conditional Release Panel (MoJ); draft Law on Amending and Supplementing of the Law No. 04/L-127 on Agricultural Census; draft Law on Waste (MAFRD).

<sup>100</sup> For detailed analysis see SIGMA (2014), "[Policy making review: Kosovo](#)", SIGMA Paper No. 52, OECD Publishing, Paris.

<sup>101</sup> RoP, Article 30.

<sup>102</sup> RoP, Article 55.

<sup>103</sup> According to the Guidelines on the Public Consultation Process adopted by the Government in 2011, the time allowed for stakeholders to submit opinions should not be shorter than three weeks.

<sup>104</sup> According to the Legislative Programme of the Government for 2015, the MTI was supposed to submit the draft Law on Amending and Supplementing the Law No. 04/L-029 for Patents and the draft Law on Amending and Supplementing the Law No. 04/L-026 for Trademarks to the Government by 31 March 2015. MAFRD was supposed to submit the draft Law on Strong Alcoholic Drinks by the same deadline. In other words, public consultations should have been ongoing, or there should at least have been some information available about the start and form of the consultation process.

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

Administrative Instruction No. 03/2013 sets the standards for drafting normative acts. There are several examples and templates in the annexes of the Instruction (separate for primary and secondary legislation). The Instruction is similar to a manual or a handbook, and it underlines the general principle of using clear and simple text for the normative act<sup>105</sup>. The OPM's LO is responsible for co-ordinating the legal drafting work of the ministries, examining consistency with the constitutional and overall legal framework, and ensuring the quality of legislative drafting<sup>106</sup>. The LO is involved in several stages of the policy development process (review of concept documents, prior consultation, etc.) in order to instruct and assist the drafters on the standards of legislative drafting and issues of legal quality.

Training for civil servants on legal drafting did not take place in 2014; the indicator measuring the ratio of staff participating in legal drafting training or mentoring over the past year therefore has a value of 0 (in 2013 there were legal drafting trainings for 72 participants). There was training on EU Law and its implementation for 34 participants in 2014.

It is not possible to assess the outcome of the system, as information about the number of laws annulled in 2014 on the basis of legal inconsistency or unconstitutionality was not available (as was the case in 2013). Three laws were returned to the Government by the Parliament, indicating some issues with legal quality.

All primary and secondary legislation adopted since 2002 is available electronically on the Official Gazette website<sup>107</sup>. A separate Office for Publishing the Official Gazette operates within the OPM and maintains a database of normative acts in force. In parallel, the Parliament publishes some but not all adopted laws on their website; the Government's website contains an overview of adopted secondary legislation. Consolidated texts are not yet available. Therefore, the indicator measuring the extent to which primary and secondary legislation are made publicly available in a centralised manner has a value of 3.

**Legal drafting requirements have been defined; requirements and guidelines for simple and clear legal drafting exist and are applied across the ministries. All primary and secondary legislation is available electronically through the Official Gazette, but not yet in a centralised manner.**

**Key recommendations**

**Short-term (1-2 years)**

- 1) The OPM's LO and GCS should strengthen their scrutiny of information provided on interministerial and public consultation by the sponsoring ministry, and initiate a training and capacity-building programme for ministries to ensure full implementation of the RoP.
- 2) The OPM GCS should make procedures on submitting items to Government sessions stricter to limit the use of "extraordinary cases".
- 3) The Kosovo Institute of Public Administration (KIPA) should start providing continuous training on the legal drafting and transposition of EU laws to the civil servants.
- 4) The MEI should include the annual plan for transposition in priority areas in the new EI plan, and should integrate it into the annual legislative programme of the Government.

---

<sup>105</sup> The Instruction, among other matters, sets the rules for normative acts: structuring, text formatting, amending, supplementing and abolition.

<sup>106</sup> See Article 3 of the Instruction.

<sup>107</sup> <http://gzk.rks-gov.net/Default.aspx?index=1>.

**Medium-term (3-5 years)**

- 5) Under the guidance of the OPM, the internal responsibilities of the ministries for policy making should be specified and internal rules for policy and legislation development worked out.
- 6) The OPM GCS and LO should launch an extensive capacity-building programme for ministries, supported by quality control and more active guidance to ensure that policy and legislative proposals include extensive comparisons of policy options, and assessments of all their impacts (costs and benefits), before regulations are drafted. The implementation could focus initially on primary legislation (i.e. the legislation for which a concept document must be elaborated).
- 7) Consolidated versions of legal acts should be published in the Official Gazette to reduce the administrative burden. The parallel publication of legislation in sources other than the Official Gazette should be stopped, as simple links to the Official Gazette website would be sufficient.

The MEI should increase funding for the translation of the *acquis* and should develop a systematic approach and prioritisation mechanism for the translation.



## PUBLIC SERVICE AND HUMAN RESOURCE MANAGEMENT

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

#### 1.1. State of play

The Law on the Civil Service<sup>108</sup> (CSL), adopted in 2010 and in force since 2011, establishes a single, unitary system of public service; there have been, however, some challenges in implementation. Differences in interpretation of the CSL have caused contradictory practices, particularly in the lower vertical scope, i.e. which categories and positions should be excluded from the public service. Similarly, problems have arisen in the upper vertical scope, i.e. the senior managerial positions, primarily related to the observance of merit criteria in recruitment and dismissal.

Professional development of public servants has progressed, but the training programmes offered do not reach all public servants. Performance appraisal is well regulated but, in practice, is implemented only as a formality. The salary policy is in place, but the assignment of salaries remains unfair: in the absence of a job evaluation system, there are no clear guidelines to attribute coefficients to a particular position.

The Human Resource Management Information System (HRMIS) is one of the foundations for the Department of Civil Service Administration (DCSA) in the Ministry of Public Administration (MPA) to support the strategic workforce planning, management and monitoring of human resource management (HRM) practices in the civil service. It is not yet up-to-date and is not fully used by all institutions.

#### 1.2. Main developments

In the area of training, Law 04/L-221 on the Kosovo Institute for Public Administration<sup>109</sup> (KIPA) was approved in March 2014. In addition, the Government has made budgetary appropriations for 2015 to strengthen the KIPA's ability to deliver training.

The MPA approved the Regulation on Personnel Planning in the Civil Service<sup>110</sup> in March 2014, and the Government adopted the Job Catalogue of the Civil Service<sup>111</sup> in February 2015. These are prerequisites for carrying out an adequate job evaluation, and should help classify positions and guarantee a fairer assignment of salary coefficients to different positions. The Job Catalogue has not yet been implemented by the institutions.

---

<sup>108</sup> Law No. 03/L-149 On the Civil Service, adopted on 13 May 2010, Official Gazette No. 5, 25 June 2010.

<sup>109</sup> Law No. 04/L-221 On the Kosovo Institute for Public Administration, adopted on 20 March 2014, Official Gazette No. 28 April 2014.

<sup>110</sup> Regulation MPA-No. 02/2014 On the Personnel Planning in the Civil Service, adopted on 4 March 2014.

<sup>111</sup> Decision of the Government No. 05/12 On the Job Catalogue of the Civil Service, adopted on 5 February 2015.

## 2. ANALYSIS

The analysis covers the seven Principles of the public service and HRM area, grouped under two key requirements<sup>112</sup>. Under each key requirement, baseline values are provided for the indicators of the monitoring framework of the Principles. The Principles cover all elements related to the public service: scope of the public service and legal framework; professionalism of public service in recruitment, training and performance appraisal; fair and transparent salary system; and promotion of integrity, as well as prevention of corruption.

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

The CSL establishes a clear horizontal, material and upper vertical scope<sup>113</sup>; there are some challenges, however, in implementation, related mainly to the lower vertical scope. The policy and legal framework are in line with most administrative law principles<sup>114</sup>, the institutional set-up is in place, but considerable challenges remain in implementation.

---

<sup>112</sup> SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 40-56.

<sup>113</sup> 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;

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 the 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;

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.

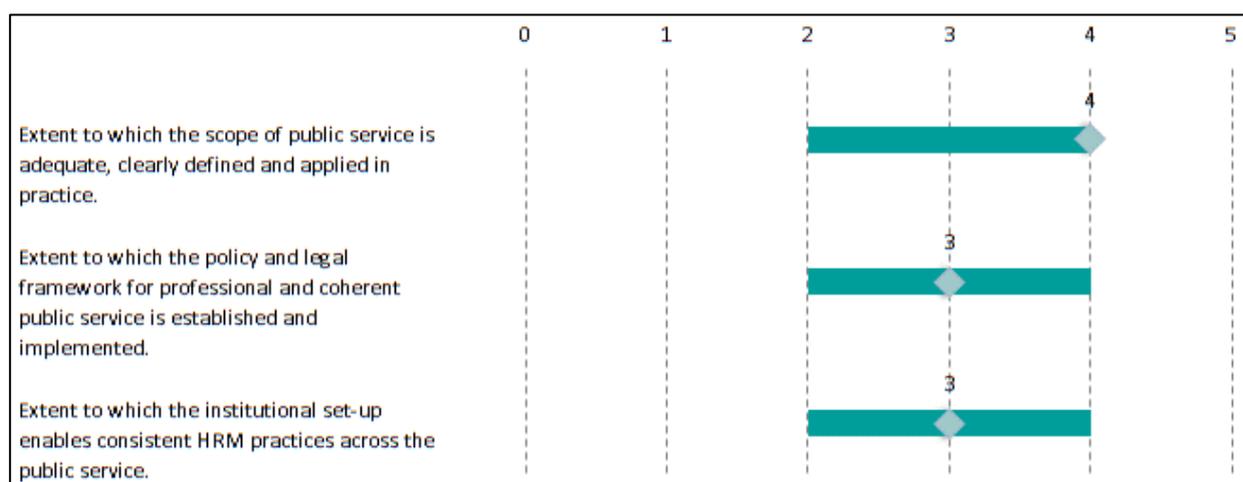
<sup>114</sup> SIGMA (2014), "Openness and transparency, accountability, efficiency and effectiveness," *The Principles of Public Administration*, OECD Publishing, Paris, p. 45.

Kosovo  
Public Service and Human Resource Management

	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	1	Extent to which the scope of public service is adequate, clearly defined and applied in practice.	2014	4
	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

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.***

Law 3/149 On the Civil Service (CSL) was approved in 2010; under this legislation, 25 by-laws cover all relevant employment aspects of 17 889 civil servants, who make up 22.5% of public sector employment<sup>115</sup> (79 446 in 2014) (Figure 2). In turn, public sector employment forms 17.1% of the total labour force<sup>116</sup> (483 193 in 2013)<sup>117</sup> (Figure 3). The horizontal scope of the civil service includes the central and municipal administration, including independent and regulatory agencies, foreign service, police service, correctional service, and customs service, as well as administrations of the Assembly,

<sup>115</sup> Public sector employment includes employed persons in the following sectors of activities: public administration, defence, compulsory social security, education, human health and social work activities.

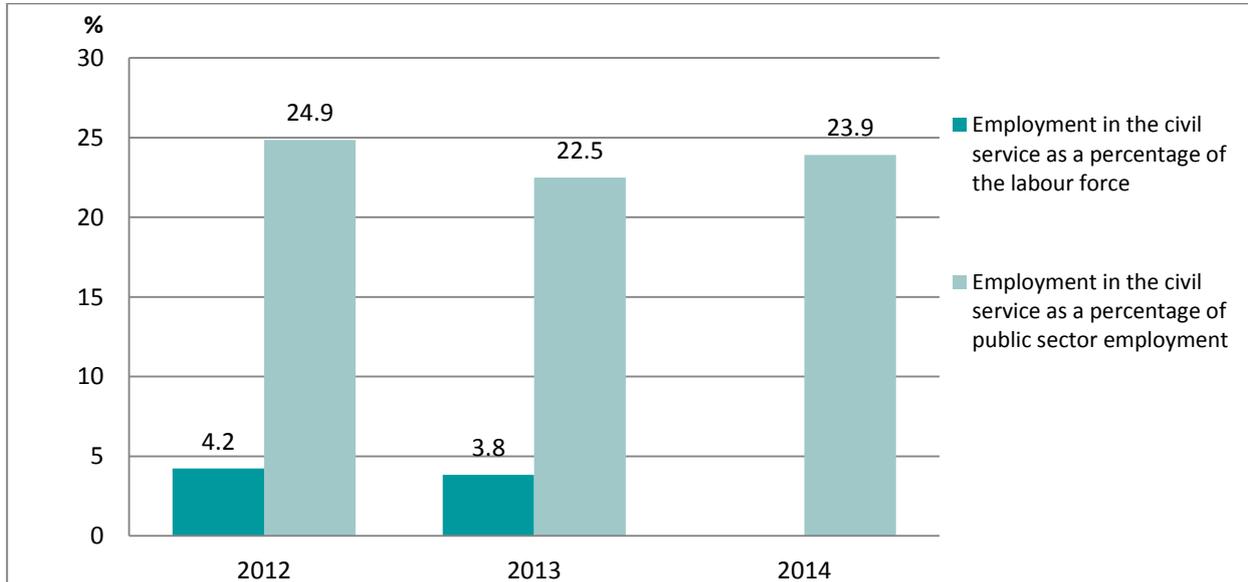
<sup>116</sup> Labour force includes Kosovo's working age population that engages actively in the labour market, either by being employed or unemployed and seeking work.

<sup>117</sup> Kosovo Agency of Statistics, Ministry of Public Administration, <https://ask.rks-gov.net/>.

Kosovo  
Public Service and Human Resource Management

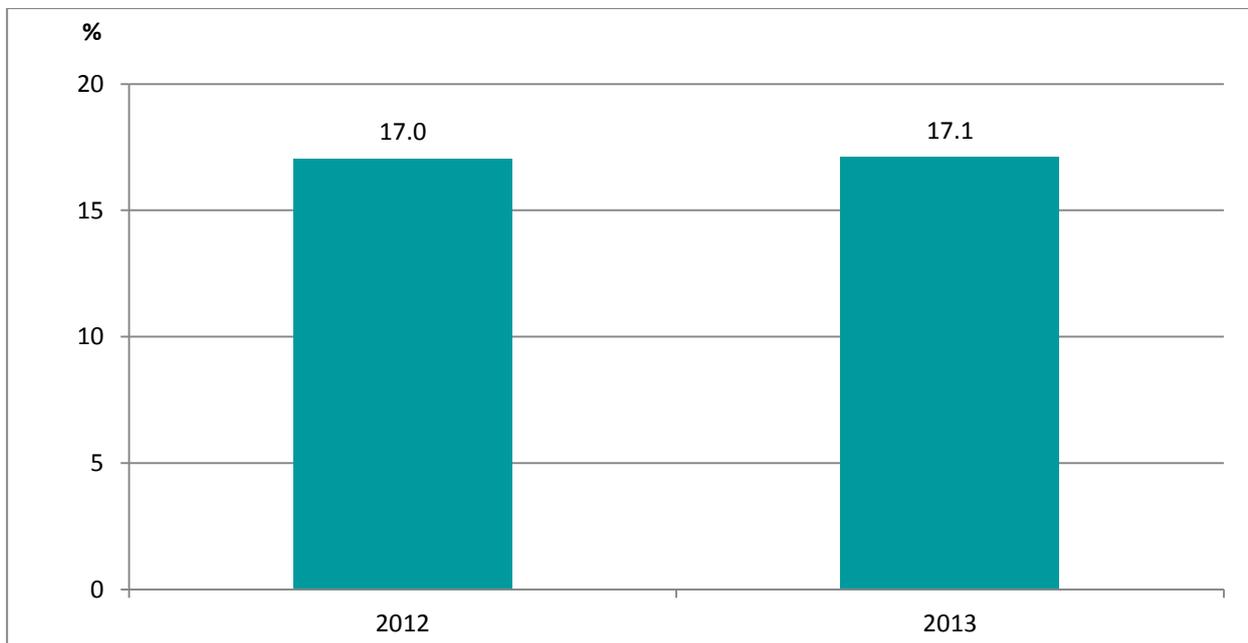
Office of the President, Office of the Prime Minister (OPM) and the judiciary. Institutions that are regulated by special law are subject to the CSL, unless otherwise provided in the special law.

**Figure 2. Employment in the civil service as a percentage of the labour force and of public sector employment, 2012-2014**



Source: Kosovo Agency of Statistics, Ministry of Public Administration.

**Figure 3. Public sector employment as a percentage of the labour force, 2012-2013**



Source: Kosovo Agency of Statistics, Ministry of Public Administration.

The distinction in the upper levels of the hierarchy is clear: political appointees, public elected officials, senior civil servants and civil servants are differentiated in the legislation. However, the CSL is lacking a clear distinction between civil servants and support staff. The MPA issued guidelines establishing 26 different functions that are considered support functions<sup>118</sup>. The guidelines, adopted in December 2014, undermine the principle of legal certainty as they are not legally binding. Furthermore, the

<sup>118</sup> Administrative Circular On the status of employees in the institutions that perform support and maintenance functions, dated 08 December 2014, Ministry of Public Administration.

guidelines do not clarify how to carry out recruitment or the duration of contracts, which are implemented in different ways by different institutions.

The legal framework for the public service establishes all general provisions relevant to the employment relations and management of the public service.

The factors above lead to a value of 4 for the indicator which assesses the scope of public service.

**The legislation establishes a clear material, horizontal and upper vertical scope of the public service. Due to differences in interpretation of the CSL, the lower vertical scope (i.e. which categories and positions should be excluded from the civil service) shows evidence of contradictory practices.**

*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 MPA has not implemented all the activities foreseen in the Draft Roadmap for 2014 to implement the Programme of the Government 2011-2014<sup>119</sup>. This was the main policy document for public service in 2014, but has now expired.

In general, there is a balance between the primary and secondary public service regulation. Most relevant administrative law principles<sup>120</sup> are mentioned, except for the principles of reliability and predictability that refer to legal certainty. Application of these principles has some flaws in the areas of transparency and accountability. The CSL and secondary legislation establish all general provisions relevant to the employment relations of public servants and management of public service; however, some inconsistencies are evident in some HRM procedures (for instance, career promotion and performance appraisal). Lack of coherence in the regulation can be illustrated by a double reporting line for the human resource (HR) managers to the Financial Director and the Secretary General of the Ministry, without adding any value to their work.

The MPA has a clear formal responsibility for the public service for policy design and evaluation, and for monitoring its implementation<sup>121</sup>. The OPM provides support to the Council of Senior Management Positions and the Ministry of Finance (MoF) allocates the budget for the public service payroll. The KIPA co-ordinates the implementation of all training.

The DCSA in the MPA, with 13 staff members, acts as the central co-ordination unit for public service policy design, implementation, monitoring and evaluation. Its capacity is low to properly steer the public service system. The DCSA has the authority to issue warnings and intervene in numerous HR processes (mainly by circular letters), but it does not have a role in processes such as performance appraisal, termination of employment and disciplinary sanctions.

The legislation for the HRMIS<sup>122</sup> is in place; in practice, however, the system is not up-to-date and does not perform all mandatory functions as established in the legislation and in the Principles<sup>123</sup>. First, available information covers only a few items in relation to what is foreseen. Second, a regulation sets the contents of the public servant's personnel file<sup>124</sup>. The exhaustive list of records refers only to individuals; there is no information about the organisations where they work<sup>125</sup>. Third, despite

---

<sup>119</sup> Amendments to the Civil Service Law 149/2010 have not been approved, job descriptions for civil servants have not been yet standardised, and drafting of the strategy on civil service training 2014-2016 has not been approved.

<sup>120</sup> SIGMA (2014), "Openness and transparency, accountability, efficiency and effectiveness," *The Principles of Public Administration*, OECD Publishing, Paris, p. 45.

<sup>121</sup> Regulation On the areas of administrative responsibility of the Office of the Prime Minister and ministries, Article 16 (Office of the Prime Minister), Appendix 2 (Ministry of Finance) and Appendix 11 (Ministry of Public Administration).

<sup>122</sup> Regulation 03/2011 On the personnel registry, Ministry of Public Administration.

<sup>123</sup> SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, p. 45.

<sup>124</sup> Regulation 03/2011 On the personnel registry, Article 5, Ministry of Public Administration.

<sup>125</sup> For example, the HRMIS does not include recruitment and training plans of administrative bodies, respective budgets and performance appraisal results, training budgets or expenditure of individual public authorities.

regulation requiring it, the HRMIS is not interoperable with the civil service payroll database and the pension database<sup>126</sup>. Fourth, the information and data on the public service is scarce; the most basic statistical information requested for this assessment was lacking. Finally, existing data is not yet used for the purposes of managing and monitoring HRM processes in the public service.

The Independent Oversight Board (IOB) is charged with overseeing three particular areas of the implementation of the public service legislation: reviewing individual appeals of public servants against employing decisions; determining whether the appointment of senior public servants is done in accordance with relevant rules; and supervising the implementation of rules and principles of the public service. The following problems affect efficient and effective performance by the IOB<sup>127</sup>: 1) only 75.5% of its decisions are enforced by the institutions; 2) it is unclear what use the Assembly makes of its reports; and 3) in 2014, the IOB replaced oversight visits with 86 questionnaires. Almost half of the public authorities (41) did not send a reply.

The factors above lead to values of 3 for both of the qualitative indicators on the policy and legal framework and on institutional set-up.

**The legal framework is in place for a professional and coherent public service; however, there is no strong strategic guidance for its development. The DCSA manages the system through by-laws and guidelines, but more efficient management and co-ordination are needed. The IOB is an independent source to monitor implementation of the CSL, but several issues weaken its capacity to carry out properly its functions.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The MPA should strengthen the capacity (authority, resources, skills) of the DCSA for participating in public service policy development, and for implementing and monitoring public service reforms.
- 2) The MPA should put into operation the HRMIS and, in co-ordination with other relevant ministries, create interoperability of the HRMIS with public service payroll database and the pension database.
- 3) The Government should introduce measures to ensure enforcement of the decisions of the IOB, particularly in the area of recruitment.

#### **Medium-term (3-5 years)**

- 4) The MPA should conduct a comprehensive mid-term review of the implementation of the public service legislation to identify the real impact of the legal framework and the HRM practices; this would support improving accordingly the legislation, institutional set-up and implementation practices.

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

### **Baseline values**

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

The primary and secondary legislation are in place, but do not ensure merit-based recruitment in practice. Political influence on the recruitment and dismissal of senior managerial positions is prevented in the declaration of principles in the CSL, but not in implementation. The assessment

<sup>126</sup> Regulation 03/2011 On the personnel registry, Article 8, Ministry of Public Administration.

<sup>127</sup> Independent Oversight Board (2014), Report to the Assembly for 2013.

Kosovo  
Public Service and Human Resource Management

reveals the potential of politicisation of the system for both recruitment and termination of employment. In spite of recently adopted legislation on salaries, the system currently lacks fairness: similar positions in different areas of the public service receive different salaries. Furthermore, there is some discretion in granting bonuses. The right and duty of training is established and applied in practice, although with some limitations. Performance appraisal is not applied in a standardised form and causes challenges in practice. The legal framework for integrity and discipline is in place, but implementation lags.

	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	3	Extent to which the 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	2
	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

Kosovo  
Public Service and Human Resource Management

<b>Quantitative</b>	3	Annual turnover of civil servants at the level of central administration.	2013	1.13%
	3	Turnover of civil servants at the level of central administration within six months of a change of Government.	2014	Not available <sup>128</sup>
	3	Percentage of vacant positions filled by external competition in the civil service at the level of central administration.	2014	29.62%
	3	Percentage of vacant positions filled by internal competition in the civil service at the level of central administration.	2014	34.16% <sup>129</sup>
	3	Percentage of women in the civil service at the level of central administration.	2014	40.5%
	3	Percentage of women in senior managerial positions in the civil service at the level of central administration.	2014	26.3%
	3	Percentage of civil servants at the level of central administration by different ethnic origin in relation to the general ethnic division in the country based on the latest census.	2011/2014	+1.8% point <sup>130</sup>
	4	Annual turnover of senior managerial civil servants at the level of central administration.	2013	1.8%
	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	Not available
	4	Percentage of vacant senior managerial positions at the level of central administration filled by internal competition.	2014	Not available
	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	2014	Not available

<sup>128</sup> Here and hereafter, "not available" means the respective data was not provided in response to SIGMA's request to Kosovo on 2015 Baseline Measurement Data.

<sup>129</sup> In addition to external and internal recruitments, 24.97% were transfers and 11.25% were promotions of civil servants to fill the vacant positions in 2014. Ministry of Public Administration (15 April 2015), Civil Service Report for 2014.

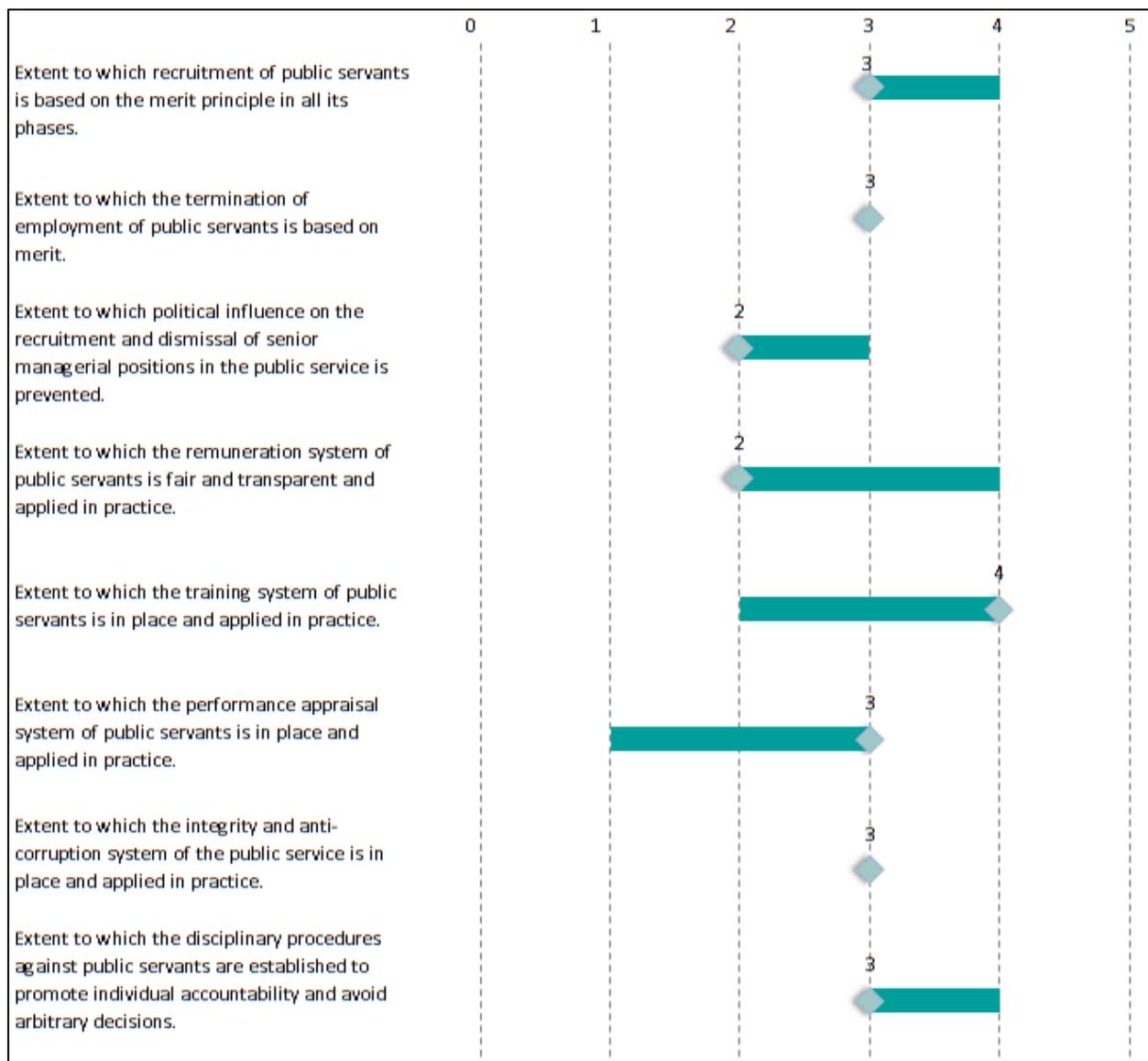
<sup>130</sup> The calculation is based on data from the last official Population Census (2011) and on civil servants (2014). General population: Albanians 92.9%, other ethnicities 7.1%. Civil servants: Albanians 91.2%, other ethnicities 8.8%. Non-Albanian communities are over-represented by 1.8 percentage points in relation to Kosovo's population by ethnicity.

Kosovo  
Public Service and Human Resource Management

		compensation of tertiary-educated workers.		
7		Transparency International Corruption Perception Index – the country score.	2014	33
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 4. 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.***

The legislation sets merit as the principle for filling vacancies<sup>131</sup>. All vacancies were filled through recruitment processes in 2014, either external (29.62%) or from inside the civil service (70.38%, which includes internal competitions, transfers and promotions)<sup>132</sup>. The average number of applicants per vacancy was 13.2 in 2013<sup>133</sup>, although it varies substantially among categories, sectors and institutions. The following two major concerns remain related to recruitment. First, non-career civil servants on a fixed-term appointment (up to two years) can be transferred to indefinite-term positions if performance appraisal is satisfactory within the last two years, i.e. without public competition. Second, the majority of institutions have not standardised the job descriptions (including professional qualification) within the legal time limit as provided by secondary legislation<sup>134</sup>, which poses problems regarding the comparability of different positions to be advertised. An important step in this regard is the approval of the Job Catalogue<sup>135</sup> so that the MPA can use it and amend it to support institutions in their preparations of the job descriptions.

Candidates may appeal recruitment decisions. In fact, 23.2% of all complaints submitted to the IOB (452 in total in 2013) are related to a dispute of recruitment (105 in 2013). Almost one-third of the appeals are approved based on evidence and facts, thus annulling recruitment decisions by the appointing authorities<sup>136</sup>. According to the MPA, appeals on recruitment processes in 2014 doubled to 215 (against 2013), and the total number of appeals filed to the IOB by public servants and applicants for employment in the public service was 689<sup>137</sup>.

The IOB, by exercising its oversight function, has brought attention to the fact that recruitment in a number of positions in the civil service does not comply with the job descriptions and professional qualifications required, in terms of professional qualifications and necessary experience. The IOB has also found that several institutions fail to proceed with recruitment in compliance with the CSL. One example is retaining acting officials beyond the legal timelines for which acting officials can be in charge<sup>138</sup>.

According to the Constitution<sup>139</sup>, the public service should reflect the diversity of the people of Kosovo and the principle of gender equality. The CSL establishes that 10% of positions should be reserved for persons belonging to minority communities<sup>140</sup>. This positive discrimination clause is ineffective in that it: 1) is fixed, regardless of the evolution of the different minorities; and 2) does not establish any criteria on how positions should be allocated among different minorities. The percentage of Albanians in the public service is 93.5%, while the rest belong to the different communities. The proportion of women in the public service is 42.1% and 14.8% in the senior public service<sup>141</sup>.

---

<sup>131</sup> Civil Service Law No. 149/2010, Articles 2, 3, 11 and 18.

<sup>132</sup> Ministry of Public Administration (15 April 2015), Civil Service Report for 2014.

<sup>133</sup> No data for 2014.

<sup>134</sup> Regulation 05/2012 On the classification of working positions.

<sup>135</sup> Government Decision to approve the Job Catalogue of the Civil Service, 5 February 2015.

<sup>136</sup> Independent Oversight Board (2014), Report to the Assembly for 2013.

<sup>137</sup> Ministry of Public Administration (15 April 2015), Civil Service Report for 2014.

<sup>138</sup> Independent Oversight Board (2014), Report to the Assembly for 2013.

<sup>139</sup> Constitution, Article 101.

<sup>140</sup> Civil Service Law 149/2010, Article 11, Regulation No. 04/2010 for the Procedures of Fair and Proportionate representation of the Non-majority Communities in the Civil Service, Articles 5 and 6.

<sup>141</sup> Ministry of Public Administration.

Termination of employment is regulated in the CSL<sup>142</sup> but some institutions have carried out other practices of *de facto* termination of civil service status. For example, the appointing authorities have appointed public servants on a temporary basis in violation of the legislation<sup>143</sup>. Public servants have the right to appeal in the case of termination (50 appeals or 11% of all appeals to the IOB in 2013) and demotion (23 appeals or 5% of all appeals to the IOB in 2013). The IOB has noted, by exercising its oversight function, that termination of employment in several institutions has taken place in contradiction of legal procedures or without legal grounds<sup>144</sup>.

Finally, a study carried out by the United Nations Development Programme (UNDP)<sup>145</sup> shows that 73% of the respondents to a survey consider that there is nepotism, favouritism and patronage in HRM policies and practices in the central administration in Kosovo.

Considering the factors analysed above, the values of both of the qualitative indicators on the recruitment and termination of employment of public servants are 3.

**Recruitment practices for the public service of Kosovo pose ongoing challenges; existing legislation leaves loopholes that allow other factors to influence the merit-based criteria. A perception exists within the civil society service that patronage dominates HRM policies, including recruitment.**

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

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

The Prime Minister appoints the members of the Council on Senior Management Positions, which includes Deputy Prime Ministers, the Minister of Public Administration, the Minister of Finance, one minister from the communities, and three members from the rank of secretary general or equivalent position. This offers the Prime Minister considerable leverage to have a politicised body – instead of a professional body – for recruiting senior public servants. Each selection process is conducted by an *ad hoc* Criteria Assessment Commission (CAC). This Commission is made up of three secretaries general, one university professor and one representative of civil society. The minister or chairperson of the recruiting institution appoints two of the members, but the process to appoint the others is unclear. The CAC shortlists three candidates, and the minister or chairperson chooses any of the candidates, allowing for political influence at the final stage<sup>146</sup>.

Although the average number of candidates for a vacant senior managerial position is nine, the perception of society<sup>147</sup> is that Kosovo faces excessive political appointments.

The termination of employment of a senior public servant is formally politicised and not based on objective criteria. The by-law establishes that the annual assessment of the senior public servant could be the basis for the Minister, the Prime Minister and/or the Council of Senior Management Positions initiating a poor performance procedure. The Prime Minister may appoint a Performance Investigation

---

<sup>142</sup> Civil Service Law 149/2010, Article 87.

<sup>143</sup> Note from the director of the Department of Civil Service Administration to the heads of ministries, executive agencies, mayors and personnel managers, dated 15 July 2014.

<sup>144</sup> Independent Oversight Board (2014), Report to the Assembly for 2013.

<sup>145</sup> United Nations Development Programme (2014), *Gender Equality Related Corruption Risks and Vulnerabilities in Civil Service in Kosovo*, United Nations Development Programme, November 2014, p. 11. The study was based on 800 quantitative, face-to-face interviews: 450 with central-level civil servants and 120 interviews from central and local levels.

<sup>146</sup> Regulation 6/2010 On the Procedures for Appointments to Senior Management Positions in the Civil Service, Article 14.3.

<sup>147</sup> United Nations Development Programme (2014), *Gender Equality Related Corruption Risks and Vulnerabilities in Civil Service in Kosovo*, United Nations Development Programme, November 2014, p. 11.

Commission, composed of two ministers and one secretary general; however, as the composition of the Commission is predominantly political, the assessment is unlikely to be done on purely objective grounds. Similar politicisation patterns are seen in setting the composition of the Disciplinary Commission for Senior Management Positions (three members of the Government and two secretary generals or equivalent position)<sup>148</sup>.

Considering the factors analysed above, the baseline value of the indicator regarding political influence on recruitment and dismissal of the senior public service for 2014 is 2.

**The CSL establishes the senior public service and advocates the merit principle for recruitment; however, it does not prevent direct or indirect political influence on senior managerial positions in the public service.**

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

Remuneration is regulated in the Law on Salaries of Civil Servants (LSCS)<sup>149</sup>; however, coherence and fairness are not features of the salary system as required in the Principles<sup>150</sup>. Each ministry chooses, adapts and allocates coefficients to different jobs with no cross-reference to other ministries<sup>151</sup>. This process, combined with the absence of a job classification system, means that salaries for similar positions are not necessarily equitable.

The LSCS and relevant by-law<sup>152</sup> regulate the salary, different allowances, compensation for shift and overtime work, specific work conditions and market conditions, and the payment of performance bonuses. The legislation sets the payment of bonuses based upon the ratings of performance. In order to avoid the inflation of grades, it also sets the quotas for each value in a given year. However, these quotas are not applied in practice; in 2013, 99.3% of civil servants received a value of good or very good<sup>153</sup>. In this context, the potential for discretion in the granting of bonuses is considerable. Additionally, the process for granting this bonus is not transparent: a ministerial commission receives proposals from all institutions and then makes its own final decisions. Some discretion is also applied when using the Cadre Fund Scheme, an original fund to attract well-educated professionals for positions that involve a need for competitiveness with the private sector.

The average public service monthly salary is EUR 427.72, which is similar to the average monthly salary in the wider public sector (EUR 429)<sup>154</sup>.

Given that coherence and fairness are not ensured in the salary system, the baseline value of the indicator regarding the remuneration system is 2.

**Disparities in public service salary remain evident, since different authorities apply different salary coefficients to similar positions. The delay of job classification reform and its implementation is hampering a fairer remuneration policy.**

*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.*

---

<sup>148</sup> Regulation 6/2012 On Senior Management Positions in the Civil Service of Kosovo, Articles 10, 11 and 18.

<sup>149</sup> Law 3/2010 Law on Salaries of Civil Servants.

<sup>150</sup> SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, p. 51.

<sup>151</sup> Law on Salaries of Civil Servants, Article 7.

<sup>152</sup> Law on Salaries of Civil Servants, Articles 11 and 14; Regulation 19/2012, Article 8.

<sup>153</sup> Ministry of Public Administration. No data available for 2014.

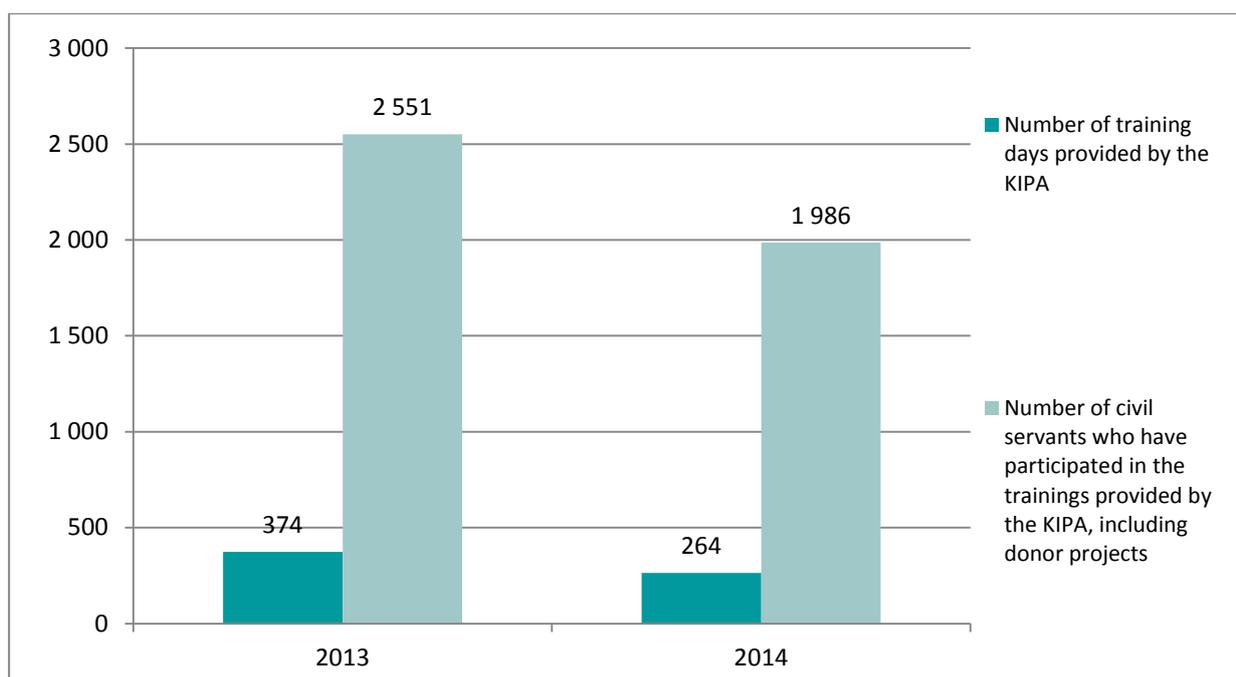
<sup>154</sup> Kosovo Agency of Statistics (May 2014), *Kosovo in Figures 2013*, <https://ask.rks-gov.net>.

Public servants have a right to training as a support to career advancement. Some very specific duties of mandatory training are linked to probation and redundancy<sup>155</sup>, but no specific provisions are given for annual hours for training or granting leave for further development.

One recent strategic document for training covers the period 2011-2013; a draft training plan for 2015-2017 has not yet been approved. A methodology exists for assessing training needs, and the training plan for a given year is normally prepared by the KIPA in co-ordination with the DCSA and HRM units of administrative bodies. The training strategy and plan, however, do not reflect clearly the needs that the public service has. A short report from the KIPA states that one challenge for 2015 is to be able to deliver more training (30% to 40%) based on training needs identified through the performance appraisal of public servants<sup>156</sup>. Finally, although the KIPA distributes satisfaction forms to trainees, there is no clear evidence that these questionnaires are analysed to improve or modify the courses.

In 2014, the KIPA trained 2 068 public servants (considerably less than the 2 551 trained in 2013); additionally, the number of training days fell by 4 703, from 2013 (10 843 days) to 2014 (6 140 days), with the same budget (EUR 53 000)<sup>157</sup>. The KIPA explains the decline by pointing out that in 2014 only small donor organisations provided training to public servants, while three big donor organisations were active in the training area in 2013. Overall, training is limited, covering only 9.1% of public servants. Insufficient budget and staff allocation, along with lack of proper premises (although budget has been allocated to start the building process), hamper implementation of all training plans, according to the KIPA. The KIPA staff has remained constant at 16 persons since 2011, and the budget has been stable since 2012. In that period, the number of trainees and the number of training days has declined.

**Figure 5. Training of civil servants, 2013-2014**



Source: Kosovo Institute of Public Administration.

Given that the training system functions under the limitations considered, the baseline value for 2014 is 4.

<sup>155</sup> Civil Service Law 149/2010, Articles 43, 35, 20 and 32, respectively.

<sup>156</sup> KIPA (February 2015), short report.

<sup>157</sup> Funds from donors are not reflected in budget.

Performance appraisal for public servants is set by primary and secondary legislation<sup>158</sup>. According to this regulation, performance appraisal should be carried out yearly by managers, using a standardised form and on the basis of the work objectives and competencies of public servants. However, some institutions lack a classification of jobs and do not apply performance appraisal. Quotas for different possible appraisal levels in the legislation aim to avoid grade inflation and enable the use of performance appraisal as a tool for other processes, such as career advancement. In practice, the application of quotas in performance appraisal has led to several appeal processes, which have been decided in favour of the appellant.

Performance appraisal, while regulated by law, is implemented with several challenges in practice; therefore, the baseline value is 3.

**The professional development of public servants is not fully ensured; however, the KIPA has managed to establish a set of protocols that have granted it Common Assessment Framework (CAF) and International Organization for Standardization (ISO) certification. Performance appraisal is based on proper legislation, but operates only on paper with no read-across to other HRM policies.**

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

The principles informing the professional conduct of public servants are contained in the legislation and other strategic documents<sup>159</sup>. Most of the elements to promote integrity and prevent corruption are in place, except for the following: financial disclosure, and ethics training and guidelines. The Anti-Corruption Agency (ACA), established in 2005, is responsible for corruption prevention, awareness raising and education, and law enforcement, including the proceedings of criminal charges to the Public Prosecutor. The ACA oversees and manages the declarations of assets and gifts of managerial civil servants, and also monitors conflicts of interest in these cases. One of the main functions of the ACA is the investigation of corruption cases. In 2013, it dealt with 319 cases, reflecting an increasing trend of cases since 2007, resulting in 128 criminal charges, including 72 from the previous year<sup>160</sup>. The ACA does not have data on the civil service in particular; its only interaction with the civil service focuses on training on assets declaration.

According to a UNDP study<sup>161</sup>, respondents to a quantitative survey considered that the prevalence of corruption in the civil service at the central level was 3.1 on a scale of 1 “non prevalent” to 5 “very prevalent”. Furthermore, 10% of respondents claimed to have witnessed corruption in their current workplaces, but only 37% of those individuals reported the case. The Corruption Perceptions Index results are very poor, without significant changes since 2012. In 2014, Kosovo got a score of 33 (0 “highly corrupt” to 100 “highly clean”) and occupied position 110 out of 174<sup>162</sup>.

The CSL and several pieces of secondary legislation regulate disciplinary procedures and appeal procedures against disciplinary sanctions, although no data is available on the number of disciplinary sanctions. The minister or the highest public official to whom a senior manager reports may initiate disciplinary proceedings on the basis of professional incompetence, misconduct or a criminal offence. As mentioned above, the disciplinary commission is set up on a case-by-case basis, and its members are appointed by the Government upon the proposal of the Prime Minister. As a result, the commission created for the purpose of assessing cases of public servants in managerial positions is actually highly political.

---

<sup>158</sup> Civil Service Law 149/2010, Article 34; Regulation 19/2012 On civil servant’s Performance Appraisal results, Article 8.

<sup>159</sup> Civil Service Law 149/2010, Chapter VIII; Civil Servant’s Code of Conduct 01/2006; Law 34/2004 Against Corruption; Law 04-051/2011 On the Prevention of Conflict of Interest in Discharge of Public Functions; and Law On Anti-Corruption Strategy 2013-2017.

<sup>160</sup> Anti-Corruption Agency of Kosovo (2014), Annual Activity Report, p. 14.

<sup>161</sup> United Nations Development Programme (2014), *Gender Equality Related Corruption Risks and Vulnerabilities in Civil Service in Kosovo*, United Nations Development Programme, November 2014, p. 11.

<sup>162</sup> <http://www.transparency.org/cpi2014/results>.

In 2014, 228 disciplinary measures were imposed on public servants: 140 (61.4%) were classified as light violations of duties and 88 (38.6%) as serious. In 2013, the total number of disciplinary procedures (223) and type of violations (148 light and 80 serious) was almost the same.

Given that the legal framework is in place for promoting integrity and preventing corruption, and for ensuring discipline in the public service, but that implementation challenges remain, the baseline value of the qualitative indicators on both is 3.

**The ethical legal framework is in place, with different pieces of legislation that prevent corruption and foster the integrity of public service. However, the perception of corruption is still very high in Kosovo. The disciplinary procedures are regulated but concerns remain with regard to implementation.**

**Key recommendations**

**Short-term (1-2 years)**

- 1) The MPA should complete the job classification process and strengthen efforts on merit-based recruitment, particularly of senior public servants.
- 2) The MPA, in co-ordination with the MoF, should ensure consistency and coherence of the remuneration system of the public service.

**Medium-term (3-5 years)**

The Government should continue strengthening the capacity of the KIPA to ensure the ongoing professionalisation of the public service.



## ACCOUNTABILITY

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

#### 1.1. State of play

The Law on State Administration sets out the general legislative framework, but it does not create the basis for a rational system with clear lines of accountability. Many agencies have been created on an *ad hoc* basis, which has led to fragmentation of public administration and problems of supervision and accountability. In addition, 22 non-constitutional bodies are formally supervised by the Parliament, which lacks the necessary tools and capacities to perform supervisory tasks of institutions.

The Law on Access to Public Documents gives procedural guarantees for the constitutional right of access to public information and establishes the requirement for proactive dissemination of information. There is a system in place for submitting requests for access to public documents, with regulations which help to guarantee the right in practice. However, the legal framework has shortcomings, including a wide range of grounds for denying access, a lack of effective judicial protection, and the absence of a supervisory body with the necessary power to make prescriptions and impose sanctions for failure to disclose.

The Constitution and statutory law enshrine the independence of oversight institutions, including the Auditor General and Ombudsman. However, the effectiveness of the Ombudsman's activities is undermined by the low rate of recommendations implemented by state administration bodies.

Legislation enshrines the fundamental principles of internal and judicial appeal in administrative courts, which were established in 2013. However, access to administrative justice is undermined by the inefficiency of the court system, which is mainly a result of understaffing.

Legislation on public liability is fragmented and does not guarantee effective procedures for handling requests for compensation.

#### 1.2. Main developments

There have been initiatives to increase the capacity of the administrative sections of the courts, including a training programme for administrative judges conducted by the Kosovo Judicial Institute. A project to develop a case management system for the courts has begun, but it is still at the initial phase of implementation. One additional judge was nominated, increasing to four the number of judges specialised in administrative cases.

## 2. ANALYSIS

This analysis covers the five Principles of the accountability sector that fall under one key requirement<sup>163</sup>. Under this key requirement, baseline values for the indicators of the monitoring framework of the Principles are provided. 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 and 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 through a mixed set of indicators, both quantitative and qualitative. They cover all areas of accountability, including 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 the legislative framework and its implementation in practice.

In Kosovo, the overall organisation of public administration is fragmented. A large number of agencies do not have systematised functions or clear accountability lines. Many agencies are directly subordinated to the Parliament. Although legal arrangements for access to public information are flawed, the data shows that a high number of access requests are granted. The Ombudsman Institution is functioning but the level of implementation of its recommendations is low. A significant and increasing backlog of administrative cases illustrates that the administrative judiciary does not have the capacity to deal with the inflow of cases. A comprehensive mechanism for public liability does not exist, and lack of data makes it impossible to analyse its functioning in practice.

	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	1	Extent to which the overall structure of ministries and other bodies subordinated to central government is rational and coherent.	2014	1
	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	3
	5	Extent to which public authorities assume liabilities and guarantee redress.	2014	1

<sup>163</sup> SIGMA (2014), [The Principles of Public Administration](#), OECD Publishing, Paris, pp. 58-66.

Kosovo  
Accountability

<b>Quantitative</b>	1	Number of bodies reporting to the Council of Ministers, to the Prime Minister or to the Parliament.	2014	30 <sup>164</sup>
	1	Average number of hierarchical layers in a typical ministry.	2014	4 <sup>165</sup>
	2	Share of public information requests refused in a given year by the public authorities.	2014	4.6% <sup>166</sup>
	2	Share of public information requests refused in a given year by the supervisory authority.	2014	Not applicable <sup>167</sup>
	2	Share of public information requests upheld by the courts.	2014	Not available <sup>168</sup>
	2	Share of public authorities maintaining websites in line with regulatory requirements.	2014	29% <sup>169</sup>
	2	Share of public authorities maintaining a document registry and database.	2014	Not available <sup>170</sup>
	3	Percentage of citizens who have trust in the ombudsman institution(s).	2014	Not available <sup>171</sup>
	3	Share of oversight institutions' recommendations to state administrative bodies implemented within two years <sup>172</sup> .	2014	31% <sup>173</sup>
	4	Number of administrative court cases ruled per year per judge <sup>174</sup> .	2014	283 <sup>175</sup>
	4	Number of complaints submitted to the administrative court in a given year	2014	2 568 <sup>176</sup>
	4	Percentage of cases changed or returned for verification by the higher court.	2014	28% <sup>177</sup>
	4	Percentage of citizens who have trust in the court system <sup>178</sup> .	2014	23.7%

<sup>164</sup> There are 8 bodies under the Prime Minister and 22 under the Parliament (excluding constitutional bodies). Office of Auditor General and Ministry of Public Administration.

<sup>165</sup> Minister, General Secretary, Department, Division.

<sup>166</sup> Office of Public Communication, OPM (out of 1 866 requests received, 36 were denied and 50 were not answered).

<sup>167</sup> No such authority exists in Kosovo.

<sup>168</sup> Data was not provided by the administration.

<sup>169</sup> 12 out of 41. Data provided by Information Society Agency (ASHI).

<sup>170</sup> Data was not provided administration. There is no body monitoring this issue.

<sup>171</sup> No credible survey was found.

<sup>172</sup> Refers only to Ombudsman.

<sup>173</sup> Ombudsman (4 recommendations implemented, 13 not implemented).

<sup>174</sup> This refers to the number of resolved administrative cases in the Basic Court of Pristina, which has exclusive jurisdiction as a first-instance court for administrative cases.

<sup>175</sup> Kosovo Judicial Council (1 130 cases resolved by 4 judges).

<sup>176</sup> Ibid.

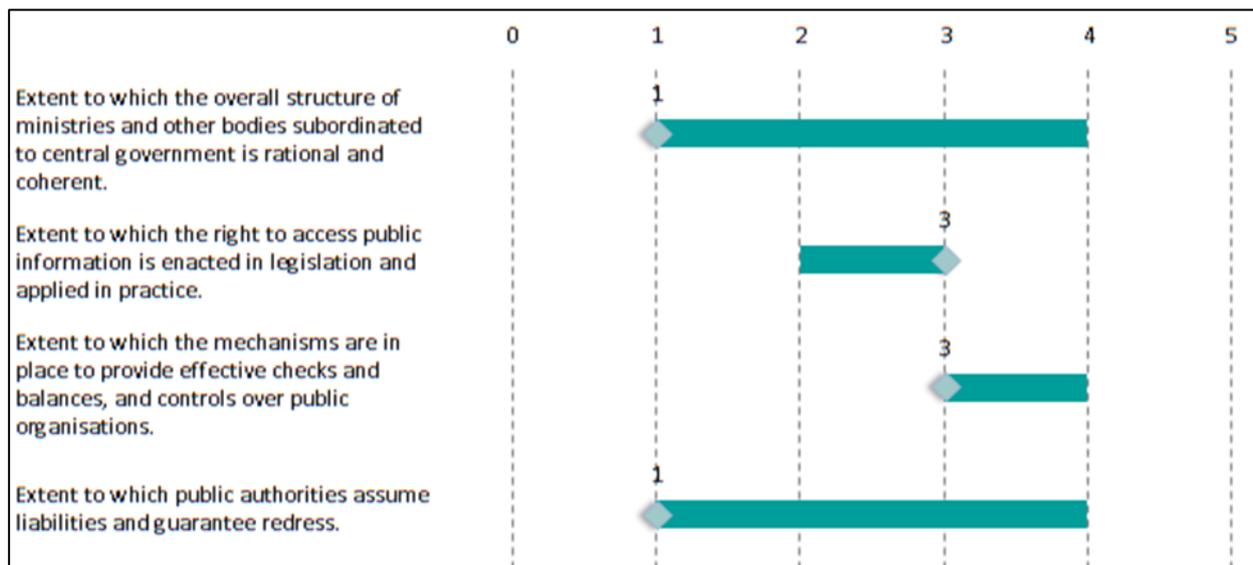
<sup>177</sup> Ibid. (out of 376 cases resolved, 84 cases were returned and 21 were changed).

Kosovo  
Accountability

	4	Backlog of administrative cases.	2014	4 039 <sup>179</sup>
	5	Share of complaints resulting in payment of compensation.	2014	Not available <sup>180</sup>

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 the State Administration<sup>181</sup> (LSA) sets out the legal framework for state administration bodies, divides them into categories<sup>182</sup> and sets out detailed rules for internal organisation of ministries and other institutions. The provisions defining status of autonomous bodies and accountability lines are general, with no clear distinction between central state administration and independent state administration bodies. Furthermore, there is no coherent and results-oriented accountability scheme for those institutions, and there are no mechanisms to promote greater managerial autonomy or delegation of decision-making competence. Key policy making functions remain in the ministries, but responsibilities for steering and controlling subordinate bodies are not

<sup>178</sup> Kosovar Center for Security Studies (2014), Kosovo Security Barometer, Fourth edition, December 2014, Kosovar Center for Security Studies, Pristina, p. 12. Survey of 1 101 households, following a representative sample of the population above 18 years old in Kosovo.

<sup>179</sup> Kosovo Judicial Council (number of unresolved cases in the Basic Court of Pristina at the end of 2014).

<sup>180</sup> Data was not provided by the administration.

<sup>181</sup> Law No.03/L –189, [www.kuvendikosoves.org/common/docs/ligjet/2010-189-eng.pdf](http://www.kuvendikosoves.org/common/docs/ligjet/2010-189-eng.pdf).

<sup>182</sup> Highest state administrative authorities (the Government as a whole, the Prime Minister, deputy prime ministers and ministers); highest state administrative bodies (the Office of the Prime Minister and ministers); central state administration bodies; local state administration bodies; and independent state administration bodies.

assigned. The efficiency of existing state administration is not monitored in a systematic way. In addition, the LSA does not impose any assessment of needs and costs prior to the establishment of administrative bodies.

Taking into account the issues described above, the baseline value for the indicator on the extent to which the structure of state administration bodies is rational and coherent is 1.

Shortcomings in the legal framework have led to a high number of Government agencies (71 institutions). In addition, a large number of non-constitutional institutions (22) are formally subordinated to the Parliament. Supervision is the responsibility of Standing Committees of the Assembly, which do not have the necessary support staff or resources for supervision, particularly for regulatory agencies. One official provides support to all the committees conducting supervisory activities<sup>183</sup>. Furthermore, the accountability scheme is incomplete. For example, if the Parliament refuses to approve the annual report of an agency, there is no effect on its functioning<sup>184</sup>. This triggers a culture of self-managed institutions<sup>185</sup>.

**The LSA provides only the outline of the legislative framework for state administration bodies. This has led to a fragmented administrative structure with a high number of bodies without clear lines of accountability. In addition, numerous bodies are formally subordinated to the Parliament, which lacks the powers and capacity to effectively supervise their activities.**

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

The Constitution grants everyone the right of access to public documents and Law 03/L-215 on Access to Public Documents (LAPD) specifies that applications for access to information may be submitted in any form, including e-mail. The state portal also allows online requests for public information<sup>186</sup>. The deadline for dealing with requests is 7-15 days<sup>187</sup>. Under the LAPD, access to documents may be refused on numerous grounds. These exceptions are defined to a far greater degree than in the Constitution<sup>188</sup>. However, if only one part of the requested document is covered by any of these exceptions, the remaining parts of the document are to be released. Fees for copying documents, set out in the secondary legislation, are at a level that does not create a significant obstacle to access to information.

The vast majority of requests for public information are accepted, with full access granted to information and documents.

---

<sup>183</sup> Interview with the representatives of the Parliamentary Committee (Committee for Public Services, Local Administration and Media).

<sup>184</sup> Ibid.

<sup>185</sup> For more detailed analysis, see SIGMA (2014) [Public Administration Reform Assessment of Kosovo](#), OECD Publishing, Paris.

<sup>186</sup> Request for Access to Public Documents, [www.rks-gov.net/en-us/Appinternet/Pages/QasjaDokuZyrtare.aspx](http://www.rks-gov.net/en-us/Appinternet/Pages/QasjaDokuZyrtare.aspx).

<sup>187</sup> Law 03/L-215, Articles 7 and 8. The basic deadline is 7 days, under some conditions it can be extended to up to 15 days.

<sup>188</sup> Under the Constitution, access to information can be refused solely on the grounds of privacy, business trade secrets or security classification. The LAPD provides for additional restrictions based on the need for protection of national and public security, privacy, commercial and economic interests, economic and monetary policies, and environmental issues.

**Table 1. Requests for public information handled by public administration bodies<sup>189</sup>**

	2012	2013	2014
Full access to public information granted	1202	1833	1866
Limited access to public information granted	17	50	38
Access to public information refused	93	37	36
Requests for public information not answered (“administrative silence”)	53	64	50

Source: Office of Public Communication of the Office of the Prime Minister.

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

There is no supervisory body with the power to issue binding guidelines and/or impose sanctions on institutions failing to comply with the LAPD. The Office of Public Communication of the Office of the Prime Minister gathers statistical data, but has no power to enforce the right to access to public information<sup>190</sup>.

Each public institution is required to set up a Document Administration Unit with responsibility for document management, which includes registration, distribution and maintenance of documents<sup>191</sup>. However, there is no institution responsible for monitoring. Taking into account all the elements described above, the baseline value for the indicator on access to public information is 3.

**The LAPD establishes procedural guarantees of the constitutional right of access to public information. However, there are shortcomings, including a wide range of grounds for refusing access and the absence of a supervisory body with power to make prescriptions and impose sanctions for failure to disclose information. Despite this, data shows a decline in the percentage of requests for access to public administration that are refused or not answered.**

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

All state administration bodies are subject to scrutiny by the Ombudsman<sup>192</sup>. His/her status is primarily regulated in the Constitution, which provides fundamental guarantees of independence and defines areas of responsibility. The Ombudsman Institution manages its budget independently. Its budget was significantly increased in 2013. The Ombudsman reports only to the Parliament, on an annual basis<sup>193</sup>.

The Ombudsman has the right to demand documents and information from all administrative bodies. He/she may also lodge cases with the Constitutional Court<sup>194</sup>. However, the Law on the Constitutional Court limits this right to six months from the day on which the contested act enters into force.

<sup>189</sup> The higher number of requests in 2013 was primarily the result of an increased number of institutions reporting to the Office of Public Communication of the Office of the Prime Minister, which aggregates statistical data on access to public information.

<sup>190</sup> Law 03/L-215 on Access to Public Documents, Article 20.

<sup>191</sup> Law 04/L-184 on Office Work Administration, Article 3.

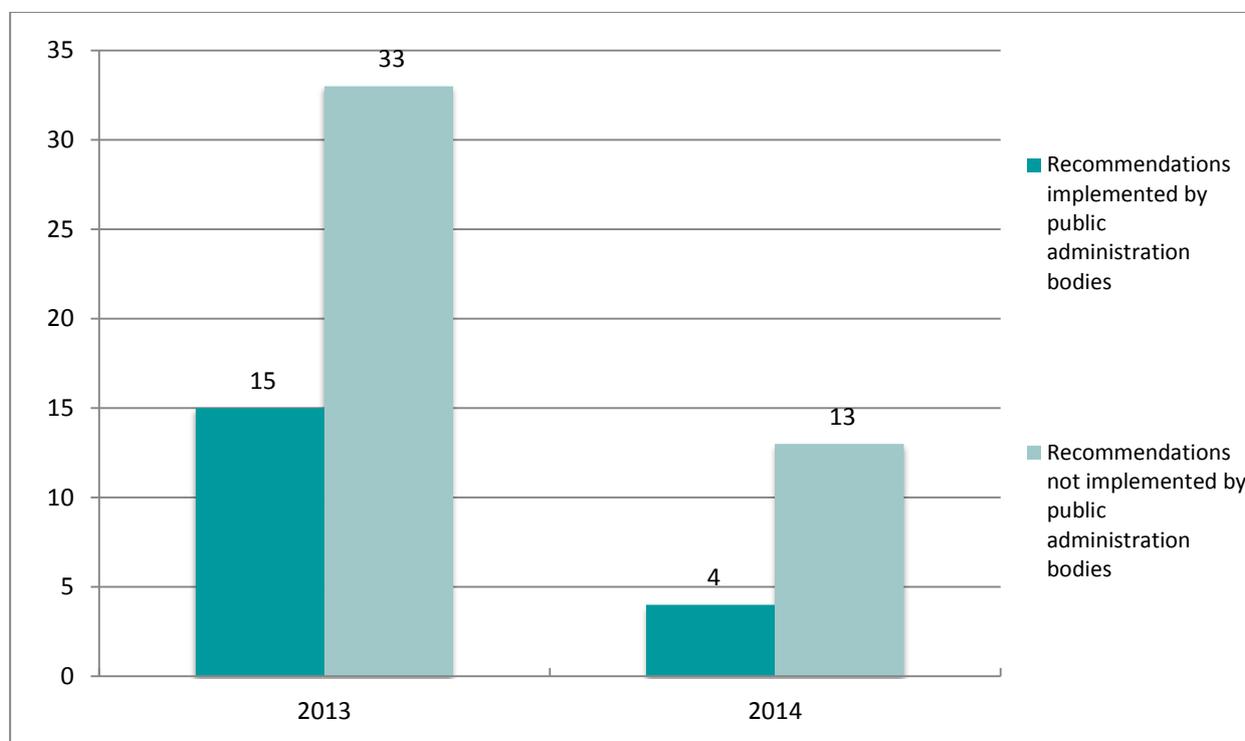
<sup>192</sup> Law 03/L-195 on Ombudsperson, Official Gazette No. 80/2010, Article 15.

<sup>193</sup> Law 03/L-195 on Ombudsperson, Article 27.

<sup>194</sup> Law 03/L-121 on the Constitutional Court, Article 30.

The share of the Ombudsman’s recommendations implemented by state administration bodies is low (as is the total number of recommendations issued, which is further decreasing). Furthermore, most of the institutions to which the Ombudsman has addressed recommendations failed to report on actions carried out in response to those recommendations, as is required under the Law on Ombudsman requires.

**Figure 2. Implementation of the Ombudsman’s recommendations**



Source: Ombudsman Institution.

In light of these concerns, the baseline value for the indicator on mechanisms to provide effective checks and balances and controls is 3.

**The Constitution and statutory law enshrines the independence of the Ombudsman. However, effectiveness of the Ombudsman’s activities is undermined by low implementation of recommendations by state administration bodies, even when the number of issued recommendations decreased.**

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

Law 02/L-28 on Administrative Procedure guarantees the right of internal administrative appeal and defines accurate deadlines for submitting and resolving appeals. The Law on Courts sets out the general framework of the administrative justice system. The Law on Administrative Conflicts allows the affected parties to challenge final administrative decisions before the administrative court and defines a 30-day deadline for lodging complaints<sup>195</sup>.

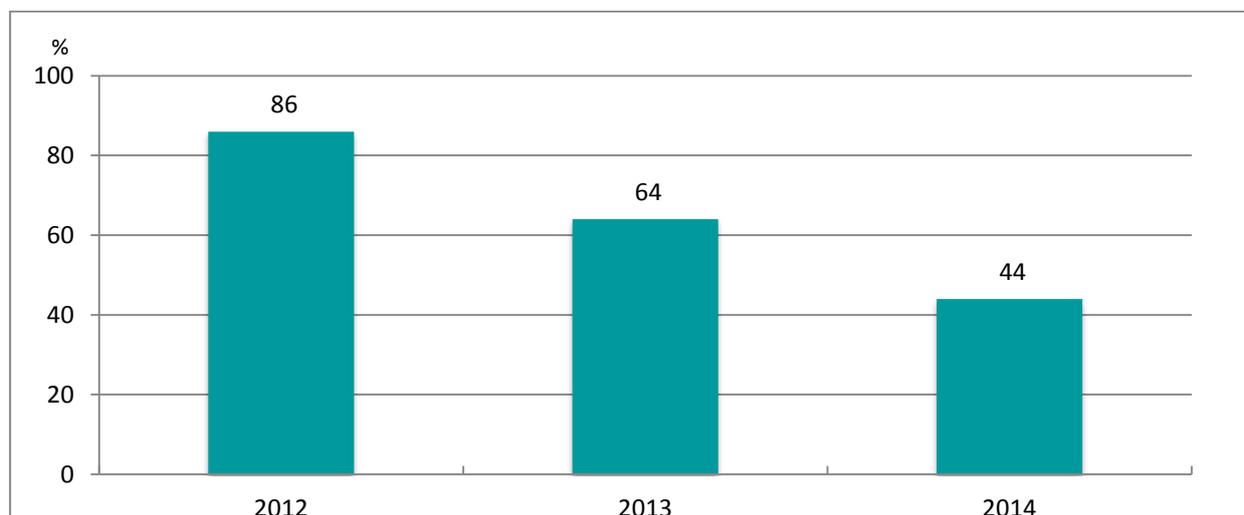
The workload of the courts is monitored by the Kosovo Judicial Council (KJC) on a regular basis. The Basic Court of Pristina, the only first-instance court for administrative cases, has a heavy backlog of cases. The decreasing clearance rate<sup>196</sup> for the first-instance administrative court illustrates increasing

<sup>195</sup> Law on Administrative Conflicts, Article 27.

<sup>196</sup> European Commission for the Efficiency of Justice (CEPEJ) (2014), Report on “European judicial systems – Edition 2014 (2012 data): efficiency and quality of justice”, CEPEJ, Strasbourg 2014, p. 191. This indicator is commonly used to measure the efficiency of courts. According to the CEPEJ definition, the clearance rate is calculated by dividing the

problems. Its backlog of administrative cases reached 4 039 unresolved cases at the end of 2014 (compared to 2 601 at the end of 2013). This situation stems from its limited resources (only four judges) and the historical backlog of cases transferred from the Supreme Court, which had exclusive jurisdiction in administrative cases until 2013. Without rapid action to increase capacities (staff and information technology tools), access to administrative justice will be undermined by the inefficiency of the Courts. The level of public trust in the Courts reflects these issues: in 2014, just 23.7% of the population trusted the court system<sup>197</sup>.

**Figure 3. Clearance rate for the first-instance administrative courts 2012-2014<sup>198</sup>**



Source: Kosovo Judicial Council, Annual reports 2012 and 2013.

Implementation of the electronic case management system has only recently started and it is not yet fully operational. In 2014, the Kosovo Judicial Institute provided special training for administrative judges<sup>199</sup>.

Court fees are determined by the administrative instruction issued by the KJC<sup>200</sup>. Fees in administrative court cases depend on the value of the dispute and do not hinder access to justice. Applicants with limited means may be exempted from court fees at the court's discretion. The KJC's instructions provide a wide catalogue of grounds for granting exemption.

**Fundamental principles of internal and judicial appeal in administrative courts are established in the legislation. In practice, however, access to administrative justice is undermined by the inefficiency of the court system, which is able to cope with only a minority of incoming cases.**

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

The Constitution does not establish a general principle of public liability in cases of damaging acts or omissions by public authorities. Moreover, there is no coherent and comprehensive statutory regulation on public liability in place. Several provisions scattered across different legislation refer to this topic<sup>201</sup>, but they only set out general principles of liability and lack specific procedural provisions

---

number of resolved cases by the number of incoming cases. If the clearance rate goes below 100%, the backlog at the end of a reporting period increases.

<sup>197</sup> Kosovar Center for Security Studies (2014), Kosovo Security Barometer, Fourth edition, December 2014, p 12. Survey of 1 101 households, covering a representative sample of the population above 18 years old.

<sup>198</sup> Data for 2012 refers to the Supreme Court. Data for 2013 and 2014 refers to the Basic Court of Pristina.

<sup>199</sup> Kosovo Judicial Institute.

<sup>200</sup> Administrative Instruction on Unification of Court Fees, 02/2008.

<sup>201</sup> In particular, Law on the State Administration, Article 13; Law on Administrative Procedure, Article 3.4; Law on Inspections, Article 30; Law on Administrative Conflicts, Articles 17, 26, 30 and 46.

that would assist those affected to seek compensation in the case of wrongdoing by a state administrative body. For example, the Law on Administrative Conflicts stipulates that administrative courts may also resolve cases on compensation for damages caused by administrative acts, but it does not specify grounds for liability or criteria for calculating compensation.

In 2014, at the central level, there were 110 decisions, following court rulings, to pay compensation that amounted to EUR 788 826<sup>202</sup>. However, this data may also include compensation paid due to contractual obligations of the state that does not fall within the scope of the Principle. Thus, no sufficient data exists to assess if the system is working in practice. In light of these concerns, the baseline value for the indicator on the extent to which public authorities assume liabilities and guarantee redress is 1.

***There is no clear and comprehensive mechanism for public liability in cases of wrongdoing. The legislation includes provisions on this topic, but they are scattered and fragmented and do not guarantee effective procedures for seeking compensation.***

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The Government should conduct a comprehensive review of the institutional structures of the state administration in order to implement an effective system of accountability and introduce necessary changes in the legal framework. The Ministry of Public Administration should introduce mechanisms for assessing the needs and costs for setting up new institutions.
- 2) Legislation on access to public information should be amended to grant standard-setting, supervisory and sanction-imposing powers to an independent monitoring institution.
- 3) The Ministry of Justice and the KJC should address the issue of the growing backlog of administrative cases in the Basic Court of Pristina by ensuring funding to increase the number of judges and improve the working conditions of the Court (e.g. facilitating implementation of the electronic case management system).
- 4) The Parliament and the Ombudsman Institution, in co-operation with the Government, should develop mechanisms to increase the level of recommendations implemented.

#### **Medium-term (3-5 years)**

- 5) The Government and the Parliament need to work jointly on redesign of the accountability scheme for agencies currently subordinated to the Parliament. These efforts should lead to consolidated institutional structures, whereby these agencies are subject to regular, professional and effective supervision by the proper institutions.
- 6) The Government should review existing regulations on public liability to ensure that they:
  - are clear and easily accessible;
  - define a broad scope of public liability; and
  - do not jeopardise effective exercise of the right of action for compensation.

The Government should also introduce mechanisms to monitor court cases that result in liability for the State, with the goal of improving administrative procedures and decisions and thus reducing future cases of public liability.

---

<sup>202</sup> Ministry of Finance.



## SERVICE DELIVERY

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

#### 1.1. State of play

There is no coherent policy for public service improvements in place; policy documents mainly cover service delivery to businesses through better regulation. Mechanisms for red-tape reduction and eliminating administrative burden in legal drafting are also lacking.

The legal framework enshrining the major principles of good administrative behaviour is in place, but it contains shortcomings which undermine the effective protection of citizens' rights in the course of administrative proceedings.

The scope of e-services is expanding, though developments in this area are mainly focused on business. Progress in e-service delivery is hindered by the lack of an interoperability framework. The one-stop-shop model for business registration is well established, but it is still the only service provided in this way. There has been no action to increase the accessibility of public services to citizens, especially those with special needs. Citizen satisfaction with the performance of the public administration remains low; this is being addressed by limited steps towards quality-oriented public service delivery.

#### 1.2. Main developments

In May 2014, the Government adopted the Better Regulation Strategy 2014-2020. It lists the reduction of administrative burdens as one of the key aims of regulatory reform.

As a step for implementing the strategy, Regulation No. 06/2015 on the central registry of types of permits and licences was adopted<sup>203</sup>, creating a legal basis for the development of a registry compiling all permits and licences in Kosovo.

During 2014, Kosovo made real progress in easing business registration measures according to the World Bank *Doing Business 2015* assessment<sup>204</sup>. There have been reductions in both the time needed to complete the registration process and the costs incurred by the applicant.

In March 2015, the Tax Administration launched a new version of the Electronic Declaration (EDI) system, offering new functionalities.

---

<sup>203</sup> Regulation No. 06/2015 on the Central Registry of Types of Permits and Licences approved by the Government with Decision No. 03/23, 15 April 2015.

<sup>204</sup> From the previous year, Kosovo went up 58 places in *Doing Business 2015*'s ranking on starting a business (from 100 in 2014 to 42 in 2015).

## 2. ANALYSIS

This analysis covers the four Principles of the service delivery area, falling under one key requirement<sup>205</sup>. Under this key requirement, the baseline values for the indicators of the monitoring framework of the Principles are provided. The Principles cover the policy and practice of service delivery. There is a 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 administrative behaviour 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 is examined through a set of 14 quantitative indicators, complemented by 3 qualitative indicators. Qualitative indicators primarily analyse the implementation of the policies and legislation in the area of service delivery. Most of the quantitative indicators are based on data provided by Kosovo and are subsequently verified for the purposes of this report. Selected quantitative indicators are based on the international comparative studies of the *Doing Business*<sup>206</sup> and “Global Competitiveness Report”<sup>207</sup>.

There is no comprehensive policy for public service improvement, which specifies objectives and a detailed action plan for their implementation. A legal framework for administrative procedures is in place, but detailed provisions need improvement; moreover, there is no inventory of special administrative procedures. The main indicators related to setting up a business or ID/passport issuance are at a good level, but efforts to introduce quality assurance tools or to measure customer satisfaction have been limited.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	Extent to which citizen-oriented policy for service delivery is in place and applied.	2014	1
	1	Extent to which policy and administrative preconditions for e-service delivery are applied.	2014	1
	2	Extent to which the legal framework for good administration is in place and applied.	2014	2
Quantitative	1	Expenditure on general public services as a share of gross domestic product.	2014	5.7% <sup>208</sup>
	2	Favouritism in decisions of government officials <sup>209</sup> .	2014	Not available <sup>210</sup>

<sup>205</sup> SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 67-74.

<sup>206</sup> World Bank.

<sup>207</sup> World Economic Forum.

<sup>208</sup> Ministry of Finance (MoF).

<sup>209</sup> According to The World Economic Forum Competitiveness Index. (Scale from 1/minimum to 7/maximum).

<sup>210</sup> Kosovo is not included in the *Global Competitiveness Report*.

Kosovo  
Service Delivery

	3	Percentage of users satisfied with public services.	2014	Not available <sup>211</sup>
	3	Proportion of institutions using quality assurance tools and techniques (e.g. European Foundation for Quality Management, Common Assessment Framework and other international standards).	2014	0.8% <sup>212</sup>
	3	Share of public servants directly engaged in service delivery who received training in the last two years.	2014	Not available <sup>213</sup>
	3	Average time needed to acquire a personal identification document (passport or ID card) after submitting the application.		
		A. Passport	2014	7 days <sup>214</sup>
		B. ID		7 days <sup>215</sup>
	3	Share of institutions where customer satisfaction surveys are conducted on a regular basis (at least every two years).	2014	0%
	3	Average number of days needed to set up a business.	2014	11
	3	Average cost of setting up a business <sup>216</sup> .	2014	1.2%
	4	Number of one-stop-shops that provide the services for more than three different public institutions.	2014	1 <sup>217</sup>
	4	Number of services provided through one-stop-shops.	2014	4 <sup>218</sup>
	4	Percentage of wheelchair-accessible institutions.	2014	Not available <sup>219</sup>

<sup>211</sup> No surveys are conducted by the Government.

<sup>212</sup> The denominator is calculated based on the list of state administrative bodies subordinated to the Council of Ministers, the Prime Minister and the Parliament: 18 ministers, 71 agencies under the Government and 31 institutions under Parliament. In the numerator, there is one institution - the Kosovo Institute for Public Administration (KIPA) that has implemented the Common Assessment Framework (CAF) and ISO.

<sup>213</sup> Data was not provided by the administration.

<sup>214</sup> Information provided by the Ministry of Internal Affairs.

<sup>215</sup> Information provided by the Ministry of Internal Affairs.

<sup>216</sup> Percentage of income per capita.

<sup>217</sup> Business registration centre.

<sup>218</sup> Services provided through one-stop-shop include: business certificates, fiscal numbers, VAT numbers and import and export certificates.

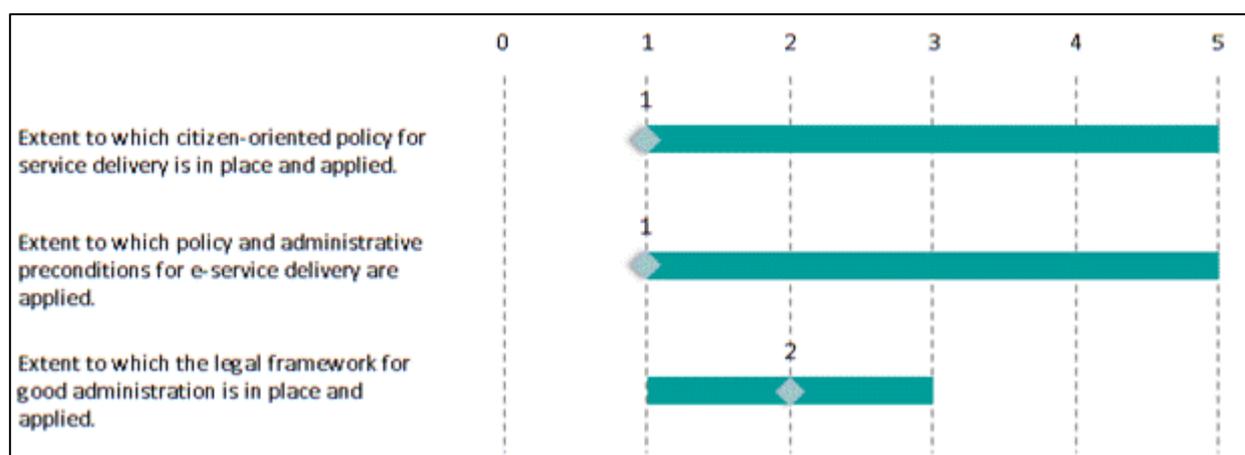
<sup>219</sup> Data was not provided by the administration.

Kosovo  
Service Delivery

4	Share of citizens who submitted paperless/electronic/digital income tax statements last year.	2014	0.6% <sup>220</sup>
4	Share of companies that sent their tax declarations using the Internet.	2014	85,5% <sup>221</sup>

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.***

There is no comprehensive policy aimed at citizen-oriented state administration. Key strategic documents regarding public administration reform and Government programmes include some general references to this area, but they are not translated into detailed objectives and action plans<sup>222</sup>.

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

In addition, there are no mechanisms in place for systematic red-tape reduction, and Regulatory Impact Assessments (RIAs) are not implemented. The Better Regulation Strategy is aimed at administrative simplification, but planned initiatives have not yet been implemented.

The value of the indicator on citizen-oriented policy for service delivery is, therefore, 1.

<sup>220</sup> Relates to annual personal income tax declarations; data provided by the Ministry of Public Administration.

<sup>221</sup> Relates to annual corporate income tax declarations; data provided by the Kosovo Trust Agency.

<sup>222</sup> Programme of the Government of Kosovo 2015-2018, p. 27; Strategy for Electronic Governance 2009-2015; Annual Work Plan of the Government for 2015; Better Regulation Strategy 2014-2020.

Based on Law No. 03/L-145 for the Governmental Information Society, the Information Society Agency is responsible for co-ordinating activities in the field of e-governance in all Kosovo institutions. The development of e-services is hindered by the lack of an e-authentication and e-payment system. There is no e-government portal offering integrated access to e-services. In addition, the interoperability framework, based on European Interoperability Framework (EIF) standards, is not functional<sup>223</sup>. The Agency for Information Society is responsible for its implementation, although it lacks sufficient financial resources<sup>224</sup>. The relatively high number of internet users (over 76% of the population in 2013<sup>225</sup>) provides, however, a favourable climate for the further expansion of e-government. The policy on e-services is at an early stage of implementation, which is reflected by the value of 1 for the indicator on policy and preconditions for e-services.

**The general policy on public services is not in place. The development of e-services is hampered by the lack of a functional e-authentication system and interoperability framework.**

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

The current Law on the Administrative Procedure (LAP)<sup>226</sup> enshrines the key principles of good administrative behaviour, including the principles of legality, proportionality, equal treatment, impartiality and objectivity. There is no inventory of special regulations and the above-mentioned general principles are not fully reflected in specific provisions of the LAP. For example, the regulation of administrative discretion is vague and allows public authorities to carry out a wide range of actions without explicit legal authorisation. The general requirement limiting the scope of discretionary actions is “conformity with the Constitutional Framework and the spirit of the applicable legislation in Kosovo”<sup>227</sup>.

The interested parties are entitled to make declarations prior to a final decision being reached. However, parties may be denied the right to express their opinion on vague grounds, e.g. when a decision needs to be issued urgently and when it may create difficulties in executing the decision<sup>228</sup>. Administrative acts should be accompanied with reasoning and information on the right of appeal. Administrative acts may be revoked or abolished at the request of interested parties<sup>229</sup>.

The training of civil servants on the regulation of administrative proceedings is organised by the Kosovo Institute for Public Administration (KIPA) (in 2014, 26 civil servants were trained)<sup>230</sup>.

The new draft Law on General Administrative Procedures (LGAP), aligned with the principles of good administrative behaviour, was adopted by the Government on 15 April and submitted to the Assembly.

The value of the indicator for the extent to which the legal framework for good administration is in place and applied is 2.

**The current legal framework enshrining the major principles of good administrative behaviour is in place, though there are shortcomings which undermine the effective protection of citizens’ rights.**

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

There is no systematic approach to quality assurance or service modernisation, although some initial efforts were undertaken in the past by the MPA (the National Quality Management Programme). The

---

<sup>223</sup> Interview with representatives of the Agency for Information Society.

<sup>224</sup> Interview with representatives of the Agency for Information Society.

<sup>225</sup> According to UN statistics for 2013, <https://data.un.org>.

<sup>226</sup> LAP No. 02/L-28, 22 July 2005.

<sup>227</sup> LAP, Article 139f.

<sup>228</sup> LAP, Article 70.

<sup>229</sup> LAP, Article 100f.

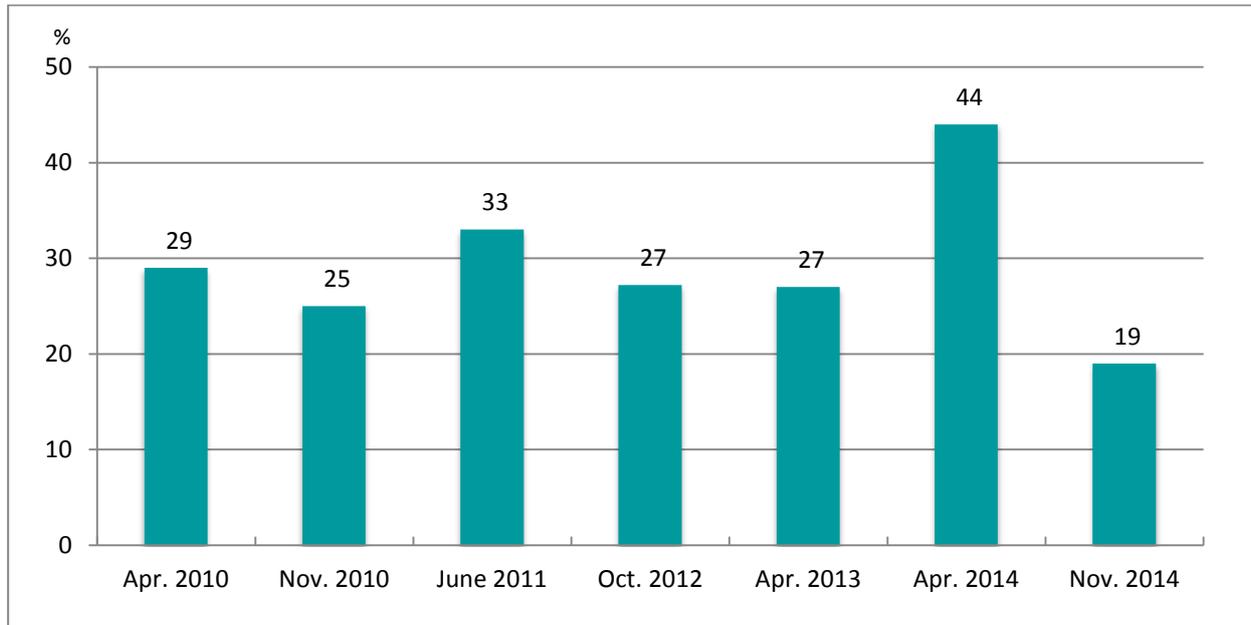
<sup>230</sup> Data received from the KIPA.

Kosovo  
Service Delivery

KIPA is the only state administrative body that has introduced a quality assurance scheme, based on the Common Assessment Framework (CAF) and International Organization for Standardization (ISO) standards<sup>231</sup>. The KIPA is in a position to train other institutions in the use of the CAF; the dissemination of this quality management tool depends primarily on access to funding for the KIPA to carry this out.

Citizens' satisfaction with public services is not monitored by public institutions. Regular surveys carried out by the United Nations Development Programme (UNDP) (Figure 2) demonstrate the continued satisfaction of citizens with the performance of executive government institutions.

**Figure 2. Citizen satisfaction with the performance of executive government institutions**



Source: United Nations Development Programme, *Public Pulse* reports.

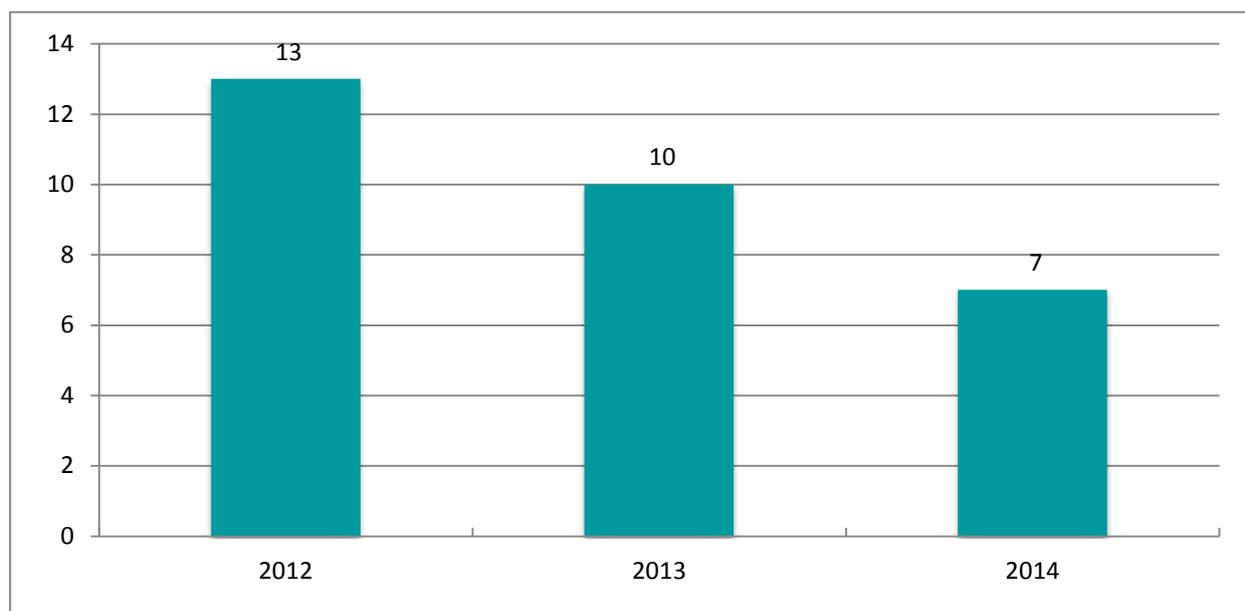
The quality of services for business registration has improved significantly in recent years<sup>232</sup>. However, the lack of electronic identification means that applicants need to go in person to a registration centre to complete the process. The time needed to register a business is 11 days. Important services for citizens, like the issuance of an ID or passport, are delivered quickly (7 days)<sup>233</sup>.

<sup>231</sup> Ibid.

<sup>232</sup> According to *Doing Business 2014*, in 2013 the registration of a company took 30 days. Thanks to the introduction of a single-window formula, it was reduced to 11 days in 2014 (*Doing Business 2015*).

<sup>233</sup> Data provided by Ministry of Internal Affairs.

**Figure 3. The average number of days needed to acquire personal identification document (passport and ID card) from the moment of filing the application.**



Source: Ministry of Internal Affairs.

Regulation No. 06/2015 on the central registry of types of permits and licences was adopted in April 2015, determining the procedures for the establishment, management and operation of a central registry of permits and licences. This registry contains a service charter for each licence or permit, providing information on when they are needed, the documents required to obtain them and the standards for processing applications. The registry includes a complete list of permits and licences, which means that public institutions cannot require businesses to apply for permits that are not listed in the registry.

**Citizen satisfaction with the performance of public administration remains low. However, the quality of services regarding business registration has improved significantly in recent years, reflected by Kosovo's high ranking in *Doing Business*.**

***Principle 4: The accessibility of public services is ensured.***

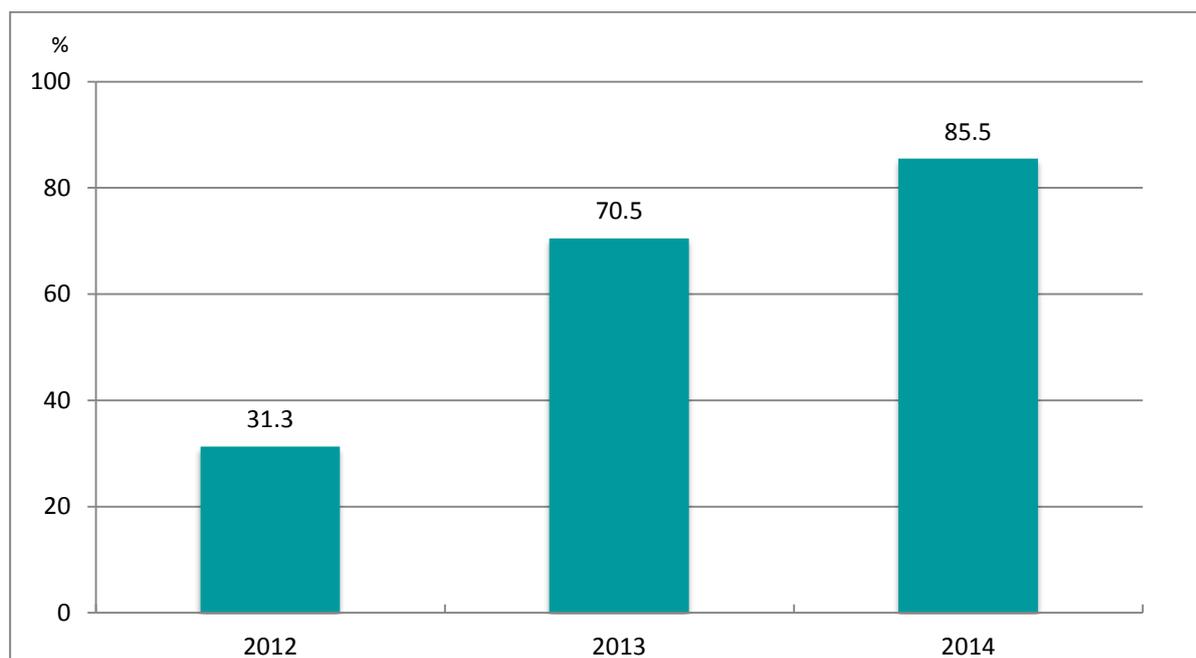
Business registration is the only service delivered through one-stop shops. Business registration centres (BRCs) enable applicants to obtain a business registration, a fiscal or VAT number and export-import certificates. The territorial network of BRCs ensures equal access to their services (29 offices)<sup>234</sup>.

There are an increasing number of online services offered by the Tax Administration. These include e-services regarding taxation offered to businesses via an EDI system, e.g. online submission of tax declarations, checking history and tax balance, and generating tax certificates. In March 2015, the new version of this system was launched<sup>235</sup>.

<sup>234</sup> List of offices: <http://www.arbk.org/en/Municipal-Centers>.

<sup>235</sup> <http://www.atk-ks.org/njoftim-per-tatimpagues-administrata-tatimore-e-kosoves-funksionalizon-sistemin-e-ri-te-deklarimit-elektronik-edi/?lang=en>

**Figure 4. Share of companies returning their tax declarations online**  
(annual corporate income tax declarations)



Source: Kosovo Trust Agency.

There is no policy on improving access to public buildings for people with disabilities. According to the monitoring carried out by the local non-governmental organisation (NGO) HandiKOS, many public buildings remain inaccessible to people in wheelchairs. For example, none of the courts guarantee access for people with disabilities<sup>236</sup>.

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

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

**Accessibility to public services is limited, especially for users with special needs. The scope of e-services is expanding, although developments in this area are mainly aimed at businesses rather than individual citizens.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The Government should assign clear responsibility and powers of involved institutions for policy development and co-ordination in the area of service delivery, and should design service delivery improvement policies when developing its Public Administration Modernization Strategy 2015-2020.
- 2) The OPM should implement the mechanism for red-tape monitoring and reduction as envisaged by the Better Regulation Strategy. Draft legislation should be analysed for its impact on administrative burdens for businesses and citizens. An inventory of public services should be

<sup>236</sup> Data on local government and courts only; sample: 394 buildings, including 13 courts.

Kosovo  
Service Delivery

prepared in order to review the procedures and regulatory requirements established by the current regulation.

- 3) The MPA should carry out an inventory of the public services offered by the state administration, including information on the scope of services and the cost of their provision. It would serve as a reference point for administrative simplification and for enabling e-access to appropriate services.
- 4) The new LGAP should be adopted by the Assembly and implemented by the Government. In addition, the inventory of special regulations should be prepared and their analysis undertaken with the goal of limiting their number and scope of application. Once the LGAP is adopted, the implementation process should be prepared, including trainings.

**Medium-term (3-5 years)**

- 5) The MPA should launch a project for the regular monitoring of citizen satisfaction with public services and for acquiring feedback from external stakeholders on improvements required in public service delivery.
- 6) The Agency for Information Society should implement the interoperability framework covering priority services in line with the EIF standards.
- 7) The Government should develop the concept of a one-stop shop, offering services to citizens, not only to businesses. Based on a master inventory of services, a list of key services should be created which could be provided in a one-stop-shop formula. The e-government portal should also be developed as an electronic one-stop shop.

The Government should undertake efforts to improve the accessibility of public services (including through e-services) for people with disabilities.



## PUBLIC FINANCIAL MANAGEMENT

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

#### 1.1. State of play

The fiscal situation in Kosovo remains under careful scrutiny by the Government. Although the level of public debt in Kosovo stands at 10.7% of gross domestic product (GDP)<sup>237</sup>, overall government finances have shown a small deficit for the past five years. Despite fluctuations in public revenue, the Government has been able to reduce the budget deficit (from 3.1% in 2013 to 2.2% of GDP in 2014), although nominally breaching the established fiscal rule<sup>238</sup>.

The Medium-term Expenditure Framework (MTEF) 2015-2017 and the 2015 Budget form a credible basis for resource planning, although in practice the focus is primarily on one calendar year and estimates for the first year of the MTEF are adjusted as needed for the annual budget bill. The Treasury Department manages all expenditure centrally, but the total amount of payment arrears is considerable (5.7% of central government expenditure in 2013<sup>239</sup>).

The main elements required for an effective framework of financial management and control (FMC) are in place, including the Law on Public Financial Management and Accountability (LPFMA)<sup>240</sup> and an extensive procedure manual for financial management and control<sup>241</sup>. However, progress at organisational level has been slow. Weaknesses persist in all aspects of FMC, although formal accountability procedures are established in most ministries.

The function of external audit has constitutional anchorage and is governed by the Law on the Establishment of the Office of the Auditor General and the Audit Office of Kosovo. It does not fully regulate the independence and organisation of the Office of the Auditor General (OAG) in line with international standards<sup>242</sup>, but a new law is in the final stages of preparation.

There is no comprehensive programme for the development of public financial management (PFM).

The legal framework for public procurement in Kosovo, which covers utilities, concessions and public-private partnerships (PPPs), is largely aligned with the EU *acquis* on public procurement. However, it does not include legislation on defence procurement. The 2014 amendment of the Public Procurement Law (PPL)<sup>243</sup> inserted a clause on preferential treatment for domestic bidders, which conflicts with the basic principles of the EU *acquis*.

A functional institutional set-up is in place, with clear allocation of competences, but the Procurement Review Body (PRB) and Central Procurement Agency (CPA) are understaffed. A functional system of

---

<sup>237</sup> 2014 fourth quarter report on public debt.

<sup>238</sup> General government deficit is limited to 2% of GDP, with some flexibility in temporary breaches of less than 0.5% of GDP.

<sup>239</sup> Annual Financial Report 2014, Annex 9.

<sup>240</sup> Law No. 03/L-048, 2008 with subsequent amendments.

<sup>241</sup> Financial Management and Control Procedure Manual, 2011 developed with assistance from the previous EU technical assistance project.

<sup>242</sup> *International Standards of Supreme Audit Institutions*.

<sup>243</sup> Law No. 04/L-042 on Public Procurement, Official Gazette No. 18, 19 September 2011, <http://gzk.rks-gov.net/ActDetail.aspx?ActID=9425>; Law No. 04/L-237 on Amending and supplementing the Law No. 04/L-042 on Public Procurement in Kosovo, Official Gazette No. 25, 17 April 2014, <http://gzk.rks-gov.net/ActDetail.aspx?ActID=9425>.

remedies exists, although it is at risk of a new institutional vacuum<sup>244</sup> and has some other controversial aspects (e.g. fees that are excessively high and a low level of appeals against the decisions of the PRB).

Practical implementation of the procurement legislation remains the biggest challenge. The lack of expertise in planning and conducting tendering procedures (almost one-third are cancelled), lack of adequate planning of costs, overuse of the lowest price criterion and problems during the contract implementation phase are the most common issues<sup>245</sup>. The professional training provided to procurement officers and the guidance provided to economic operators is not comprehensive. The area is still<sup>246</sup> highly criticised by civil society and international organisations<sup>247</sup>, and various sources suggest that a general mistrust of the procurement system<sup>248</sup> prevails.

## 1.2. Main developments

Compared with the version published the previous year, the MTEF 2015-2017 includes detailed appropriations by direct budget organisations, but the estimates for key government policy areas, such as PAR, are no longer part of the MTEF.

The Government has merged the Central Harmonisation Units (CHUs) for FMC and internal audit (IA), with a view to strengthening the focus on FMC. On 15 April 2015, the Government adopted a revised Public Internal Financial Control (PIFC) strategy, covering both FMC and IA.

A new Law on the Establishment of the Office of the Auditor General and the Audit Office of Kosovo has been prepared and is awaiting Government approval. The new OAG law more clearly regulates the mandate and functional, operational and financial independence of the Auditor General (AG)<sup>249</sup>. The contract of the external AG ended 31 August 2014, but a new AG has not yet been appointed.

On 20 March 2014, the Public Procurement Law (PPL) was amended and a new provision was inserted (Article 60.A) on preferential treatment for domestic bidders<sup>250</sup>. New secondary legislation, that is, administrative instructions, were issued by the Public Procurement Regulatory Commission (PPRC), providing guidance on the application and interpretation of specific provisions of the PPL<sup>251</sup>.

In terms of institutional changes, a new monitoring department was set up within the PPRC, covering both *ex-ante* and *ex-post* monitoring of public contracts<sup>252</sup>, for the purposes of reinforcing monitoring

---

<sup>244</sup> Between August 2013 and March 2014, the Procurement Review Body was unable to fulfil its obligation because there were not enough Board members.

<sup>245</sup> Annual Work Report 2014 of the Procurement Review Body, February 2015, p. 18, <http://oshp.rks.gov.net/repository/docs/Annual-report%20-2014-englisht.pdf>, [Report on Public Procurement Activities in Kosovo for 2014](http://oshp.rks.gov.net/repository/docs/Annual-report%20-2014-englisht.pdf), February 2015, p. 49.

<sup>246</sup> SIGMA (2013), *Assessment of Kosovo*, OECD Publishing, Paris.

<sup>247</sup> Project against Economic Crime in Kosovo (funded by the EU and the Council of Europe, implemented by the Council of Europe), "Assessment Report on compliance with international standards in the anti-corruption area", p. 130-141, June 2013, [www.coe.int/t/DGHL/cooperation/economiccrime/corruption/Projects/PECK-Kos/Assessments/2590\\_PECK\\_AC%20Assessment%20Report\\_FINAL.pdf](http://www.coe.int/t/DGHL/cooperation/economiccrime/corruption/Projects/PECK-Kos/Assessments/2590_PECK_AC%20Assessment%20Report_FINAL.pdf) and follow-up report on compliance with international standards in the area of anti-corruption (AC), pp. 31-33, April 2014: [http://www.coe.int/t/DGHL/cooperation/economiccrime/corruption/Projects/PECK-Kos/FOLLOW%20UP/AC/2590-PECK-AC\\_Follow-up\\_Report\\_F.pdf](http://www.coe.int/t/DGHL/cooperation/economiccrime/corruption/Projects/PECK-Kos/FOLLOW%20UP/AC/2590-PECK-AC_Follow-up_Report_F.pdf).

<sup>248</sup> For example, see Monitoring Report of Public Procurement in Kosovo, "Public procurement: hidden tenders", by BIRN (Balkan Investigative Reporting Network), February 2015, interview with RIINVEST – Institute for Development Research.

<sup>249</sup> Draft Law on the Auditor General and National Audit Office, Articles 3, 10, 13, 15 and 18.

<sup>250</sup> Law No. 04/L-237 on Amending and supplementing Law No. 04/L-042 on Public Procurement.

<sup>251</sup> Administrative instruction No. 03/2014 on the implementation of Article 9 of the Public Procurement Law on Availability of assets for conduct of procurement activities; Administrative instruction No. 02/2014 for Tender Security, Performance Security and Application of award criteria economic and financial; Administrative instruction No 01/2014 on the implementation of Articles 27.1 and 28 of the Public Procurement Law, the standard form for correcting mistakes in published notifications.

<sup>252</sup> See the organisational chart of the Public Procurement Regulatory Commission, in: Operational Guidelines for the Public Procurement Regulatory Commission (PPRC), Chapter 3.

Kosovo  
Public Financial Management

of the public procurement market and practices. The new PRB Board members were appointed by the Assembly in March 2014, which allowed the remedies system to start operating again after an interval of eight months.

A long-delayed list of common-use items for central purchasing was finally adopted by the Government in February 2015<sup>253</sup>.

Among the main strategic developments was the adoption of the National Public Procurement Training Strategy 2014-2018, with an overall goal of enhancing the quality and quantity of public procurement training. In April 2014, the Government approved the Strategy on Development of Public-Private Partnerships 2014-2016<sup>254</sup>.

---

<sup>253</sup> Administrative Instruction No. 02/2015 for the implementation of central public procurement procedures, approved by the Government with decision No. 02/13 on 12 February 2015, published in the Official Gazette on 07 April 2015. <http://gzk.rks-gov.net/ActDetail.aspx?ActID=10772>.

<sup>254</sup> No. 11/181 Decision of the Government on 02 April 2014. [http://www.kryeministri-ks.net/repository/docs/Vendimi\\_i\\_mbledhjes\\_se\\_181-te\\_te\\_Qeverise\\_2014.pdf](http://www.kryeministri-ks.net/repository/docs/Vendimi_i_mbledhjes_se_181-te_te_Qeverise_2014.pdf).

## 2. ANALYSIS

The analysis covers the 16 Principles of the public financial management area, grouped under eight key requirements<sup>255</sup>. 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 principal budget planning documents, the medium-term budgetary framework (MTBF) and annual budget package include many of the elements of complete budget documentation, but the underlying plans for revenues have been overestimated. The budget deficit is greater than the nominal ceiling established by the LPFMA.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	1	MTBF strength index.	2014	3
	1	Fiscal rules strength index.	2014	2
	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 the planned budget revenues in the MTBF (as approved two years before the latest available year) and the outturn of the latest available year.	2014	-6.8%
	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	+1.3%
	2	General government budget balance.	2014	-2.3% <sup>256</sup>
	2	Percentage differences between the planned budget revenues (as approved in the Budget) compared to the outturn of the latest available year.	2014	-8.6%
	2	Percentage differences between the planned budget expenditures (as approved in the Budget) compared to the outturn of the latest available year.	2014	-8%

<sup>255</sup> SIGMA (2014), *The Principles of Public Administration*, OECD, Paris, pp. 75-109.

<sup>256</sup> As a share of GDP.

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 budgetary 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.***

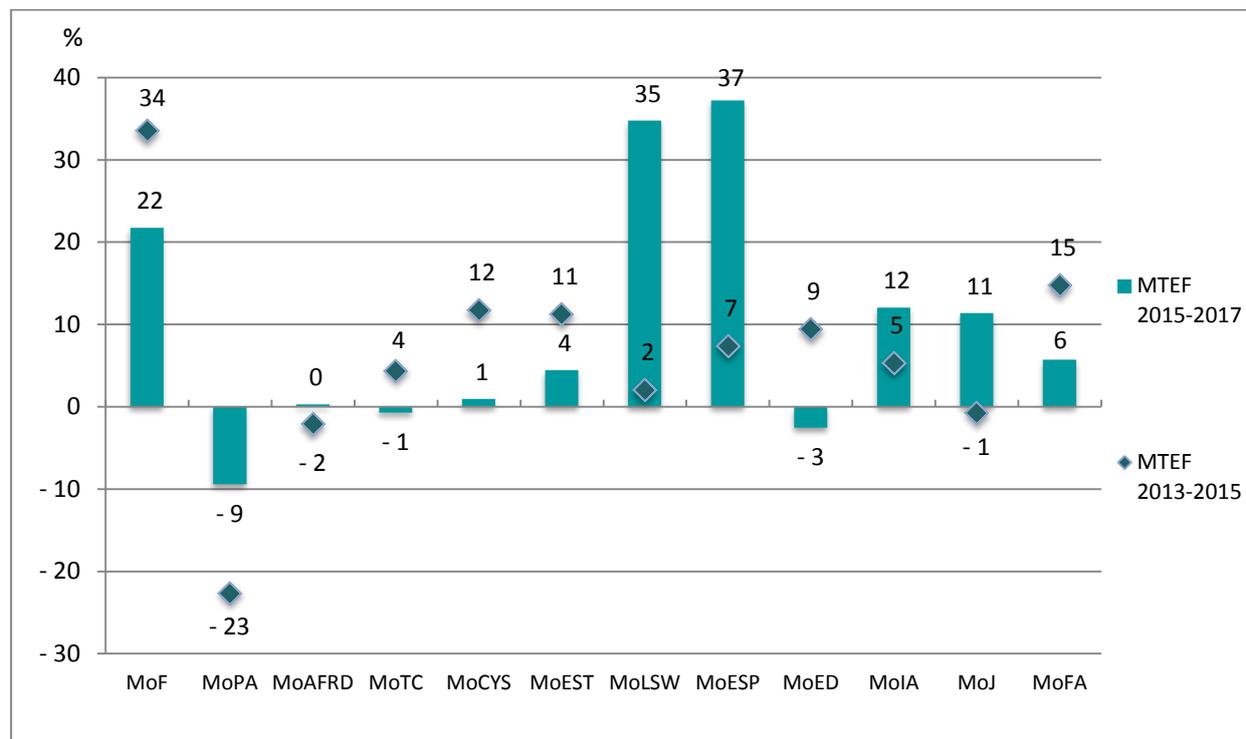
The MTEF 2015-2017 complies with the requirements of the EU Directive on Budgetary Frameworks<sup>257</sup>. It presents a three-year forward-looking time horizon, framed in the context of stated Government priorities and the economic and fiscal outlook, and includes spending estimates for all direct budget organisations. A basic structure for priority setting is in place, but it does not yet function as an instrument for resource allocation.

The MTEF 2015-2017 includes all revenues and planned expenditures of all levels of government, but not all donor funds (including funding from the Instrument of Pre-Accession) are part of the MTEF estimates. Planning of IPA funds is not actively co-ordinated with the MTEF preparations, although the Strategic Planning Committee, which includes representatives of the Office of the Prime Minister and the Ministry of European Integration, forms a good basis for carrying out this role. The 2015 Economic Reform Programme includes an overview of planned structural economic reforms and is coherent with the fiscal policy presented in the budget plans.

Although the MTEF is a well-presented medium-term outlook for public finances and is adopted by the Government, use of budget ceilings for the preparation of the annual budget is limited. There are considerable differences between the sector ceilings estimated in the MTEF and actual budgetary allocations within the 2015 budget, with variations in both directions (Figure 2). In 2014, this could be explained by the change of Government but a similar pattern had also emerged in previous years.

<sup>257</sup> Council Directive 2011/85/EU, 8 November 2011.

**Figure 2. 2015 annual budget for selected key ministries compared to budget ceilings of the MTEF 2015-2017 (percentage difference from the ceilings of the MTEF) and the same comparison between the 2013 annual budget and the budget ceilings of the MTEF 2013-2015<sup>258</sup>**



Sources: Medium-Term Expenditure Framework 2015-2017 and 2015 Budget Law; SIGMA calculations.

Since the MTEF is not approved by the Assembly and budget ceilings allow variations, the baseline value for the indicator on MTBF strength is 3.

Basic fiscal rules limit the budget deficit to 2% of GDP<sup>259</sup> and the total public debt ceiling to 40% of GDP<sup>260</sup>. While the total debt of Kosovo is comfortably within the limit, in 2014 the Government was not able to meet the deficit limit (the deficit was 2.25% of GDP). However, the fiscal rule was not broken, since the law provides for the necessary flexibility if the excessive deficit is within 0.5% of GDP. Kosovo has not yet established a system for independent monitoring of compliance with fiscal rules and the medium-term budgetary framework. There are no automatic correction mechanisms in case of non-compliance, and there is only limited media interest if the fiscal rule is not met. In light of these factors, the baseline value for the indicator on fiscal rule strength is 2.

**The MTEF 2015-2017 has comprehensive coverage. The sectoral ceilings established within the MTEF have a role in framing the budget discussions, but they are still renegotiated before the annual budget is finalised.**

<sup>258</sup> MoF – Ministry of Finance; MoPA – Ministry of Public Administration; MoAFRD – Ministry of Agriculture, Forestry and Rural Development; MoTC – Ministry of Transport and Communications; MoCYS – Ministry of Culture, Youth and Sports; MoEST – Ministry of Education, Science and Technology; MoLSW – Ministry of Labor and Social Welfare; MoESP – Ministry of Environment and Spatial Planning; MoED – Ministry of Economic Development; MoIA – Ministry of Internal Affairs; MoJ – Ministry of Justice; MoFA – Ministry of Foreign Affairs.

<sup>259</sup> Law on Public Financial Management and Accountability, Article 22A.

<sup>260</sup> Law on Public Debt, Article 5.

***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 budgetary system is set out comprehensively in the Law on Public Financial Management and Accountability<sup>261</sup>. The annual budgetary cycle is clearly established and was adhered to in 2014. Budget organisations complied with the budget circulars provided by the Ministry of Finance (MoF), which include costs of the years beyond the budget year. The process of preparing the draft budget bill is, however, unnecessarily complicated – with three subsequent budget circulars between June and September.

The 2015 annual budget documentation, as submitted to the Assembly, includes all the basic information needed for informed decision making. But since it does not include the most recent estimate on the current year, information on contingent liabilities, long-term projections or non-financial performance information, the baseline value for the indicator on the extent to which the annual budget proposal includes full information is 2.

In addition, the summary of fiscal risks does not cover the most significant risk to the budget, a very high level of capital spending. Capital spending forms over 27% of the 2015 budget – extremely high by international standards. Considering existing weaknesses in appraisal and planning of capital investment, a significant risk exists in both the short-term (in the form of variations in spending) and the medium- to long-term (in the form of unforeseen future costs that are not captured).

The annual budget presents a very detailed picture, including the separation of small-scale investment projects. The capital budget for municipalities is particularly detailed, including projects with the value of EUR 5 000. Some spending that should be counted as current expenditure is imprecisely attributed to the capital budget (e.g. expenditure related to clearing roads in winter or payments for court decisions).

Macroeconomic estimations for 2014 were optimistic and revenues turned out to be 9% less than planned in the budget. To a large extent, the Government was able to adjust spending.

The Assembly received the 2015 budget bill in October 2014. There is increasing co-operation between the MoF and the Budget and Finance Committee of the Assembly. In 2014, the members of the Assembly participated as observers in budget hearings held between the MoF and budget organisations.

**In 2014, the budget cycle followed the procedures and deadlines foreseen in the legislation. The budget coverage is comprehensive, although the budget is split into detailed cost items at the level of the budget approved by the Assembly.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The MoF should reintroduce the inclusion of medium-term budget estimates for key Government policy areas in the MTEF.
- 2) The MoF should prepare proposals for the Government that would strengthen the multi-annual budget ceilings in the MTEF by establishing clear conditions for deviations within the same year and the precise procedure for explaining deviations from the ceilings.
- 3) The MoF should organise a thorough review of current budgetary appropriations under the capital budget and, starting from the following annual budget, move any expenditure that is essentially current expenditure to respective budget lines.

---

<sup>261</sup> Law No. 03/L-048, 2008.

**Medium-term (3-5 years)**

- 4) The MoF should simplify the process of annual budget planning by reducing the number of budget circulars from three to one.

**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**

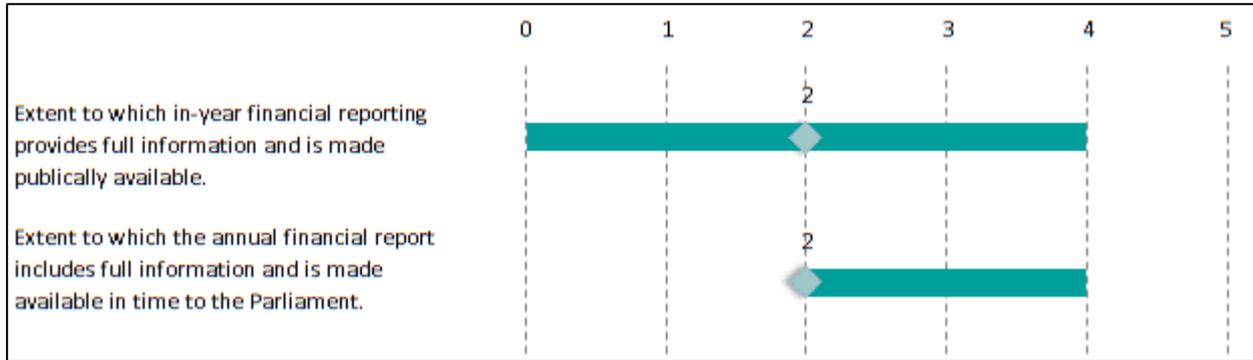
The functioning of medium-term and annual resource planning is analysed using three qualitative indicators and five quantitative indicators.

The indicators in this section provide a diverse picture of practices in budget execution, debt management and reporting. There is considerable variation in actual spending compared to monthly estimates at the beginning of the year and the arrears persist. However, public debt servicing costs are low, and both in-year and end-year financial reporting covers many of the elements expected by the Principles of Public Administration.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	5	Extent to which in-year financial reporting provides full information and is made publically available.	2014	2
	5	Extent to which the annual financial report includes full information and is made available in time to the Parliament.	2014	2
Quantitative	3	Average percentage differences between cash flow projections and actual cash balance on a monthly basis.	2014	12.1%
	3	Accumulated arrears for central government measured as a percentage of total expenditure at the end of the latest available calendar year.	2014	5.7%
	4	Public-sector debt servicing costs as a share of gross domestic product.	2014	0.7%
	4	Difference of public-sector debt level outturn from target.	2014	-8%

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

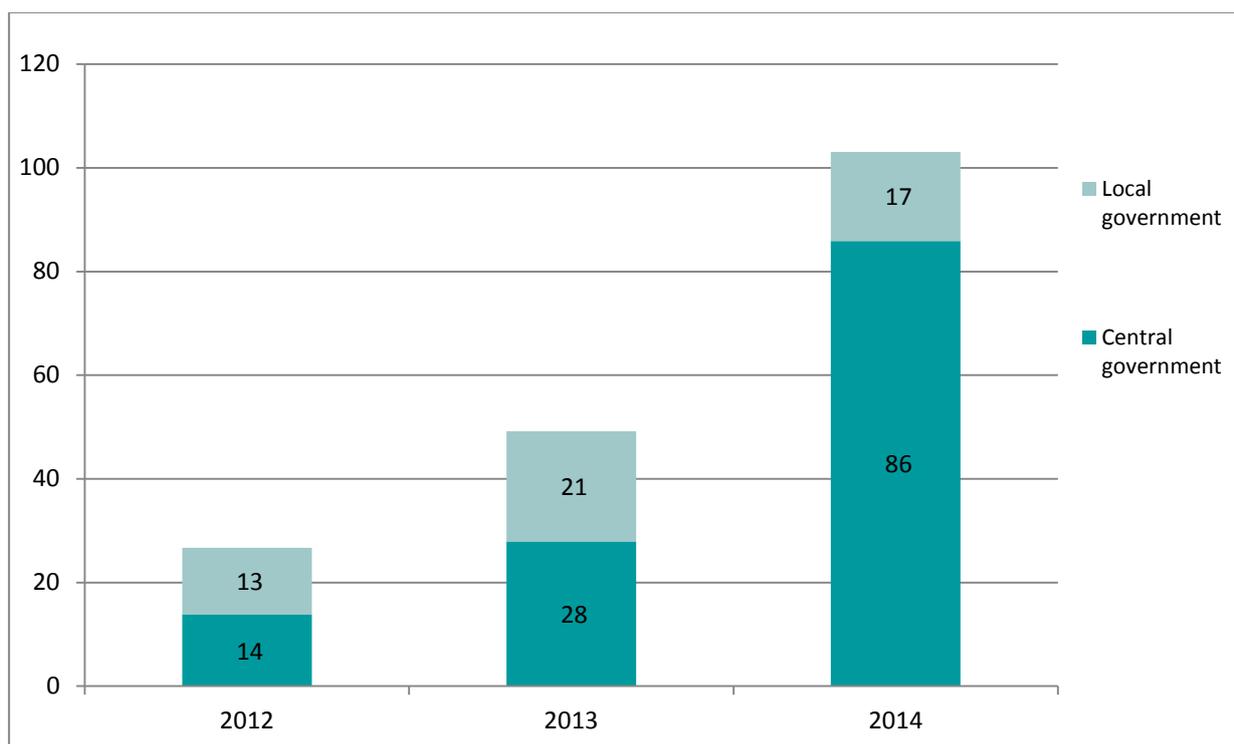
All cash is managed through the treasury single-account system. Cash planning is organised by the Treasury Department and operates routinely on a monthly basis, and all first-level budget organisations present their cash flow estimates for a year. However, there are considerable variations between planned and actual monthly spending (12.1% on average). Significant end-of-year spending pressure exists: in December 2014, government spending was twice as high as the average of other months.

The treasury control system is detailed and provides systematic safeguards against casual misappropriations in the Kosovo Consolidated Fund<sup>262</sup>. But these controls have not been effective in limiting the amount of arrears, which are high compared to most other EU Enlargement countries (5.7% of the central government budget in 2014). The total amount of unpaid liabilities has increased four times in two years<sup>263</sup>. This suggests a more systematic problem in budget management and places further pressures on public spending in the coming years.

<sup>262</sup> Treasury single account.

<sup>263</sup> The large increase in unpaid liabilities is due to increased expropriation decisions for acquisition of property for public infrastructure investments. Unpaid liabilities to the private sector have been counted in the statistics.

**Figure 4. Change in the stock of arrears from 2012 to 2014 (millions of EUR)**



Source: Annual Financial Report 2014, SIGMA calculations.

Once a request has been submitted to the Treasury via the appropriate authorised channels, disbursements can usually be made the same day or the following morning. However the procedures within budget organisations are complex and time consuming<sup>264</sup>.

The MoF uses several separate information technology (IT) systems to manage the budget: Budget development management system, Public investment Planning system, Kosovo financial management information system (KFMIS), Payroll information system, E-procurement, E-assets. These IT systems are not appropriately linked (e.g. E-assets and the assets module in KFMIS are not integrated with the other PFM software), increasing the workload and the risk of error with multiple manual insertions of data. Nevertheless, regular reconciliation is ensured between the Treasury Consolidated Fund and accounting information systems.

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

***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 public debt level is low in Kosovo, 10.6% of GDP at the end of 2014. Also the debt servicing costs are low, at 0.7% of GDP in 2014<sup>265</sup>. This relieves the Government of the pressure to roll over significant amounts of borrowing, and debt management forms a less critical part of overall PFM operations. Also the municipalities in Kosovo have not entered into borrowing, although a legal opportunity for this exists. In 2014, the actual outturn of public debt was 8% lower than estimated when the 2014 annual budget was prepared in autumn 2013.

<sup>264</sup> Further information is provided under Principle 6.

<sup>265</sup> 2014 Report on Public Debt.

Responsibilities for debt management are clearly set out in the Law on Public Debt<sup>266</sup>. Only the MoF carries out central government borrowing. Both debt management and cash management are part of the Treasury Department, and there is regular co-operation to ensure liquidity.

The State Debt Programme 2014-2017 includes basic sensitivity analyses and foresees public debt stock rising in all scenarios. In recent years, Government borrowing has taken place either in the form of financing contracts with international financing institutions or by issuing treasury bills. Most public debt is external, but since 2012 when the treasury bills were issued, the share of domestic debt has risen to 44% of total public debt<sup>267</sup>. The MoF reports on debt management quarterly and the reports are made public.

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

***Principle 5: Budget transparency and scrutiny are ensured.***

The annual budget is presented in a detailed and transparent manner and is made available to the public when submitted to the Assembly. Monthly reports of government revenues, expenditure and borrowing are published regularly, although only at an aggregate level, and progress made in spending at individual budget organisation level is not provided. Also, variations to monthly profiles planned in the beginning of the year are not presented or explained. In light of these factors, the baseline value for the indicator on the extent to which in-year financial reporting provides full information and is publicly available is 2.

The annual financial statement mirrors the budget structure, but it does not provide information on contingent liabilities or on non-financial performance. It is published within three months after the end of the calendar year and is normally discussed in the Assembly before the next annual budget is received from the Government. However, the Assembly never debated or voted on the 2013 annual financial report<sup>268</sup>. Therefore, the baseline value for the indicator on the extent to which the annual financial report includes full information and is made available on time to the Parliament is 2.

Accounting standards are defined, although data compliant with the European System of National and Regional Accounts (ESA2010)<sup>269</sup> is not used. The Government provides basic information as well as more sophisticated data, including data on the value of assets.

Many elements for ensuring basic budget transparency are in place and implemented regularly. However, public information on changes to the annual budget made by the Government during the budget year is not transparently disclosed. There is a lot of room for the Government to move budget funding around (25% between budget lines) without the need to amend the budget in the Assembly<sup>270</sup>.

In addition, a comprehensive planning document for PFM-related reforms does not exist in Kosovo. No structure exists in the MoF with the function of co-ordinating PFM reforms.

**The basic conditions for budget transparency are in place, and scrutiny over public finances is ensured by the operations of the Office of the Auditor General whose reports are published regularly. The main weakness in transparency is related to frequent changes to the budget during the calendar year without disclosure or explanation of these variations during the year. In 2014, the Assembly failed to vote on the 2013 annual financial report.**

---

<sup>266</sup> Law No. 03/L-175, 2009.

<sup>267</sup> 2014 Report on Public Debt.

<sup>268</sup> In 2014, there was a long period of political stalemate with no agreement on the formation of the Government.

<sup>269</sup> Regulation (EU) 549/2013.

<sup>270</sup> LPMFA, Article 30.

**Key recommendations**

**Short-term (1-2 years)**

- 1) The MoF should prepare a comprehensive medium-term planning document for PFM, providing overall direction for reform and establishing links with existing initiatives in the areas of PIFC, public procurement, external audit and oversight by the Assembly.
- 2) The MoF needs to develop a detailed plan for integrating its electronic management information systems for budget management.
- 3) The MoF needs to establish an operational plan to reduce the stock of unpaid liabilities and to strengthen internal controls to avoid the increase of arrears in the future.
- 4) The MoF should prepare and publish monthly reports that provide data on spending by first-level budget organisations.

**Medium-term (3-5 years)**

- 5) The MoF should propose amendments to the LPFMA to limit the authority of the Government to make amendments to the annual budget during the calendar year.

**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**

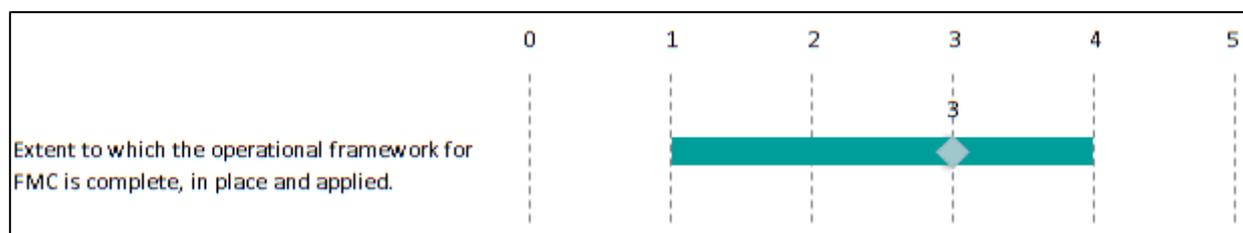
The functioning of financial management and control is examined through one qualitative indicator, covering ten critical elements of an effective framework complemented by three quantitative indicators to analyse to what extent basic conditions for financial management and control are in place.

The operational framework for the development of FMC is largely in place, but implementation is not followed by all budget organisations required to do so. Basic administrative preconditions for enabling the development of accountability in financial management are established.

	Principle no.	Indicator	Baseline year	Baseline value
Qualitative	6	Extent to which the operational framework for FMC is complete, in place and applied.	2014	3
Quantitative	7	Share of first-level budget organisations where budget structure is aligned with the organisational structure.	2014	93%
	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	93%
	7	Wastefulness of Government spending (The World Economic Forum).	2014	Not available <sup>271</sup>

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 5. 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.***

The operational framework, which includes legislation, secondary legislation and more detailed procedural guidance, applies to ministries, agencies and municipalities. Reference to the COSO principles<sup>272</sup> is included in Treasury Regulations<sup>273</sup> and the FMC Manual. However, the legal framework is not fully harmonised with the PIFC requirements, which are not tailored specifically to local requirements in areas such as implementation of FMC and delegation arrangements.

On 15 April 2015, the Government adopted the Public Internal Financial Control Strategy 2015-2019. The Strategy is based on a thorough assessment of weaknesses and has comprehensive coverage. Although it establishes obligations for various departments in the MoF, it does not foresee activities by

<sup>271</sup> Kosovo is not included in the annual World Economic Forum Global Competitiveness Report.

<sup>272</sup> The principles of the Committee of Sponsoring Organisations of the Treadway Commission were originally drafted for application to private-sector companies.

<sup>273</sup> Treasury Financial Rule 01/2010, Financial Management and Control.

other co-ordinating state authorities, such as the Office of the Prime Minister or the Ministry of Public Administration.

Responsibilities are defined for a range of roles, including head of budget organisation, chief administrative officer<sup>274</sup>, authorising officer, certifying officer and chief financial officer. The way these roles are defined and structured does not ensure effective FMC. The head of the organisation is responsible for policy implementation, but the secretary general is responsible for signing financial statements, which show the resources used for policy implementation. Certifying officers are responsible for detailed checking against contracts and other documentation late in the payment process, after sign-off by authorising officers, and they are often not at the level in the hierarchy required by the regulations. The role of the chief financial officer is limited to maintaining the accounts without any further contribution to the effectiveness of internal control. In addition, the detailed nature of the annual budget and various other reporting requirements lead to an increased workload that keeps the focus of financial management on annual budget execution, limiting development of more strategic financial management.

In relation to weaknesses in financial management information systems<sup>275</sup>, there is no plan to show how a FMC roll-out can be supported by accurate, relevant and timely information, and there is no centralised IT management to facilitate the changes needed.

The CHU provides an annual report to the Government on progress on introduction of FMC that is largely based on a survey of all budget organisations required to implement FMC. This report is considered by the Assembly Committee on Oversight for Public Finance. In principle, the Committee can make recommendations to the Assembly, but it has not done so in practice. The report is not followed up by specific conclusions or recommendations on the part of the Government or the Assembly.

Taking into account the weaknesses described above, the baseline value for the indicator on the operational framework for FMC is 3.

**A complete framework for FMC is in place, but it needs to be updated and fully harmonised with other legislation. The Government has adopted a planning document that includes PIFC. Roles and responsibilities are defined for a number of posts in the budget organisations but their structure does not support effective FMC.**

***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 development of the organisational framework. The CHU annual report on FMC implementation at institutional level makes several references to a lack of understanding of FMC requirements.

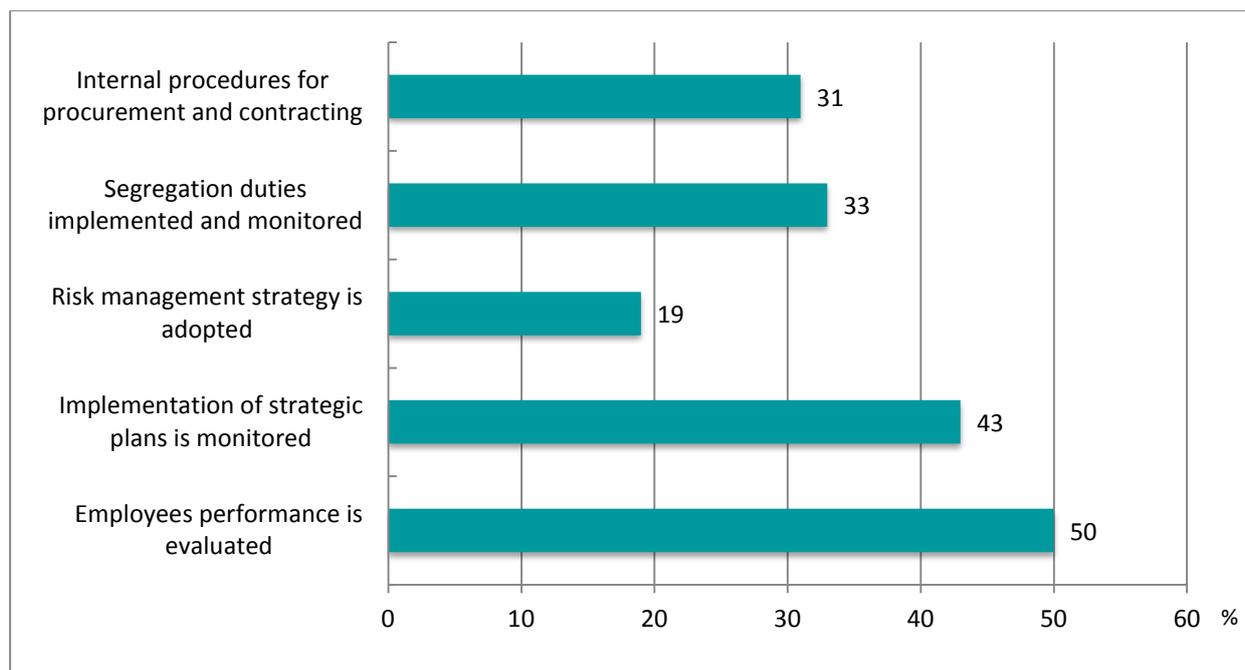
It is mandatory to complete the questionnaire that supports production of the CHU annual report, but for 2014 only 83% of budget organisations returned questionnaires and only 66% of municipalities responded. This demonstrates a lack of commitment to FMC. However, the rate of return has increased (from 61% in 2013), with the help of a new online process developed in 2014.

---

<sup>274</sup> Secretary General or a mayor of a municipality.

<sup>275</sup> Described under Principle 3.

Figure 6. Responses to selected questions on the 2013 FMC questionnaire



Source: Central Harmonisation Unit financial management and control Annual Report for 2013, March 2014.

The CHU annual report is based on responses to the questionnaires, without any checking to verify accuracy. This raises the risk that the actual position is worse than indicated through the survey. To improve institutional understanding of FMC requirements and to achieve progress in implementation, the MoF has started pilot roll-outs of FMC methodology in three budget organisations, including training for their staff.

The structure and level of detail in the budget provide a sound basis for budget delegation within institutions. There is high level of consistency between budget and managerial structures (93% of organisations have aligned budget and management structures), and all of those organisations can provide detailed financial information to their operational managers.

**Development of FMC at an institutional level is lagging behind development of the overall framework for FMC. A low rate of completion of the mandatory questionnaire indicates a lack of commitment to FMC. There is a good level of formal budget delegation.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The MoF should start implementing the activities foreseen in the PIFC Strategy 2015-2017.
- 2) The MoF should seek more tangible support from the Government for FMC development by requesting Government decisions requiring specific actions to be taken by budget users to implement proposals in the CHU annual report on FMC.
- 3) The MoF should clarify and simplify and, where necessary, restructure, roles and responsibilities in financial management for heads of budget organisation, chief administrative officers, authorising officers, certifying officers and chief financial officers, to ensure effective financial management and control.
- 4) The MoF should carry out a more detailed follow-up of its FMC questionnaire, gathering evidence directly from institutions on a sample basis to provide greater insight into the findings and greater certainty of accuracy.

- 5) The MoF needs to analyse existing practices in budget management, human resource management and other areas that determine managerial responsibilities in the public sector, and to identify provisions of the PIFC regulation that need to be aligned to other national regulations.

**Medium-term (3-5 years)**

- 6) The MoF should gather practical lessons from the pilot FMC roll-outs to provide guidance for wider implementation of FMC.
- 7) In co-operation with the Kosovo Institute of Public Administration, the MoF needs to prepare a financial management training programme for relevant public sector employees and start implementation of this programme.
- 8) In co-operation with the Ministry of Public Administration, the MoF should ensure, through close monitoring, that arrangements for delegated authority are put in practice in budget organisations.

**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**

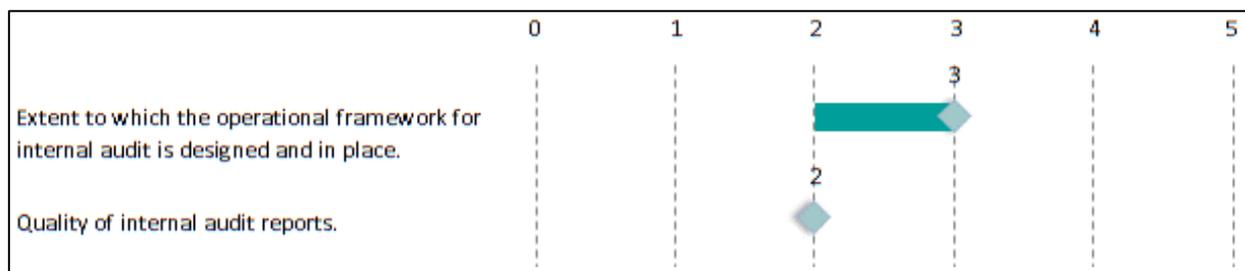
The functioning of internal audit (IA) is examined through two qualitative indicators, one covering ten critical elements for an effective IA framework and the other covering the quality of IA reports prepared by Kosovo’s public organisations. These are complemented by three quantitative indicators that deal with levels of staffing and training as well as compliance with national planning requirements.

The indicators demonstrate that implementation of the national legal provisions is a continuous challenge for public sector organisations. The quality of IA reports varies, with a focus in most cases on compliance with existing rules and procedures.

	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	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
<b>Quantitative</b>	8	Share of public administration organisations meeting national legal requirements for establishing and minimum staffing of internal audit units.	2014	49%
	8	Share of internal auditors with a national or international internal audit certificate.	2014	45%
	9	Share of organisations with annual internal audit plans conforming to national legal requirements.	2014	92%

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 7. 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 operational framework for internal auditing applies to all public sector entities in Kosovo and is established by the Law on Internal Audit<sup>276</sup> and subsidiary administrative instructions, covering issues such as the size of internal audit units<sup>277</sup> and licensing of internal auditors<sup>278</sup>. Overall numbers of internal auditors have increased slightly during 2014, with a more substantial increase in the proportion who have international certificates, but all organisations required to do so have not established IA units. Only 45% of internal auditors have certificates, and the annual report on IA does not analyse progress in the quality of IA work. In light of these factors, the baseline value for the indicator on the operational framework for IA is 3.

The number of internal auditors certified by the Chartered Institute of Public Finance and Accountancy rose from 32 in 2013 to 67 in 2014, but sustainability of this training is not ensured, since it relies on external funding. The majority of internal auditors are subject to a temporary licensing regime, with a temporary licence granted after just one week's training.

Extensive guidance material is available for internal auditors, including manuals and templates. However, some of this is not tailored to local circumstances (for example, the model IA charter refers to the chief audit executive, the chief executive of the organisation and to its board). There is a section in the IA manual on IT audits, an area of concern for governments which are heavily dependent on IT systems. This is normally an area where additional qualifications<sup>279</sup> and experience are required. The CHU does carry out some quality assurance work, focusing on completed reports, but this does not provide full support to the IA units in developing the quality of their work.

A further requirement of the Internal Audit Law, is the introduction of audit committees in larger organisations. Currently, 69% of organisations have audit committees. Even some organisations with a single-person IA unit have an audit committee, adding to the overall administrative burden.

<sup>276</sup> Law No. 03/L-128 2009 on Internal Audit.

<sup>277</sup> Administrative Instruction 23 2009 on the Establishment of Internal Audit Units in the Public Sector.

<sup>278</sup> Administrative Instruction 22 2009 on Criteria and Procedures for the Temporary Licensing of Internal auditors in the Public Sector.

<sup>279</sup> For example, qualifications such as Certified Information Systems Auditor from ISACA (previously known as the Information Systems Audit and Control Association).

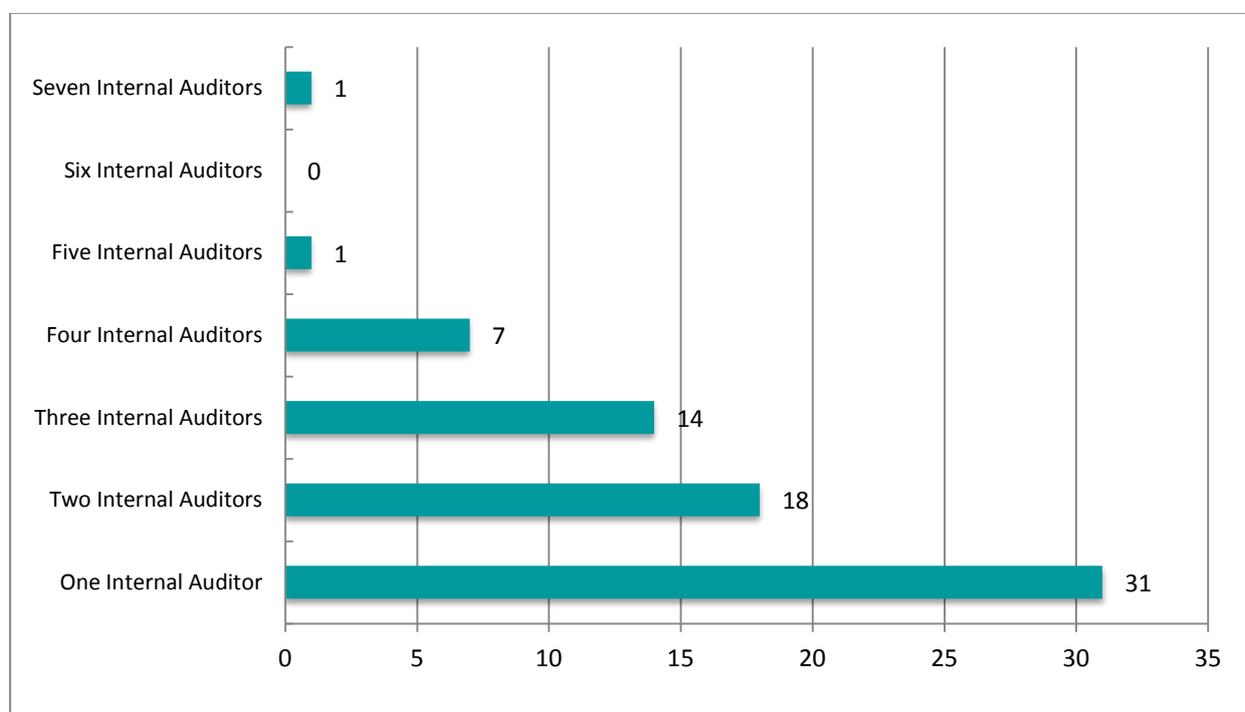
**Most elements of a solid framework for IA are in place. Not all organisations required to set up internal audit units have yet done so.**

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

Overall, 89% of organisations required to set up IA have done so, but only 49% meet minimum staffing levels, showing a lack of commitment to IA through a lack of funding for the necessary posts and/or a lack of suitably qualified staff for appointment (only 45% of the staff currently employed have international certificates). 92% of organisations have prepared annual internal audit plans in line with national requirements. Together these factors demonstrate that the overall framework for IA is not yet fully implemented.

The framework requires many small agencies and municipalities to set up their own IA arrangements, with a minimum requirement of a single internal auditor (Figure 8).

**Figure 8. Numbers of staff in internal audit unit**



Source: Central Harmonisation Unit Internal Audit Annual Report for 2013, March 2014.

It is difficult to recruit and retain staff of suitable ability and provide appropriate experience and training within such small units. In particular, international standards envisage a level of review and supervision within the IA structure<sup>280</sup> which is not possible within these units. To overcome this, the MoF is considering options for shared IA services, perhaps for a group of municipalities.

A sample of ten IA reports issued late in 2014 showed that the IA manual has not been consistently followed, but most audit reports meet the minimum requirements established by the national regulation<sup>281</sup>. The reports all covered issues of compliance with laws and regulations, but had less frequent reference to issues of internal control and little reference to performance. Most commonly, the following elements were not present in the reviewed audit reports: an overall assessment or

<sup>280</sup> International Standards for the Professional Practice of Internal Auditing, Attribute Standard 2340, Engagement Supervision.

<sup>281</sup> The national legal requirements are more flexible, with fewer legally binding requirements.

opinion on the assignment included in the executive summary<sup>282</sup>; findings classified in order of their significance<sup>283</sup>. This leads to a baseline value of 2 for the indicator on the quality of internal audit reports.

CHU figures from the 2013 annual report show an average of six reports per year per internal audit unit and three per year per internal auditor. Productivity ranges from half a report per internal auditor to up to ten reports per internal auditor. The six lowest figures are all from units with more than one internal auditor, but beyond that there is little correlation with the size of unit. Some of this variation results from time spent on training and recruitment over the year, but in undertaking its quality assurance work, the CHU needs to ensure that it understands any other causes for the level of variation in performance.

**Only half of the IA units meet minimum staffing levels. This is not conducive to an efficient and effective IA service. Individual audit reports do not fully meet the guidelines laid down in Kosovo and focus primarily on compliance with existing rules and procedures. There is high variation in the number of reports produced per internal auditor.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The MoF needs to develop sustainable long-term arrangements for training internal auditors for the public sector.
- 2) The MoF needs to establish arrangements for internal audit to be provided on a shared service basis to overcome the risks and inefficiencies of the current number of single-person internal-audit units.
- 3) The MoF needs to establish more systematic quality assurance arrangements to provide support to the heads of IA units in ensuring continuous development of the IA function in their organisations.

#### **Medium-term (3-5 years)**

- 4) The MoF should develop its own IT audit capability.

---

<sup>282</sup> Audit Manual 2 defines four levels of assessment: adequate, needs improvement, needs significant improvement and inadequate p. 68.

<sup>283</sup> Audit Manual 2 defines three levels of priority p. 71.

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

**Baseline values**

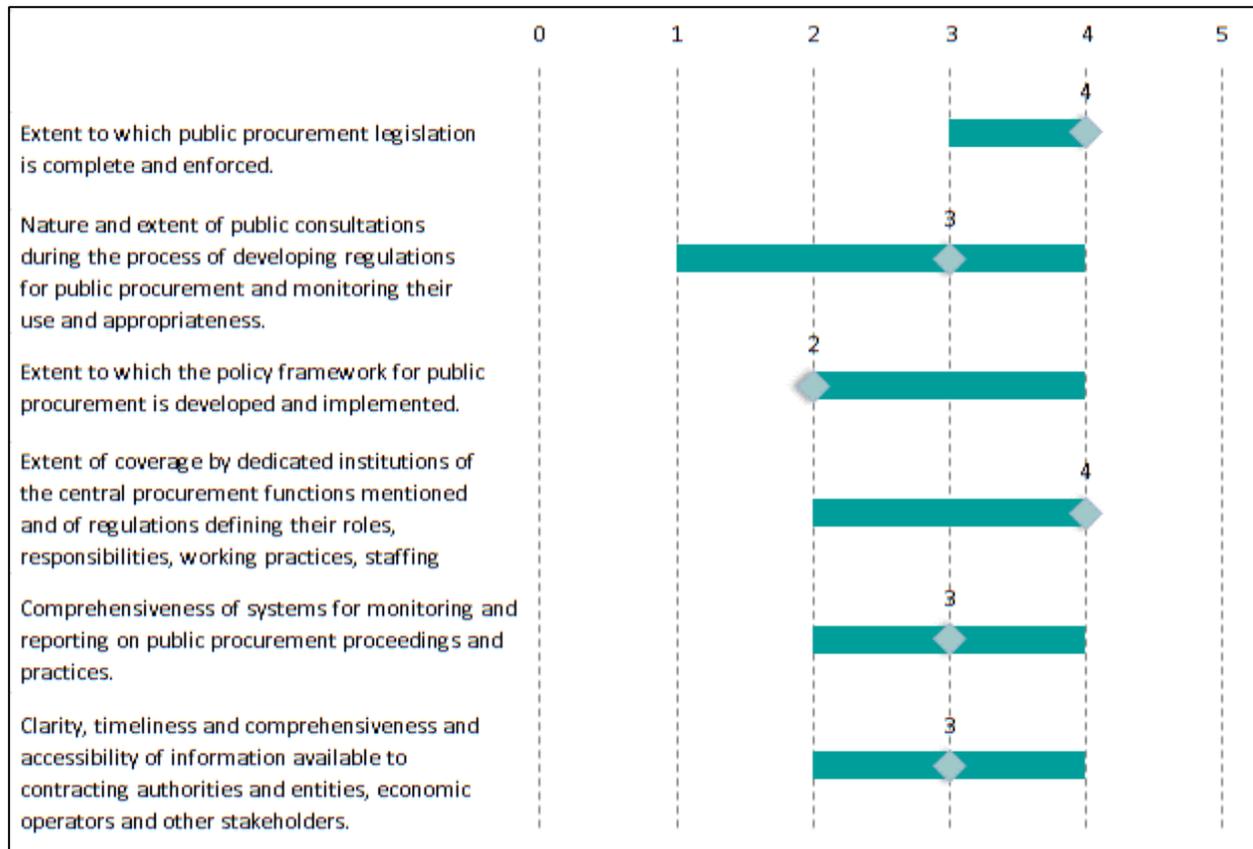
The key requirement for harmonisation of public procurement regulations with the EU *acquis*, as well as the establishment of corresponding institutional structures and arrangements, is examined through six qualitative indicators. The first two describe the extent to which the legislation is complete and enforced, covering the eight main goals defined in Principle 10, and the openness of policy making and monitoring. The next two indicators concern the development and implementation of the policy framework and the existence and performance of a dedicated institution for central procurement functions. The last two indicators cover the effective monitoring of the public procurement system and the extent to which information about its workings is readily available to all interested parties.

In Kosovo, a legal and institutional framework for public procurement is in place, despite certain gaps in conformity with the *acquis*, especially concerning defence procurement and the preferential treatment for domestic bidders. The strategic framework for the public procurement system has yet to be adopted. Public consultations are held in the course of regulatory development, and regular reports on public procurement are prepared and published.

	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	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	3
	11	Extent to which policy framework for public procurement is developed and implemented.	2014	2
	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	4
	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	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 9. 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 duly enforced.***

The legal framework for public procurement is largely in alignment with the EU *acquis*. It also reflects the principles of public procurement, such as value for money, free competition, transparency, equal treatment, mutual recognition and proportionality. However, the PPL applies a preference system for domestic bidders as a result of a recent amendment adopted in March 2014<sup>284</sup>. Pursuant to Article 60.a of the PPL, contracting authorities are under an obligation to give preferential treatment to domestic bidders. The PPL<sup>285</sup> refers to the deadlines defined in the Stabilisation and Association Agreement (SAA), but without any clear roadmap for the elimination of these preferences in relation to EU companies.

<sup>284</sup> Law No. 04/L-237 on Amending and supplementing the Law No. 04/L-042 on Public Procurement, Official Gazette, No. 25, 17 April 2014, <http://gzk.rks-gov.net/ActDetail.aspx?ActID=9425>.

<sup>285</sup> Article 134.A of Public Procurement Law – incorporated into the Public Procurement Law by Article 2 of Law No. 04/L-237.

Kosovo  
Public Financial Management

The PPL covers both the classical and utilities sectors, but the provisions on utilities do not make use of all available instruments envisaged in the Utilities Directive<sup>286</sup>. The PPL regulates areas not covered by the *acquis* (e.g. low-value contracts) and also regulates the procurement process from the early stages of planning to contract management. Secondary legislation<sup>287</sup> enabling the contracting authorities to conduct procurement procedures and conclude contracts is in place. In 2014, new secondary legislation (administrative instructions) was issued by the PPRC<sup>288</sup>. However, as the PPL was applicable from 5 October 2011, these developments come rather late (see especially the necessary secondary legislation for centralised purchasing<sup>289</sup>).

Concessions and PPPs are regulated under a separate law<sup>290</sup>. The PPP Law provides a robust legal framework in this area. However, the Law leaves scope for further alignment with the EU *acquis*, in order to transpose the new Concessions Directive<sup>291</sup>.

The Defence Directive<sup>292</sup> has not been transposed, and there are no specifically adapted rules for defence procurement. No public procurement procedures in this sector are applied, but the “legitimate secrecy or the security interests” exemption of Article 3 of the PPL is invoked<sup>293</sup>.

The regulatory situation leads to a value of 4 for the indicator on the extent to which legislation is complete and enforced.

There is a statutory obligation for the PPRC, the PRB and the CPA to allow for public consultations by providing draft legislation to the public and interested parties<sup>294</sup>. In principle, all stakeholders may provide comments within 15 days of the drafts being made available. Systematic publication of regulatory drafts for the purpose of public consultations by the PPRC on its website serves as an example of how this procedure is put into practice<sup>295</sup>. It also demonstrates a commitment on the part of the PPRC to provide an opportunity for the inclusion of the general public in the decision-making process. However, the legally required 15 days are used as a deadline in all cases, irrespective of the length and complexity of the consulted draft document. There are no reports back to the public on the outcome of the consultation, either on the homepage of the PPRC or in its annual reports. There are

---

<sup>286</sup> Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 co-ordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors, (Official Journal of the European Union L 134, 30 April 2004, p.1) e.g. Under Public Procurement Law utilities may not freely opt for a negotiated procedure with prior publication of notice.

<sup>287</sup> List of secondary legislation: [http://krpp.rks-gov.net/Default.aspx?PID=StdForms&LID=2&PPRCMenu\\_Open\\_Node=62](http://krpp.rks-gov.net/Default.aspx?PID=StdForms&LID=2&PPRCMenu_Open_Node=62).

<sup>288</sup> Administrative instruction No. 03/2014 on the implementation of Article 9 of the Public Procurement Law on Availability of assets for conduct of procurement activities; administrative instruction No. 02/2014 for Tender Security, Performance Security and Application of award criteria economic and financial; administrative instruction No 01/2014 on the implementation of Articles 27.1 and 28 of Public Procurement Law; standard form for correcting of mistakes in published notifications.

<sup>289</sup> Administrative instruction No.02/2015 for the implementation of central public procurement procedures, Official Gazette, 4 July 2015. <http://gzk.rks-gov.net/ActDetail.aspx?ActID=10772>

<sup>290</sup> No. 04/L-045 Law on Public-Private-Partnership, Official Gazette, No. 26, 25 November 2011, <http://pppkosova.org/repository/docs/Law%20on%20public%20private%20partnership%202011%20Nr.%2004L-045%20GZ.pdf>. and No. 03/L-090 Law on public-private partnerships and concessions in infrastructure and the procedures for their award: <http://pppkosova.org/repository/docs/Law%20No.%2003-L-090.pdf>, secondary legislation: <http://pppkosova.org/repository/docs/KDNM%20-%20Direktiva%204%20EN.pdf>

<sup>291</sup> Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts Text with EEA relevance (Official Journal of the European Union L 94, 28 March 2014, p. 1-64)

<sup>292</sup> Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the co-ordination 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, and amending Directives 2004/17/EC and 2004/18/EC, Official Journal of the European Union L 216, 20 August 2009, pp. 76–136.

<sup>293</sup> Information gathered in the interviews with the Public Procurement Regulatory Commission and the team leader of the EU-funded Technology Assessment project.

<sup>294</sup> Article 10(9) of the Public Procurement Law.

<sup>295</sup> E.g.: <http://krpp.rks-gov.net/Default.aspx?PID=Home&LID=2&PCID=-1&CtIID=HTMLStatic&CID=PPRCNews &ID=235>.

no facilities for corresponding online consultations. These factors result in a value of 3 for the indicator covering the nature and extent of public consultations.

**In Kosovo, a legal framework for public procurement is in place, despite some gaps in conformity with the *acquis*, especially concerning defence procurement and the preference system for domestic bidders. Public consultations are held in the course of regulatory development.**

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

There is a functional institutional set-up for public procurement-related policy development, implementation and monitoring. The PPRC, the PRB and the CPA are the main bodies in question, and the applicable legislation provides a clear allocation of functions and responsibilities among them. Some staff capacity problems persist. The PRB has only three functioning Board members, instead of five, and the CPA has a staff number of 15, although the CPA to the Government has expressed a need for 11 more staff members.

The PPRC is responsible for the overall policy and regulatory development, operation and supervision of the public procurement system, with advisory, monitoring and capacity-building functions<sup>296</sup>. It reports to the National Assembly and has a Board of three members, within a total staff of 28. The CPA<sup>297</sup> is responsible for central purchasing. In February 2015, the Government adopted the list of common items to be procured by the CPA. It took more than three years from the date of the establishment of the CPA to adopt the list. This delay prevented the CPA from fulfilling its core mandate and has not resulted in any central purchasing since its creation. The Director of the Agency was appointed in June 2014.

Public-private partnerships (PPPs), including concessions, are within the remit of the PPP unit within the MoF, which drafted the PPP Law and monitors its implementation. It is responsible for PPP policy development and support, capacity building and knowledge sharing. The Kosovo Institute of Public Administration (KIPA)<sup>298</sup> is in charge of training public procurement officers (for more details, see Principle 14). Each central public procurement function<sup>299</sup> is explicitly allocated to a competent institution, but the resources of some of the institutions appear to be insufficient. This leads to a value of 4 for the relevant indicator.

In April 2014, the Government approved the Strategy on Development of Public-Private Partnerships 2014-2016. However, there is no policy for the longer-term development of the public procurement system. Although the PPRC developed the draft of the National Public Procurement Strategy 2015-2020 and made it available for consultation<sup>300</sup>, the strategy has yet to be adopted by the Government, preferably in the framework of the public financial management strategic document. This situation leads to a value of 2 for the indicator on the extent to which policy framework is developed and implemented.

As of 1 January 2014, as part of internal reorganisation, two divisions were established within the PPRC's Supervision and Monitoring Department, to broaden the scope of its monitoring tasks. One division monitors procurement activities until the signature of contracts and the other monitors the implementation of contracts after they have been signed. As of 1 May 2014, a new procedure of checking the contract notices submitted by contracting authorities for publication has been established. This resulted in a total of 67 replies provided by the PPRC to contracting authorities in

---

<sup>296</sup> Article 86-88 of the Public Procurement Law.

<sup>297</sup> Article 94-97 of the Public Procurement Law.

<sup>298</sup> Law No. 04/L-221 on Kosovo Institute for Public Administration, Official Gazette No. 28, 28 April 2014.

<sup>299</sup> SIGMA (2014), *The Principles of Public Administration*, OECD Publishing, Paris, pp. 97-98.

<sup>300</sup> <http://krpp.rks-gov.net/Default.aspx?PID=Home&LID=2&PCID=-1&CtIID=HTMLStatic&CID=PPRCNews&ID=234>.

writing, 598 by e-mail and 1 011 by telephone<sup>301</sup>, and the issuance of a new operational guideline on how to fill in the contract notices.

The PPRC prepares and submits annual reports to the Government and to the Parliament<sup>302</sup>. The annual reports analyse public procurement activities in Kosovo and make recommendations for the further development of the procurement system. The annual reports are available on the webpage of the PPRC<sup>303</sup>. A wide range of data is available to the PPRC for analysis of the procurement market through the different procurement notices and reports submitted by the contracting authorities to the PPRC. However, information is made available only in the form of annual reports, and not all data is readily available to interested parties (in particular, data mining to the level of each contracting authority or economic operator or contract is not possible). No information on contract amendments is available.

Despite the PPRC's advanced reporting system, the indicator covering the comprehensiveness of systems to monitor and report on public procurement obtains a value of 3, and the practical limitations on access to data lead to a value of 3 for the indicator covering the clarity, timeliness and comprehensiveness of information available.

**In Kosovo, an institutional framework for public procurement is in place and performs the tasks required of it. Some key institutions, however, are understaffed. There is no valid strategic document covering the development of the public procurement system. Annual reports on public procurement are published.**

### **Key recommendations**

#### **Short term (1-2 years)**

- 1) The PPRC should monitor the implementation of the provision on preferential treatment for domestic contractors.
- 2) The PPRC should prepare the legislation that transposes the provisions of the EU Directive on defence procurement.
- 3) The PPRC should provide a more co-ordinated and documented help-desk service, to avoid giving contradictory and superficial advice to contracting authorities and economic operators.
- 4) The Government should adopt policy framework for public procurement, preferably in the framework of the public financial management strategic document.

#### **Medium term (3-5 years)**

- 5) The PPRC should prepare and submit a proposal for the amendment of the PPL, to delete the provision on domestic preference.
- 6) The PPRC should improve its system for monitoring and reporting on public procurement proceedings and practices, as well as the comprehensiveness and accessibility of information available to contracting authorities, economic operators and other stakeholders.

**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.**

---

<sup>301</sup> Information provided by the Public Procurement Regulatory Commission.

<sup>302</sup> Article 87 of the Public Procurement Law.

<sup>303</sup> [http://krpp.rks-gov.net/Default.aspx?PID=Home&LID=2&PCID=-1&CtlID=HTMLStatic&CID=PPRCannual&PPRCMenu\\_OpenNode=90](http://krpp.rks-gov.net/Default.aspx?PID=Home&LID=2&PCID=-1&CtlID=HTMLStatic&CID=PPRCannual&PPRCMenu_OpenNode=90).

**Baseline values**

The key requirement for the establishment of an independent, transparent, effective and efficient remedies system is examined through six indicators. They describe the timeliness of the review procedure, accessibility of the review system for economic operators and the performance of the review body.

In Kosovo, current complaints are typically dealt with within set time limits. Very few PRB decisions are appealed against. Decisions are published but the quality of decisions, especially of the reasoning for the decisions, leaves room for improvement.

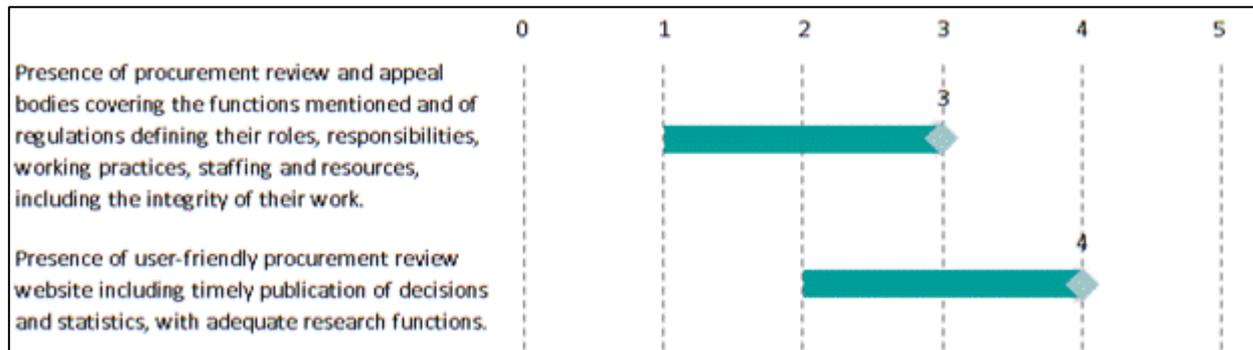
	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	12	Presence of procurement review and appeal bodies covering the functions mentioned and of regulations defining their roles, responsibilities, working practices, staffing and resources, including the integrity of their work.	2014	3
	12	Presence of user-friendly procurement review website including timely publication of decisions and statistics, with adequate search functions.	2014	4
<b>Quantitative</b>	12	Actual processing time of complaints related to procurement compared with the maximum legal requirements.	2014	226% <sup>304</sup>
	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	0.5% <sup>305</sup>
	12	Number of complaints in relation to the number of tender notices published.	2014	11%
	12	Share of complaints in procurement that are challenged to the next judicial level.	2014	1.5%

<sup>304</sup> That is, 34 days on average vs. 15 days required by law.

<sup>305</sup> Total number of complaints 537. In three cases, the time was exceeded.

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 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.***

The main body in charge of review procedures and legal remedies is the PRB<sup>306</sup>. From August 2013 to March 2014, the PRB was not operational because of the lack of the required number of PRB Board members. This rendered the remedy system dysfunctional during this period and created considerable delays and backlogs in processing complaints, adversely affecting the credibility of the procurement system<sup>307</sup>. Despite the appointment by the Assembly in March 2014 of the Board's new members, the PRB is, in April 2015, understaffed again, with only three active Board members of the requisite five. For some cases, the PRB is required to set up a review panel of five Board members<sup>308</sup>, which means that the PRB cannot review some of the complaints, in compliance with the PPL.

Detailed analysis of selected decisions of the PRB leads to the conclusion that the quality of decisions leaves room for improvement, as far as the legal reasoning is concerned. Furthermore, the PRB is focusing mainly on formal errors and omissions, but the main goals of public procurement are not given due consideration.

In general, no problems are noted with the enforcement of the PRB's decisions. Contracting authorities are given a five-day deadline to comply with the decision. The economic operators have the right to submit a request for a PRB ordinance to be issued against the contracting authority in case of failure of to implement the PRB's decisions<sup>309</sup>. In 2014, the PRB issued 30 such ordinances<sup>310</sup>.

<sup>306</sup> Article 98-99 of the Public Procurement Law and Article 46 of the Public-Private Partnerships Law.

<sup>307</sup> Out of 279 complaints filed by economic operators with the Procurement Review Body while its operations were suspended, only 24 were reviewed (just over 8%), while the remaining 255 were dismissed, as the deadline for their processing had expired (BIRN report, footnote 127).

<sup>308</sup> Article 106 of Public Procurement Law, Article 23, paragraph 6 of the Work Regulation of the Public Procurement Review Body of Kosovo, March 2012, [http://oshp.rks-gov.net/repository/docs/Rules\\_of\\_the-prb.pdf](http://oshp.rks-gov.net/repository/docs/Rules_of_the-prb.pdf). Paragraph 8 authorises the President of the Procurement Review Body to amend the review panel of five to a review panel of three Board members if a panel of five cannot be appointed for reasons of illness of one of the Board members or for similar reasons. But this rule can only be used for exceptional cases and not as a general rule to solve the problem of the missing Board members.

<sup>309</sup> Article 131 of the Public Procurement Law.

<sup>310</sup> Annual Work Report 2014 of the Procurement Review Body, February 2015, p. 18, 28; <http://oshp.rks-gov.net/repository/docs/Annual-report%20-2014-english.pdf>.

However, the PRB's 2014 Annual Work Report<sup>311</sup> highlighted a serious problem concerning the enforcement of the PRB's decisions regarding imposing fines. In some cases, the Ministry of Finance (MoF) refused to comply with the PRB's decision, on the grounds that it only executes decisions of competent courts. Such a practice seriously undermines the effectiveness of the remedies system that the PRB is required to maintain and preserve.

Article 105 of the PPL provides for a remedy of ineffectiveness of contracts in cases where they have been concluded without prior publication, or where the signing took place before the expiration of the standstill period. In practice, this remedy is not frequently used, and only one case is pending. Although the legal requirement is in place, the legislation is clearly not applied in practice.

**Table 1. Key characteristics of the remedies system.**

	2012	2013	2014
Number of appeals submitted.	379	469	537
Number of decisions published.	Not available	100%	100%
Number of appeals accepted (decision of contracting authority changed).	157	122	258
Number of appeals rejected.	174	74	178
Average time of processing the case before the CPR (days).	34	34	34
Number of complaints challenged to the next judicial level.	16	5	8

Source: Procurement Review Board.

A fee of EUR 500<sup>312</sup> is required when submitting complaints to the PRB, irrespective of the value and type of the procurement concerned.

The indicator for the presence of review and appeal bodies has a value of 3.

All decisions of the PRB are published promptly on its website<sup>313</sup>, which also offers a basic search function for browsing past decisions either by a keyword, specific contracting authority or by the date of the decision. Decisions of the courts are also published on the webpage of the PRB but in a form that does not allow for adequate search. Data on the functioning of the remedies system are also available through the publication of the PRB's annual reports<sup>314</sup>. The indicator for the presence of a user-friendly website has a value of 4.

**Complaints are typically addressed within the set time limits. Very few PRB decisions are appealed against. Decisions are published although the PRB's decisions do not always provide for detailed supporting legal reasoning.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The PRB should improve the quality of its decisions, especially with respect to the reasoning of the decisions.

<sup>311</sup> Annual Work Report 2014 of the Procurement Review Body, February 2015, p. 29.

<sup>312</sup> Article 118 of the Public Procurement Law.

<sup>313</sup> <http://oshp.rks-gov.net/?cid=2,71>.

<sup>314</sup> Article 120 of Public Procurement Law: the Procurement Review Body shall annually report to the Parliament on the operation of the procurement review procedures.

- 2) The PRB should develop its homepage, to provide more information to the public.
- 3) The Government should nominate and the Parliament should appoint the missing members of the PRB Board.
- 4) The Government should reconsider the fees for submitting complaints to the PRB.

**Medium-term (3-5 years)**

- 5) The PRB should improve the quality of decisions, by establishing a mechanism to ensure the uniformity and consistency of interpretations.

**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 the availability of professional, value-driven and integrity-conscious management function in contracting authorities, is examined through a set of quantitative indicators describing the performance of the public procurement market. Three more indicators describe the presence and performance of modern procurement tools, the existence and availability of guidelines and the professionalisation of procurement officials. The indicator concerning the usage of modern procurement techniques and methods describes the presence and performance of modern tools: e-procurement, framework agreements, and establishment of central purchasing bodies and arrangements.

In Kosovo, current complaints are typically dealt with within set time limits. Very few PRB decisions are appealed against. Decisions are published but the quality of decisions, especially of the reasoning for the decisions, leaves room for improvement.

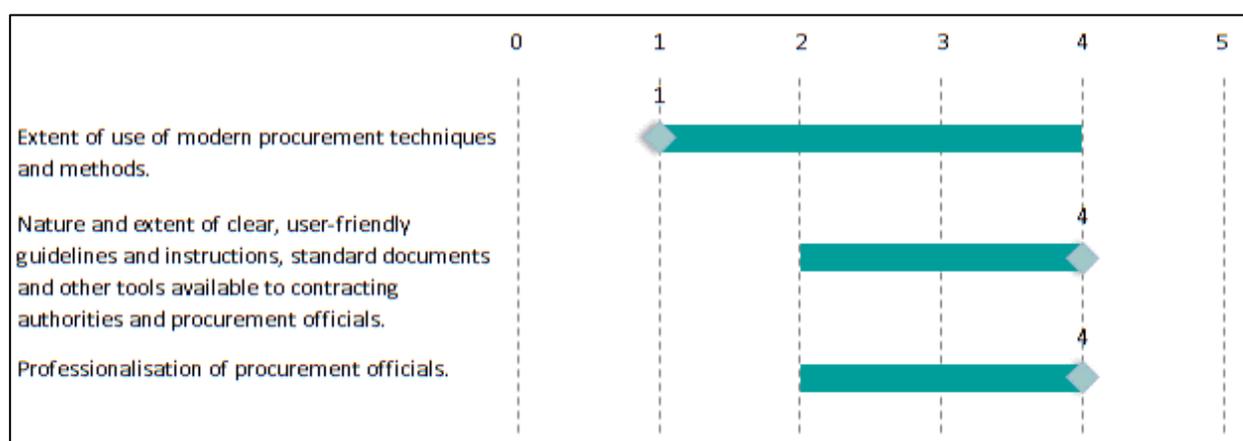
	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	13	Extent of use of modern procurement techniques and methods.	2014	1
	14	Nature and extent of clear, user-friendly guidelines and instructions, standard documents and other tools available to contracting authorities and procurement officials.	2014	4
	14	Professionalisation of procurement officials.	2014	4
<b>Quantitative</b>	13	Share of contracts already announced in published procurement plans or indicative notices.	2014	Not available
	13	Share of contracts awarded by competitive procedures.	2014	80.8%
	13	Share of contracts awarded based on acquisition price only.	2014	98.3%
	13	Share of contracts amended after award.	2014	1.4%

Kosovo  
Public Financial Management

	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 <sup>315</sup>
	13	Average number of tenders submitted per works contract to be procured.	2014	Not available <sup>316</sup>
	13	Average number of tenders submitted per services contract to be procured.	2014	Not available <sup>317</sup>

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 13: Public procurement operators 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.**

The PPL aims to ensure the transparency and integrity of public procurement, providing for the use of the non-competitive procedures only in exceptional cases. In 2014, 72.55% of the contracts were awarded in open procedures (compared with 87.86% in 2013). The share of the negotiated procedure without prior publication was 12.98%<sup>318</sup> in 2014 (compared to 5.6% in 2013). These changes signify negative trends regarding the competitiveness of the market. However, the average number of bidders was 6.1, an indication of sufficient competition in the public procurement market.

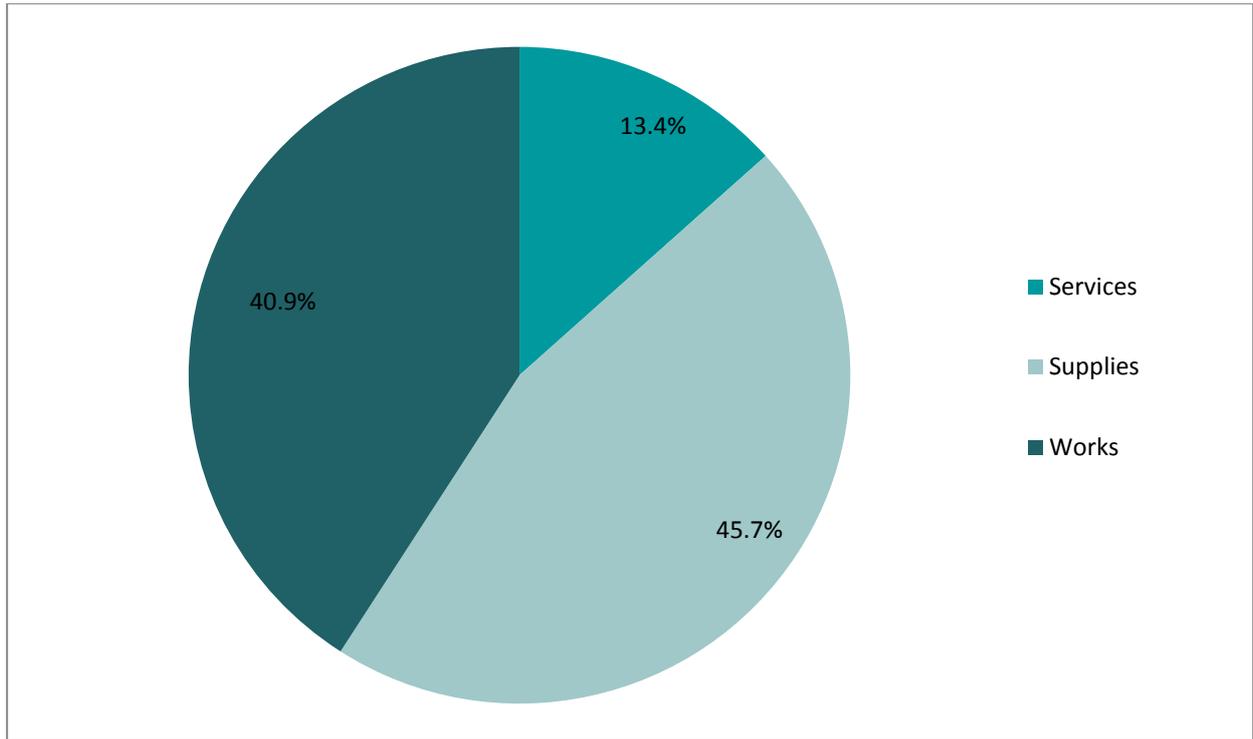
<sup>315</sup> Separate data is not available for goods, but data is available for the total value of the procurements.

<sup>316</sup> Ibid.

<sup>317</sup> Ibid.

<sup>318</sup> Report on Public Procurement Activities in Kosovo for 2014, Public Procurement Review Committee, February 2015, p. 30.

**Figure 12. Types of contract by total amount of procedures**



Source: Public Procurement Regulatory Commission.

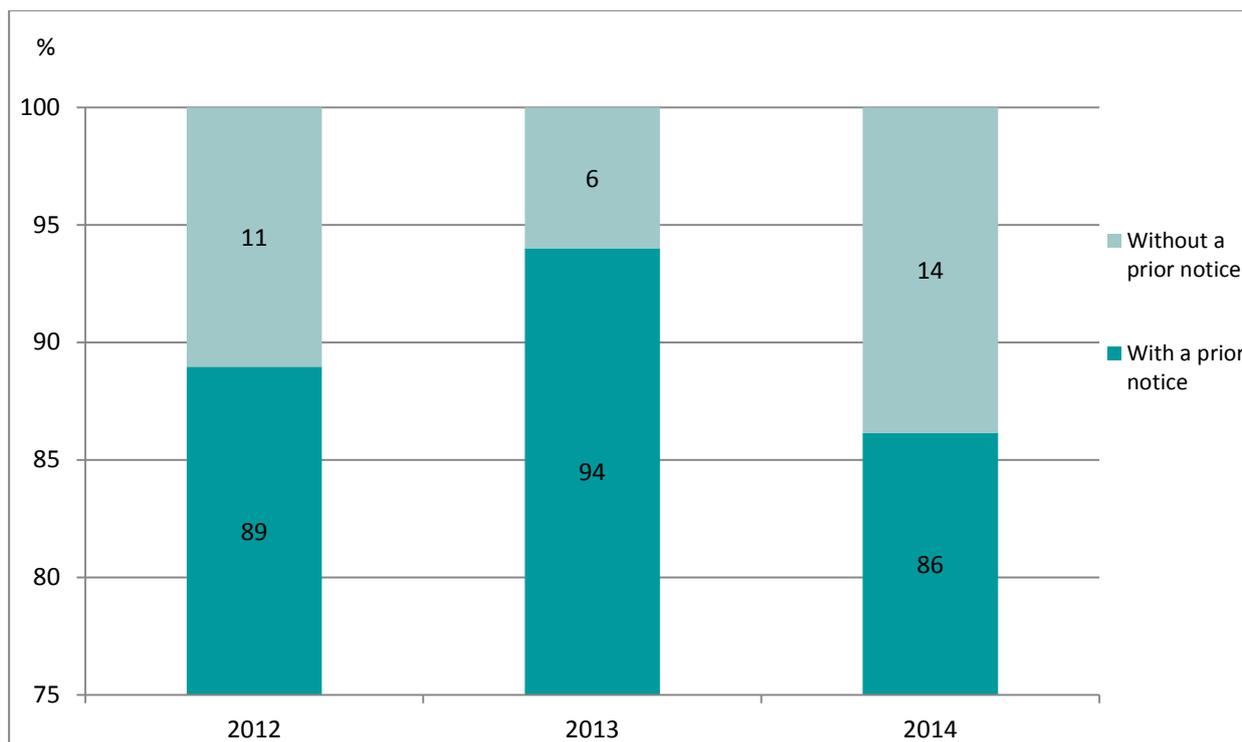
Article 52 of the PPL allows contracting authorities to award the contract on the basis of either the lowest price or the economically most advantageous tender. The former criterion, however, is predominantly used when awarding public contracts (98.93% of signed contracts in 2014)<sup>319</sup>. This trend could be explained by insufficient understanding of the advantages of the most economically advantageous tender approach. Contracting authorities may be using the lowest price criterion almost by default, to avoid any complications or conflict<sup>320</sup>. Overuse of the lowest price criterion was also identified as one of the main shortcomings by the Auditor General<sup>321</sup>.

<sup>319</sup> Report on Public Procurement Activities in Kosovo for 2014, Public Procurement Regulatory Commission, February, 2015, p. 36, Annual Audit Report 2013 of the Auditor General.

<sup>320</sup> Meeting with Procurement Review Body.

<sup>321</sup> Annual Audit Report 2013 of the Auditor General, p. 32, [http://www.oag-rks.org/repository/docs/RaportiVjetorAuditimit2013\\_Eng\\_938421.pdf](http://www.oag-rks.org/repository/docs/RaportiVjetorAuditimit2013_Eng_938421.pdf).

**Figure 13. Total value of contracts awarded with and without prior publication**



Source: Public Procurement Regulatory Commission.

In 2014, the trend toward a high number of cancelled public procurement procedures<sup>322</sup> persisted, with 29% of contract notices being cancelled<sup>323</sup>.

The use of modern procurement techniques and methods is not advanced. No centralised procurement procedure has so far been conducted, due to the incomplete legal framework. However, in February 2015, the long-awaited list of common-use items for central purchasing was finally endorsed by the Government. The list includes six categories: fuel, office supplies, hygiene products, food, supply of airline tickets and spare tyres. Although the legislation for a framework agreement is in place, it seems that its use is limited. The PPRC's annual report for 2014 does not provide data on the number of the framework agreements. Instead, it simply notes<sup>324</sup> that some of the contracting authorities have started to use framework agreements. Except for the publication of notices online<sup>325</sup>, the e-procurement system is not in place. However, the necessary platform is being developed with the assistance of the World Bank, and a pilot e-procurement project is to be tested in five selected contracting authorities in mid-2015<sup>326</sup>. For a fully operational e-procurement system, the regulatory background also needs to be modified.

The indicator for the extent of usage of modern procurement techniques and methods has a value of 1.

**Available data indicates a satisfactory level of effective competition. Data on the use of framework agreements is not available. An almost exclusive use of price (acquisition cost) as the only award criterion is likely to detract from quality. The potential of centralised procurement has not been explored. E-procurement is not used.**

<sup>322</sup> More than one-third in 2013, as identified by the SIGMA 2013 assessment of public procurement in Kosovo, [www.sigmaweb.org/publicationsdocuments/KosovoAssessment\\_2013.pdf](http://www.sigmaweb.org/publicationsdocuments/KosovoAssessment_2013.pdf).

<sup>323</sup> Report on Public Procurement Activities in Kosovo for 2014, Public Procurement Regulatory Commission, p. 49.

<sup>324</sup> Report on Public Procurement Activities in Kosovo for 2014, Public Procurement Regulatory Commission, p. 17.

<sup>325</sup> [http://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=2&PCID=1&CtlID=SearchNotices&ind=1&PPRCMenu\\_OpenNode=63](http://krpp.rks-gov.net/Default.aspx?PID=Notices&LID=2&PCID=1&CtlID=SearchNotices&ind=1&PPRCMenu_OpenNode=63)

<sup>326</sup> Report on Public Procurement Activities in Kosovo for 2014, Public Procurement Regulatory Commission, pp. 62-63, and information provided by the Public Procurement Regulatory Commission in interviews.

***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 public procurement system is implemented by 570 licensed procurement officers. Qualifying as a procurement officer requires a university degree and a basic or advanced professional certificate, which is obtained after 15 days of mandatory training<sup>327</sup>. The KIPA is in charge of training public procurement officers. With assistance in curriculum development from the PPRC, the KIPA's overall performance can be seen as positive. The data on the KIPA's 2014 activities shows that 84 training courses took place over 264 training days, with 1 986 participants involved<sup>328</sup>. The intention is to enhance this performance and improve the quality of the training provided, especially with regard to the diversity of available modules and the assessment of training needs<sup>329</sup>.

Two levels of training are required (basic and advanced), each sanctioned by a certificate valid for three years. Those who fail to obtain an advanced certificate in the subsequent three-year period are not eligible to hold the position of procurement officer without obtaining the advanced certificate. In 2014, KIPA organised 7 advanced public procurement courses for 45 participants<sup>330</sup>. The advanced certificate is valid for three years, after which procurement officers must obtain a new certificate. However, there are no special courses for this group of procurement officers, they should repeat the same advanced level training course that they already attended to obtain the advanced certificate for the first time.

Both PRB and PPRC call for further strengthening of the level of professional knowledge and skills of public procurement officers. A significant number of recurrent violations in the application of the procurement legislation were identified. Such frequent violations include the infringement of the equal treatment and non-discrimination principle, procedural irregularities (lack of needs assessment in the planning phase, use of wrong standard forms, lack of notification of eliminated tenderers, incorrect process for opening the tenders), mistakes in the tender dossier (especially use of discriminatory criteria), unfair evaluation of tenders and the lack of a contract management plan<sup>331</sup>.

Recently, a new National Public Procurement Training Strategy (2014-2018) was adopted by the PPRC with an overall goal of enhancing the quality and quantity of public procurement training. It has a broad target audience, including economic operators. This is a welcome development since, at present, the private sector is practically left out from any educational or awareness-raising activities on public procurement procedures and practices. The initiatives undertaken by non-governmental organisations (NGOs) or international donors are an exception<sup>332</sup>, although some are facilitated with the assistance of the PPRC and the Chamber of Commerce. The overall value of the relevant indicator is 4.

Some sectors (e.g. the health sector) lack internal guidelines within contracting authorities as to the execution of the public procurement procedures<sup>333</sup>. In terms of practical guidelines and tools, an abundant flow of administrative guidelines is issued by the PPRC. These provide guidance and clarifications on the application of various provisions of the PPL. These include taking into account

---

<sup>327</sup> Article 23 of Public Procurement Law.

<sup>328</sup> KIPA short report for 2014 sent by email after the interview.

<sup>329</sup> Ibid.

<sup>330</sup> Ibid.

<sup>331</sup> Interviews with the Procurement Review Body and Public Procurement Regulatory Commission, and see also Public Procurement Regulatory Commission 2014 report p. 8 and pp. 55-60; Procurement Review Body 2014 report, p. 18.

<sup>332</sup> "Public Procurement Toolkit: How to produce an eligible bid when applying for public contracts in Kosovo", published by RIINVEST Institute, 2014. "What should you know? – Information book for Economic Operators – How to be successful in the Kosovar public procurement market?", published by the Public Procurement Regulatory Commission and Planet SA, 2015.

<sup>333</sup> Office of the Auditor General, audit report on procurement systems in the health sector [http://www.oag-rks.org/repository/docs/RaportiAuditimit\\_SPSSH\\_2014\\_Eng\\_424543.pdf](http://www.oag-rks.org/repository/docs/RaportiAuditimit_SPSSH_2014_Eng_424543.pdf).

social and environmental considerations<sup>334</sup>, the use of the lowest price criterion<sup>335</sup>, and framework agreements<sup>336</sup>. However, no systematic approach to issuing such guidelines exists. Most are drafted and/or issued following the advice of projects funded by international donors. Furthermore, the manner in which they are published on the PPRC's website often lacks clarity (e.g. it is not clear whether a particular instruction has already been adopted or is just a draft). Moreover, the PPRC has adopted the practice of keeping repealed instructions on its website<sup>337</sup>. Therefore, the overall value of the relevant indicator is 4.

**Guidelines are available but not systematically updated. The training system for procurement officials is effective and sustainable, but otherwise their level of professionalisation is low.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The PPRC should promote greater use of modern procurement techniques and methods, such as framework agreements and e-procurement, as well as a value-for-money approach. This will enable contracting authorities to understand its benefits and become familiar with its application.
- 2) The PPRC and CPA should start implementing centralised purchasing, so that the benefits of this approach can be realised. The Government should grant the CPA the necessary resources.
- 3) The PPRC should revise the legal framework and internal workflows concerning e-procurement by the starting date of the e-procurement pilot operation.
- 4) The PPRC should design training and develop guidelines to address the needs of economic operators.

#### **Medium-term (3-5 years)**

- 5) The PPRC should ensure that e-procurement is widely used.
- 6) The MoF, together with the CPA, based on experience from the start-up phase, should revise and confirm the regulation governing the centralised purchasing system (including an update of the list of items). The capacity of the CPA's capacity should be enhanced, including targeted training of CPA's key staff.
- 7) The PPRC and KIPA should work out arrangements for sustainable financing and implementation of training activities, regular updating of materials, quality assurance on trainer skills, and organising follow-up courses on good procurement practice.

**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 organisation and functioning of the Supreme Audit Institution (SAI) of Kosovo, the OAG, is examined through three qualitative and six quantitative indicators. The qualitative indicators cover elements of the SAI's legal framework, its functioning and the impact of its work.

---

<sup>334</sup> Administrative Instruction No. 04/2015.

<sup>335</sup> Administrative Instruction No. 03/2015.

<sup>336</sup> Administrative Instruction No. 02/2015.

<sup>337</sup> Assessment is based on the English version of the webpage.

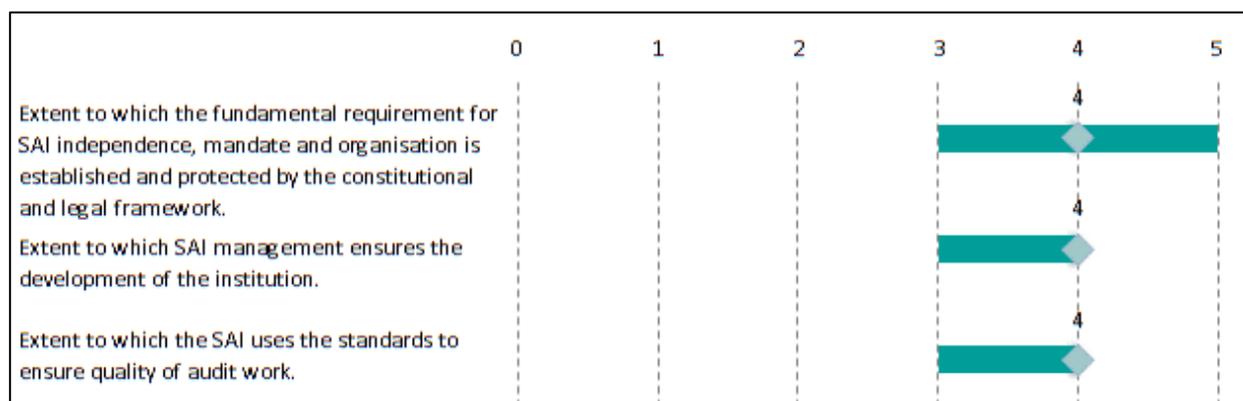
Kosovo  
Public Financial Management

The values on the qualitative indicators reflect a good level of operational independence and partial implementation of the International Standards for Supreme Audit Institutions (ISSAIs).

	Principle no.	Indicator	Baseline year	Baseline value
<b>Qualitative</b>	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 audit work.	2014	4
<b>Quantitative</b>	15	Difference between approved budget and realised expenditure of the SAI.	2014	-1.7%
	15	Share of SAI budget in the state Budget.	2014	0.13%
	15	Amount of resources used for mandatory audits compared with resources for audits selected independently by the SAI.	2014	85%
	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	41%
	16	Share of timely audit reports.	2013	91%

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 14. 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.***

In Kosovo, the legal basis for the SAI is regulated in the Constitution<sup>338</sup> and in the 2008 Law on the Establishment of the Office of the Auditor General and the Audit Office of Kosovo<sup>339</sup>. The 2008 law is not fully in line with the ISSAIs. A new law is awaiting submission to the Assembly. The new OAG draft law<sup>340</sup> regulates more clearly the functional, operational and financial independence and mandate of the AG and the organisation of the OAG of Kosovo; it also protects the position of the AG.

The contract of the external AG ended on 31 August 2014 and the appointment of a new AG is in progress. The new AG will have to have Kosovan nationality and speak Albanian and Serbian<sup>341</sup>.

As the fundamental requirement for SAI independence, mandate and organisation is not yet established in line with the ISSAIs, the baseline value for this indicator on the requirement is 4.

In general, the extent to which the OAG management ensures development of the institution is good.

The 2009-2014 Corporate Development Strategy has been implemented with the assistance of a Twinning project and other donors<sup>342</sup>. The organisation of the OAG is now well-developed<sup>343</sup>. Over the last few years, manuals have been updated; a quality management framework has been introduced<sup>344</sup>; the organisation of the OAG has been restructured; internal regulations have been developed (for example in the field of human resources); an ISSAI based certification programme for Regularity Audit and Performance Audit has been introduced; and the number of Performance Audits has been increased. However, as the OAG's annual activity report does not explicitly report on progress on implementation of the Corporate Development Strategy, the baseline value for this indicator is 4.

The certification programme<sup>345</sup> for regularity auditors comprises four stages: induction, preparation, formal certification and continuous professional development. The formal certification stage consists of eight modules, each lasting between 35 to 50 hours. This certification scheme for regularity auditors in the public sector is quite new in the region. In 2014, the average number of training days for audit staff was 10.5<sup>346</sup>.

The difference between approved budget and realised expenditure of the OAG (-2%) is reasonable. The OAG share of the total budget of the central government (0.18%) is higher than in neighbouring countries. The resources used for mandatory audits are high (85%), because the OAG has to report annually on the financial statements of all entities included in its mandate<sup>347</sup> and the capacity for performance audits is being developed.

### **The 2008 Law on the Establishment of the Office of the Auditor General and the Audit Office of Kosovo does not regulate the independence and organisation of the OAG in line with the ISSAIs. A**

---

<sup>338</sup> Articles 65(1) and 136-138 of the Constitution of Kosovo.

<sup>339</sup> Law No. 03/L-75 on the Establishment of the Office of the Auditor General and the Audit Office of Kosovo, 2008.

<sup>340</sup> Draft Law on the Auditor General and National Audit Office of Kosovo, Articles 3, 10, 13, 15 and 18.

<sup>341</sup> Presidential Decree No. DAP -001-2015, 5 March 2015.

<sup>342</sup> Twinning Partners: National Audit Office of the United Kingdom and the Court of Audit of the Netherlands; other donor, the National Audit Office of Sweden.

<sup>343</sup> Further development needs have been identified and are addressed in the draft Corporate Development Strategy 2014-2020. They include introducing an information technology audit, amending audit guidance material to bring it fully in line with the ISSAIs, and further improving audit quality management. The draft strategy is awaiting approval by the new AG, when appointed.

<sup>344</sup> OAG 2013 Annual Performance Report, p. 10, paragraph 2.2.

<sup>345</sup> Ibid., p.20, paragraph 3.3.

<sup>346</sup> In addition, training was provided by the Twinning project and other external co-operation partners.

<sup>347</sup> Law No. 03/L-75 on the Establishment of the Office of the Auditor General and the Audit Office of Kosovo, 2008, Article 3.2.

**new law is in the stage of final preparations. The management of the OAG has taken steps to develop the institution into a well-respected, professional supreme audit institution.**

***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 OAG has translated the ISSAIs into the Albanian language and updated the Regularity Audit and Performance Audit manuals in line with the ISSAIs. The OAG does not develop multi-annual audit plans, but works exclusively with annual audit plans<sup>348</sup>. It mainly carries out mandatory regularity audits in combination with compliance audits. In 2013/14 it tripled the number of performance audits, although this approach is still in the phase of development. It also carries out management audits and donor-funded audits<sup>349</sup>, for which the donors provide fees to the Government.

The OAG staff is trained in using the audit methodology, but all aspects of planning and execution are not yet documented in accordance with ISSAIs. Internal quality reviews of the 2013 audit reports<sup>350</sup> indicate that audit evidence is not always sufficiently documented. Sometimes the audit staff has done too much work, which leads to inefficient use of audit resources (e.g. when more transactions than necessary were audited in order to provide an opinion on a financial statement).

The Parliamentary Committee for Oversight of Public Finances follows up on audit reports of the OAG<sup>351</sup> and holds ministers to account in open public meetings. The rate of full implementation of recommendations by ministries and municipalities is low (41%). The OAG has recognised that recommendations were too general<sup>352</sup> and has taken measures to improve the quality of recommendations by making them more concise, measurable and easier to address.

As the OAG does not use a multi-annual system to prioritise its work, the baseline value for the indicator on the extent to which the SAI uses the standards to ensure quality of audit work is 4.

The OAG publishes its reports on its website - 100% of the audit reports adopted were published. In 2014, 91% of the audit reports were adopted as planned<sup>353</sup>. The percentage is lower than 100%, because the performance audits are in a start-up phase and delivery dates of performance audit reports in that phase are harder to plan in advance.

**The audit methodology of the OAG is in line with international auditing standards. However, in practice this methodology is not yet used in a manner that ensures high quality audits and recommendations. All the audit reports are public and the Assembly makes regular use of the OAG audit reports.**

### **Key recommendations**

#### **Short-term (1-2 years)**

- 1) The Government should approve the new OAG law in which the functional, operational and financial independence and mandate of the Auditor General and the organisation of the OAG should be regulated in line with the ISSAIs.
- 2) The OAG should further develop and adopt the Corporate Development Strategy 2014-2020 with focus on management development and then specifically on improving strategic development capacity and audit quality management.

---

<sup>348</sup> The OAG planning is not per calendar year, but follows the audit cycle of regularity audits: 01 September-31 August.

<sup>349</sup> In 2012/2013 there were two donor-funded audits; for 2013/2014, eight such audits were foreseen.

<sup>350</sup> 2014 quality review report of OAG Audit Support Department.

<sup>351</sup> OAG 2013 Annual Performance report, p. 11, paragraph. 2.3.

<sup>352</sup> Ibid., p. 13, paragraph 2.3.

<sup>353</sup> The OAG had agreed to audit 12 UN-Habitat Kosovo projects, but since the projects were delayed only 2 were audited. This is the main reason for not completing the full audit plan.

Kosovo  
Public Financial Management

- 3) The OAG should consider separating compliance audits from financial audit work in order to concentrate on implementing efficient, evidence-based financial audits<sup>354</sup>.
- 4) The OAG should reconsider an extension of donor-funded audits and concentrate on improving the quality of financial and performance audits.

**Medium-term (3-5 years)**

- 5) The OAG should implement the Corporate Development Strategy 2014-2020.

The OAG should consider programming specific follow-up audits on recommendations in order to improve the implementation rate.

---

<sup>354</sup> The ISSAIs offer two possibilities: combining compliance audit with financial audit (ISSAI 4100) and carrying out compliance audit separately from financial audit (ISSAI 4200).



For more information:

**OECD/SIGMA**

2 Rue André Pascal  
75775 Paris Cedex 16  
France

[mailto: sigmaweb@oecd.org](mailto:sigmaweb@oecd.org)

Tel: +33 (0) 1 45 24 82 00

Fax: +33 (0) 1 45 24 13 05

[www.sigmaweb.org](http://www.sigmaweb.org)